ST. CHARLES SINCE 1834	**PLAN COMMISSION AGENDA ITEM EXECUTIVE SUMMARY**			
	Project Title/ Address:	2047 Lincoln Highway (Amendment to Existing Special Use for a Tattoo Parlor - Ryan Harnish)		
	City Staff:	Matthew O'Rourke, Planner		
	Please check appropriate box (x)			
	PUBLIC HEARING (3/5/13)	X	**MEETING (3/5/13)**	X

APPLICATIONS UNDER CONSIDERATION:

Special Use Application – Amendment to Existing Special Use for a Tattoo Parlor

ATTACHMENTS AND SUPPORTING DOCUMENTS

Staff Report (dated 3/1/13)	Special Use Application
Body Art Act and Tattoo and Body Piercing Establishment Registration Act	Ordinance 2009-Z-16

EXECUTIVE SUMMARY:

The applicant, Ryan Harnish, has submitted a petition for an amendment to an existing Special Use for a Tattoo Parlor located at 2045 Lincoln Highway. The applicant is proposing to relocate their existing Tattoo Parlor business from the unit at 2045 Lincoln Highway to the adjacent unit at 2047 Lincoln Highway. These two units are within the same multi-tenant building.

The salient features of the proposal are as follows:

1. The applicant will occupy an existing tenant space in the same commercial building.
2. The size of the business will increase from approximately 1,065 SQ FT to 1,600 SQ FT.
3. The applicant is not proposing any exterior modifications to the building or property.

RECOMMENDATION / SUGGESTED ACTION *(briefly explain)***:**

Conduct the public hearing and close if all the testimony has been taken.

Staff has placed this item on the meeting portion of the agenda for a recommendation, should the Plan Commission feel they have adequate information to recommend on the item tonight.

Staff recommends approval of the Special Use for a Tattoo Parlor Application and has provided the attached draft Findings of Fact to support that recommendation.

CITY OF ST. CHARLES

TWO EAST MAIN STREET
ST.CH ARLES,I LLINOIS 60174-1984

ST. CHARLES SINCE 1834

COMMUNITY DEVELOPMENT/PLANNING DIVISION PHONE: (630) 377-4443 FAX: (630) 377-4062

SPECIAL USE APPLICATION

Received Date
RECEIVED
St. Charles, IL
FEB 1 1 2013
CDD
Planning Division

CITYVIEW
Project Name: STC-Commercial Center-2045 Lincoln Hwy.
Project Number: 2009 -PR- 013
Application Number: 2013 -AP- 006

To request a Special Use for a property, or to request to amend an existing Special Use Ordinance for a property, complete this application and submit it with all required attachments to the Planning Division.

City staff will review submittals for completeness and for compliance with applicable requirements prior to establishing a public hearing date for an application.

The information you provide must be complete and accurate. If you have a question please call the Planning Division and we will be happy to assist you.

1. Property Information:	Parcel Number (s): 09-33-351-022	
	Street Address (or common location if no address is assigned): 2045 Lincoln Hwy, Unit St. Charles, IL 60174	
2. Applicant Information:	Name Ryan Harnish	Phone
	Address 2045 LINCOLN HWY. ST. CHARLES, IL. 60174	Fax
		Email
3. Record Owner Information:	Name Tri-City Center Associates, Ltd.	Phone (630) 232-8570
	Address 77 N. First Street Geneva, IL 60134	Fax (630) 232-4520
		Email Dave@shodeen.com
4. Billing: *To whom should costs for this application be billed?*	Name Ryan Harnish	Phone
	Address	Fax
		Email

Information Regarding Proposed Special Use:

Comprehensive Plan designation of the property: Retail / Service

Is the property a designated Landmark or in a Historic District? No

What is the property's current zoning? BR, PUD

What is the property currently used for? Retail

What Special Use(s) are you applying for? Please select from the list of Special Uses in the Zoning Ordinance for the appropriate zoning district.

Tattoo Parlor

If the proposed Special Use is approved, what improvements or construction are planned?

For Special Use Amendments only:

What Special Use ordinance do you want to amend? Ordinance No. AMMENDING ORDINANCE #2009-Z-16 / ~~1982-Z-6 and amendments~~

Why is the proposed change necessary? ENLARGE SPACE APPROXIMATELY 500 sq. Ft. ~~Tattoo Parlor is not permitted within the special use in the PUD.~~

What are the proposed amendments? (Attach proposed language if necessary)

~~Add Tattoo Parlor in list of approved ordinances~~

Note for existing buildings:

If your project involves using an existing building, whether you plan to alter it or not, please contact the St. Charles Fire Department (630-377-4458) and the Building and Code Enforcement Division (630-377-4406) for information on building, life safety and other code requirements. Depending on the proposed use, size of structure and type of construction, these requirements can result in substantial costs.

Attachment Checklist

- ☒ **APPLICATION:** Completed application form signed by the applicant
- ☒ **APPLICATION FEE:** Application fee in accordance with Appendix B of the Zoning Ordinance.
- ☒ **REIMBURSEMENT OF FEES AGREEMENT:** An original, executed Reimbursement of Fees Agreement and deposit of funds in escrow with the City, as provided by Appendix B of the Zoning Ordinance.
- ☐ **PROOF OF OWNERSHIP and DISCLOSURE:**
  - a) A current title policy report; or
  - b) A deed and a current title search.

If the owner is not the applicant, an original letter of authorization from the owner permitting the applicant to act on his/her behalf is required. If the owner or applicant is a Trust, a disclosure of all beneficiaries; if the owner or applicant is a Partnership, a disclosure of all partners; if the owner or applicant is a Corporation, a disclosure of all owners with an interest of at least ten percent (10%).

☒ **LEGAL DESCRIPTION:** For entire subject property, on 8 1/2 x 11 inch paper

☒ **PLAT OF SURVEY:**

A current plat of survey for the Subject Realty showing all existing improvements on the property, prepared by a registered Illinois Professional Land Surveyor.

☒ **SOIL AND WATER CONSERVATION DISTRICT APPLICATION:**

Copy of completed Land Use Opinion application as required by state law, as submitted to The Kane-Dupage Soil and Water Conservation District. http://www.kanedupageswcd.org/

☐ **ENDANGERED SPECIES REPORT:**

Copy of Endangered Species Consultation Agency Action to be filed with the Illinois Department of Natural Resources. http://dnrecocat.state.il.us/ecopublic/

☒ **TRAFFIC STUDY:** If requested by the Director of Community Development.

☐ **PLANS:**

All required plans shall be drawn on sheets no larger than 24" x 36", unless the Director of Community Development permits a larger size when necessary to show a more comprehensive view of the project. All required plans shall show north arrow and scale, and shall be drawn at the same scale (except that a different scale may be used to show details or specific features). All plans shall include the name of the project, developer or owner of site, person or firm preparing the plan, and the date of plan preparation and all revisions.

Copies of Plans:

- Initial Submittal - Fifteen (15) full size copies, Three (3) 11" by 17", and a PDF electronic file on a CD-ROM.
- Revision Submittal for Plan Commission - Twenty-Two (22) full size copies, Three (3) 11" by 17" and a PDF electronic file on a CD-ROM.

☒ **SITE PLAN (Note: For a Special Use for PUD, submit PUD Preliminary Plan Application in lieu of Site Plan)**

A plan or plans showing the following information:

1. Accurate boundary lines with dimensions
2. Streets on and adjacent to the tract: Name and right-of-way width
3. Location, size, shape, height, and use of existing and proposed structures
4. Location and description of streets, sidewalks, and fences
5. Surrounding land uses
6. Date, north point, and scale
7. Ground elevation contour lines
8. Building/use setback lines
9. Location of any significant natural features
10. Location of any 100-year recurrence interval floodplain and floodway boundaries
11. Location and classification of wetland areas as delineated in the National Wetlands Inventory
12. Existing zoning classification of property
13. Existing and proposed land use
14. Area of property in square feet and acres
15. Proposed off-street parking and loading areas
16. Number of parking spaces provided, and number required by ordinance

17. Angle of parking spaces
18. Parking space dimensions and aisle widths
19. Driveway radii at the street curb line
20. Width of driveways at sidewalk and street curb line
21. Provision of handicapped parking spaces
22. Dimensions of handicapped parking spaces
23. Depressed ramps available to handicapped parking spaces
24. Location, dimensions and elevations of freestanding signs
25. Location and elevations of trash enclosures
26. Provision for required screening, if applicable
27. Exterior lighting plans showing:
    a. Location, height, intensity and fixture type of all proposed exterior lighting
    b. Photometric information pertaining to locations of proposed lighting fixtures

I (we) certify that this application and the documents submitted with it are true and correct to the best of my (our) knowledge and belief.

Tri-City Center Associates, Ltd.
Shodeen Equity Investments, II, Inc.; General Partner
By: Kent W. Shodeen 2/7/13

Record Owner Kent W. Shodeen; Pesident — Date

2-11-13

Applicant or Authorized Agent — Date

FINDINGS OF FACT SHEET – SPECIAL USE

ST. CHARLES
SINCE 1834

The St. Charles Zoning Ordinance requires the Plan Commission to consider the factors listed below in making a recommendation to the City Council.

As the applicant, the "burden of proof" is on you to show how your proposed Special Use will comply with each of the applicable standards. Therefore, you need to "make your case" by explaining specifically how your project meets each of the following standards.

2047. Lincoln Hwy. — *Project Name or Address*

2/18/13 — *Date*

From the Charles Zoning Ordinance, Section 17.04.430.C.2:
No Special Use or amendment to Special Use shall be recommended by the Plan Commission unless it finds that the proposed Special Use or amendment to Special Use will conform with each of these standards. The Plan Commission shall submit its written findings together with its recommendations to the City Council after the conclusion of the Public Hearing, and also may recommend such conditions as it may deem necessary to ensure conformance with these standards.

On the basis of the evidence presented at the public hearing, the Plan Commission shall record its reasons for recommending approval or denial of the petition (findings of fact) in accordance with the following standards:

A. **Public Convenience: The Special Use will serve the public convenience at the proposed location.**

CONVENIENT FOR THE EXPANSION OF SAID BUSINESS AND MEET THE NEEDS OF THE PUBLIC DEMAND.

B. **Sufficient Infrastructure: That adequate utilities, access roads, drainage and/or necessary facilities have been, or are being, provided.**

ALREADY EXISTING BUILDING AND ALL FACILITIES ARE ALREADY PROVIDED

C. **Effect on Nearby Property: That the Special Use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish or impair property values within the neighborhood.**

ALREADY EXISTING BUSINESS THAT HAS NOT IMPACTED NOR WILL IT, ANY VALUES ON PROPERTIES.

D. Effect on Development of Surrounding Property: That the establishment of the Special Use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

ALL SORROUNDING PROPERTIES ARE ALREADY DEVELOPED

E. Effect on General Welfare: That the establishment, maintenance or operation of the Special Use will not be detrimental to or endanger the public health, safety, comfort or general welfare.

WE HAVE BEEN IN EXISTANCE FOR 3YRS. AND HAVE ABIDED BY ALL GOVERNING CODES AND BODIES.

F. Conformance with Codes: That the proposed Special Use conforms to all existing Federal, State and local legislation and regulation and meets or exceeds all applicable provisions of this Title, except as may be varied pursuant to a Special Use for Planned Unit Development.

THERE ARE STATE LICENSING REQUIREMENTS AND HAVE ABIDED BY THESE PRINCIPLES FOR 3YRS.

Community Development
Planning Division
Phone: (630) 377-4443
Fax: (630) 377-4062

ST. CHARLES
SINCE 1834

STAFF REPORT

TO: Chairman Todd Wallace
and Members of the Plan Commission

FROM: Matthew O'Rourke, AICP
Planner

RE: Amendment to an Existing Special Use for a Tattoo Parlor (2047 Lincoln Highway)

DATE: March 1, 2013

I. APPLICATION INFORMATION:

Project Name: 2047 Lincoln Highway (Amendment to Existing Special Use for a Tattoo Parlor)

Applicant: Ryan Harnish

Purpose: Amend existing Special Use for a Tattoo Parlor to permit the applicant to relocate their business to a larger tenant space in the same building.

General Information:

Site Information	
Location	2047 Lincoln Hwy.
Acres	2.45

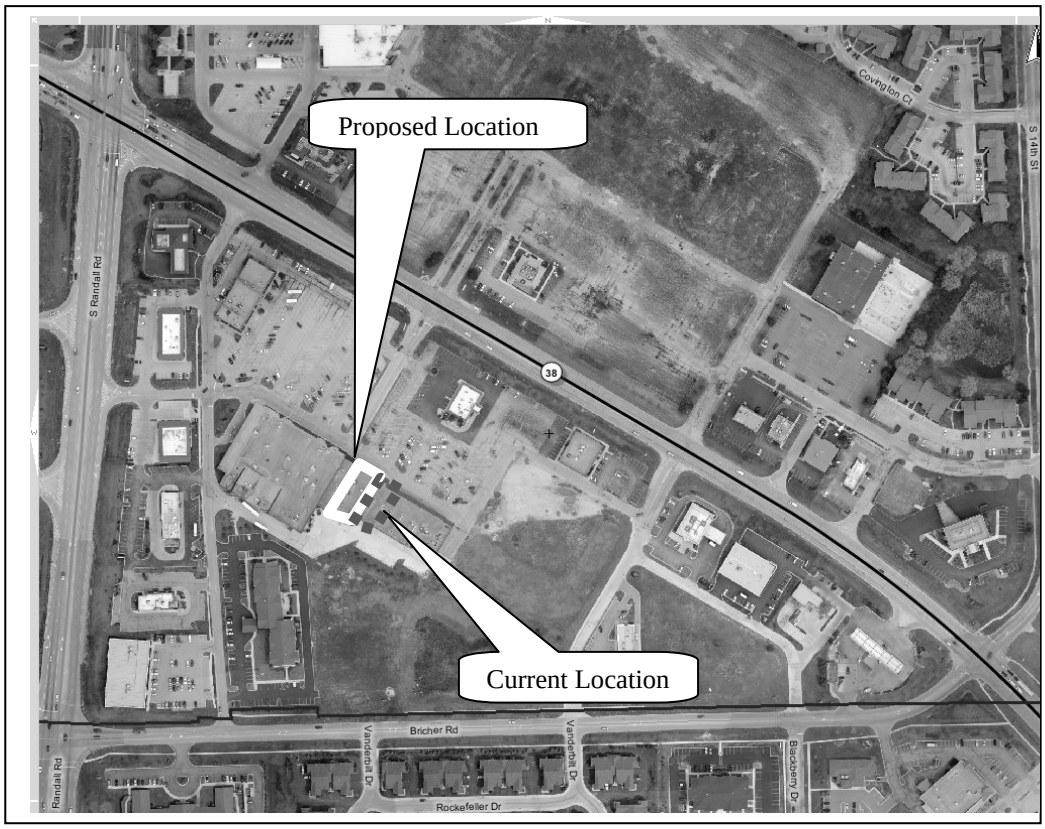
Applications:	**1) Special Use for a Tattoo Parlor**
Applicable Zoning Code Sections and Ordinances	ORD 2009-Z-16 "An Ordinance Amending Ordinance No. 1982-Z-6 (An Ordinance Rezoning Property to the R-5 Multiple Residence District and B-3 Service Business District and Granting a Special Use as a Planned Unit Development for the St. Charles Commercial Center Property) to Provide for an Additional Special Use (Tattoo Parlor) and Granting a Special Use for a Tattoo Parlor (2045 Lincoln Highway – Ryan Harnish)"
	Table 17.14-1 Permitted and Special Uses (Business and Mixed Use Districts)

Existing Conditions	
Land Use	Multi-Tenant Commercial Building
Zoning	BR – Regional Business District (PUD)

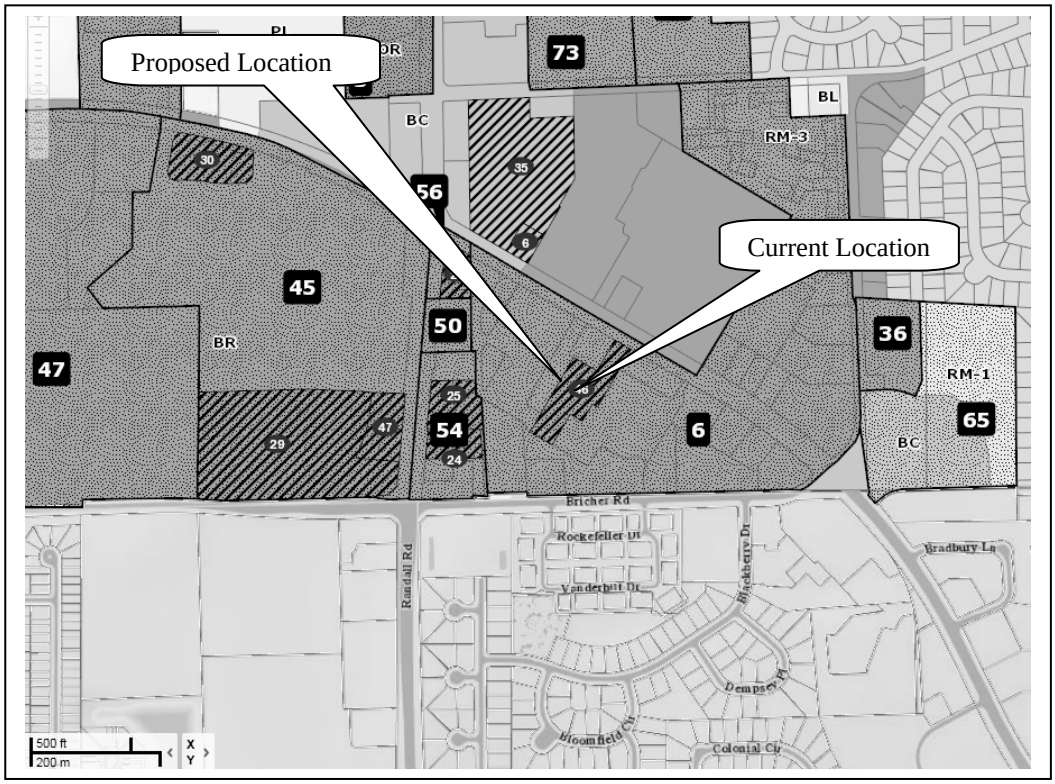
Zoning Summary		
North	BR- Regional Business District	Vacant Commercial (Former St. Charles Mall)
East	BR- Regional Business District (PUD)	Commercial (Multiple Tenants)
South	BR- Regional Business District (PUD)	Commercial (Multiple Tenants)
West	BR- Regional Business District (PUD)	Commercial (Multiple Tenants)

Comprehensive Plan Designation
Retail and Service

Aerial Photo



Zoning Map



IV. BACKGROUND:

ST. CHARLES COMMERCIAL CENTER PUD AMENDMENT

In 2009, the applicant filed petitions for a Special Use for the Tattoo Parlor and Amendment to Ordinance 1982-Z-6 (St. Charles Commercial Center PUD). At that time Tattoo Parlor was not listed as a permitted or Special Use in the St Charles Commercial Center PUD, but was listed as a Special Use in **Table 17.14-1 Permitted and Special Uses (Business and Mixed Use Districts)**.

Ordinance 2009-Z-16 was approved in December of 2009. This ordinance approved the amendment to Ordinance 1982-Z-6 to permit Tattoo Parlors as a Special Use in the St. Charles Commercial Center and the Special Use for a Tattoo Parlor (Playground Tattoo) located at 2045 Lincoln Highway.

III. PROPOSAL

The applicant, Ryan Harnish, has submitted a petition for an amendment to an existing Special Use for a Tattoo Parlor located at 2045 Lincoln Highway. The applicant is proposing to relocate their existing Tattoo Parlor business (Playground Tattoo) from the unit at 2045 Lincoln Highway to the adjacent unit at 2047 Lincoln Highway. These two units are within the same multi-tenant building. The salient features of the proposal are as follows:

- The applicant will occupy an existing tenant space in the same commercial building.
- The size of the business will increase from approximately 1,065 SQ FT to 1,600 SQ FT.
- The applicant is not proposing any exterior modifications to the building or property.

IV. ANALYSIS:

1. TATTOO PARLOR

Tattoo Parlor is defined in **Section 17.30.020 Use Definitions** of the Zoning Ordinance as follows:

> *" Tattoo Parlor. An establishment whose principal business activity, either in terms of operation or as held out to the public, is the placing of designs, letters, figures, symbols or other marks upon or under the skin of any person, using ink or other substances, which result in the permanent coloration of the skin by means of the use of needles or other instruments designed to contact or puncture the skin."*

2. PARKING

The adjacent parking lot was constructed with the building to accommodate all the existing tenant spaces.

Per **Table 17.24-3 Required Off-Street Parking** of the Zoning Ordinance, the parking requirement for a Tattoo Parlor is 4 spaces per 1,000 SQ FT of gross floor area.
This parking requirement is identical to, or more stringent than, similar retail and service uses permitted at this location.

3. ILLINOIS DEPARTMENT OF PUBLIC HEALTH REQUIREMENTS

The State of Illinois requires all tattoo parlors to submit an application for a Certificate of Registration to the Illinois Department of Public Health (IDPH) before the business can open. The pertinent requirements listed in the ***Body Art Code*** (effective December 26, 2008) and ***Tattoo and Body Piercing Establishment Registration Act*** (effective July 1, 2007) are as follows:

- Operating requirements including sanitation procedures for the artist's personal hygiene, act of tattooing, and equipment sterilization.
- The handling and disposal of bio-hazardous materials.
- The business is required to renew their certificate on an annual basis.
- Denial, suspension, revocation, and non-renewal of the certificate.

For further information, the entire ***Body Art Code*** and ***Tattoo and Body Piercing Establishment Registration Act*** *are attached to this memo.*

4. BUSINESS OPERATION AND EXISTING SPECIAL USE CONDITIONS

a. Business Operation

The applicant has indicated that they will follow the same business operation practices that were stated during the 2009 Special Use process. The procedures stated in 2009 were:

- Customers are not allowed to congregate in the business.
- The applicant will follow all the rules and procedures as listed in the ***Body Art Act*** and ***Tattoo and Body Piercing Establishment Registrations Act.***
- Body piercing will be an accessory use to the business.

b. 2009 Special Use Ordinance Conditions

Ordinance 2009-Z-16 contains specific conditions that limit the hours of operation for this business. The hours of operation were limited as follows:

- An opening time of 10:00AM and a closing time of 10:00PM on Sunday, Monday, Tuesday, Wednesday, Thursday, and Friday.
- An opening time of 10:00AM and a closing time of 12:00AM on Saturday.

Staff recommends that this condition be restated in the amended Special Use.

V. RECOMMENDATION

Conduct the public hearing and close if all the testimony has been taken.

Staff has placed this item on the meeting portion of the agenda for a recommendation, should the Plan Commission feel they have adequate information to recommend on the item tonight.

Staff recommends approval of the Special Use for a Tattoo Parlor Application and has provided the attached draft Findings of Fact to support that recommendation.

VI. ATTACHMENTS

- Body Art Act and Tattoo and Body Piercing Establishment Registration Act
- Ordinance 2009-Z-16

Cc: Ryan Harnish, Applicant
Russell Colby, Planning Division Manager - City of St. Charles

FINDINGS OF FACT

SPECIAL USE FOR A TATTOO PARLOR

A. Public Convenience: The Special Use will serve the public convenience at the proposed location.

The Special Use will continue to serve the public convenience by permitting the expansion of an existing business located in the same retail building.

B. Sufficient Infrastructure: That adequate utilities, access roads, drainage and/or necessary facilities have been, or are being, provided.

The site is developed. Adequate utilities and all necessary facilities exist on the site and this business already exists on this property.

C. Effect on Nearby Property: That the Special Use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish or impair property values within the neighborhood.

This use already exists on the property. The use conforms to the general characteristics of the retail and service uses located around the site and the site is designated as retail and service in the St. Charles Comprehensive Plan.

D. Effect on Development of Surrounding Property: That the establishment of the Special Use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

A majority of the surrounding properties are developed. The roads, utilities, and site access points have been constructed for these properties.

E. Effect on General Welfare: That the establishment, maintenance or operation of the Special Use will not be detrimental to or endanger the public health, safety, comfort or general welfare.

The Special Use at the proposed location will not be detrimental to or endanger the public health, safety, comfort, or general welfare. The Special Use is similar/complimentary to existing surrounding uses. The proposed use fits the retail and service oriented character of this area and already exists on the site. The City has not identified any issues with the operation of this business since 2009.

F. Conformance with Codes: That the proposed Special Use conforms to all existing Federal, State and local legislation and regulation and meets or exceeds all applicable provisions of this Title, except as may be varied pursuant to a Special Use for Planned Unit Development.

The Special Use will conform to all Federal, State, and local legislation; specifically, to the regulations established as part of Ordinances 1982-Z-6 "An Ordinance Rezoning Property to the R-5 Multiple Residence District and B-3 Service Business District and Granting a Special Use as a Planned Unit Development for the St. Charles Commercial Center Property" and Ordinance 2009-Z-16 "An Ordinance Amending Ordinance No. 1982-Z-6 (An Ordinance Rezoning Property to the R-5 Multiple Residence District and B-3 Service Business District and Granting a Special Use as a Planned Unit Development for the St. Charles Commercial Center Property) to Provide for an Additional Special Use (Tattoo Parlor) and Granting a Special Use for a Tattoo Parlor (2045 Lincoln Highway – Ryan Harnish)". The use is required to file and maintain a Certificate of Registration with the Illinois Department of Public Health. Since the Body Art Act regulates all forms of body art,

piercing can be considered as an accessory use to this business. The business will conform to all relevant provisions of the Zoning Ordinance.

Illinois Department of
PUBLIC HEALTH

Pat Quinn, Governor
Damon T. Arnold, M.D., M.P.H., Director

525-535 West Jefferson Street • Springfield, Illinois 62761-0001 • www.idph.state.il.us

Dear Owner/Operator:

Public Act 094-1040, the Tattoo and Body Piercing Establishment Registration Act, became effective July 1, 2007. The rules to implement the Act, 77 ILL. Adm. Code 797, was adopted by the Joint Committee on Administrative Rules on December 26, 2008, and became effective that date.

Enclosed is, a Body Art Code, a copy of the Tattoo and Body Piercing Establishment Registration Act, an excerpt from 720 ILCS 5/ Criminal Code of 1961with body art age requirements and a permit application form with instructions. At this time we are requesting establishments complete the application and return it with the required registration fee to the Department. If you have already applied you will find a copy of the application you submitted. Please review and make any corrections and resubmit the application with the registration fee.

If you have any questions about the rules or application process contact me at 217-785-2439, or TTY (for hearing impaired use only) 800-547-0466.

Sincerely,

Melissa Estes
Body Art Program Coordinator
Division of Food, Drugs and Dairies
Illinois Department of Public Health

Enclosures: Body Art Code
Public Act 094-1040
Portion of 1961 Criminal Code
Application form
Application instructions

Packet version 5

Body Art Establishment Fee Structure

Establishments

with 1 workstation	$500.00
with 2 workstations	$550.00
with 3 workstations	$600.00
with 4 workstations	$650.00
with 5 workstations	$700.00
with 6 workstations	$750.00
with 7 workstations	$800.00
with 8 workstations	$850.00
with 9 workstations	$900.00
with 10 workstations	$950.00
with 11 workstations	$1000.00
with 12 workstations	$1050.00
with 13 workstations	$1100.00
with 14 workstations	$1150.00
with 15 workstations	$1200.00

Fee may be paid by check or money order payable to the Illinois Department of Public Health.

BODY ART ESTABLISHMENT REGISTRATION APPLICATION

Permit number _____
Fee paid _____

Illinois Department of Public Health
Division of Food, Drugs and Dairies
525 W Jefferson St., Springfield IL 62761-0001
Phone 217-785-2439 FAX 217-782-0943
TTY (hearing impaired use only) 800-547-0466

TYPE OF ESTABLISHMENT: ☐ Permanent ☐ **Mobile Initial date of opening_____

Establishment name _____

Establishment Address _____ City _____ County _____ ZIP code + 4 _____

If change of permanent location, list previous establishment permit number ___ ___ ___ ___ ___ ___

***Home base address if establishment is mobile*_____

Telephone (____)_____ Fax Number (____)_____

Email address/web site _____

Emergency contact name/number_____/(____)_____

Mailing Address (if different from above)

Address_____ City/State_____ ZIP code + 4 _____

Applicant (Owner) Name_____ Age _____

Address _____ City/State_____ ZIP code + 4 _____

Telephone (____)_____ Fax Number (____)_____

Number of Body Art Procedure work stations located at establishment: _____

Days and hours of establishment operation _____

Type of Ownership (MARK ONLY ONE)

☐ **Sole Proprietor** (Name and Social Security number) _____

_____

☐ **Partnership/Multiple owners** (List name and Social Security number of each owner) _____

_____

☐ **Limited Liability Company** (List complete name of LLC and FEIN) _____

_____

☐ **Corporation** (List complete name of Corp and FEIN) _____

_____

☐ List the Registered Agent on file with the Secretary of State when either an *LLC or Corporation* is marked.

_____

List equipment used for tattoo and/or body piercing services such as sterilizers, tattoo machines, cleaning systems, etc. Do not include disposable supplies.

Type	Year of manufacture if available

Submit copies of:

- ☐ **Sterilization/Operational Procedures**
- ☐ **Establishment Floor Plan**
- ☐ **Aftercare Instructions**
- ☐ **Parental Consent form** **(applicable to piercing services only)**

along with application and fee to

Illinois Department of Public Health
Division of Food, Drugs and Dairies
525 W. Jefferson St.
Springfield, IL 62761

Fee requirement calculation. Submit the registration fee of $500.00 US dollars for the establishment and one work station, PLUS $50.00 US dollars for each additional work station. *(Example, establishment with 4 workstations shall pay $500 plus $150 (3 x 50) for a total of $650.)*

This application must be signed by the owner, if an individual; by one of the partners, if a partnership; or by an officer of the company or corporation.

I affirm that I am the owner, partner or officer of the firm name as shown on page one, that I am authorized on the part of said applicant to verify and file with the Illinois Department of Public Health this application, and that I have full knowledge of the matters set forth herein and that all of same are true in substance and fact.

(X)_____ / _____

(Signature required) (Print Name) (Date)

INCOMPLETE APPLICATIONS WILL NOT BE PROCESSED AND WILL BE RETURNED FOR REQUIRED INFORMATION.

Body Art Establishment Application Instructions

1 Mark the box that describes the establishment type and provide the date of opening if already open, or provide the tentative opening date if establishment is to open in the future.

2 Legal name of the establishment as you want it to appear on the permit.

3 If the establishment is a permanent location, provide the address, city, county and zip code.

4 **** This section is not currently applicable. ****
If establishment has relocated, provide the previous permit number.

5 If the establishment is a mobile unit, provide the home base address, city, county, state and zip code.

6 Provide establishment telephone number and FAX number if available.

7 Provide an e-mail or web site address if available.

8 Provide an emergency contact name and telephone number.

9 Provide a mailing address if the establishment wishes to receive mail from the Department at a location different than the establishment address.

10 Provide the name of the person applying for the permit and the age of the applicant.

11 Provide the applicant's address, city, state and zip code.

12 Provide applicant's telephone number and FAX number if available.

13 Provide the number of body art work stations located at the establishment.

14 Provide the days that the establishment will be open during the week and the hours for each day. If you have seasonal hours that change, please note them.

15 Mark the ownership type that best describes the owner of the establishment. List the legal name and provide the identifying number, (social security or FEIN).

***** Continue application on back. *****

16 List mechanical equipment, (including year of manufacture when available) such as tattoo machines, sterilization units, cleaning systems and power supplies.

17 Submit copies of the attachments listed.
SEE BACK SIDE OF INSTRUCTION PAGE FOR DETAILS.

18 Provide the signature of the responsible person for the establishment and provide the printed name as well as the date the application was completed

The Body Art Establishment Registration application requires applicants to submit copies of Sterilization/Operation Procedures, an Establishment Floor Plan, Aftercare Instructions, and a Parental Consent form, *only if piercing procedures are available for minors.* Contact the Body Art Program Coordinator, 217-785-2439 with questions.

Attachment One: Sterilization/Operational Procedures

Submit a copy of the establishment procedures. The following outline highlights the area each establishment must minimally address in its written procedures. Your procedures may go beyond the outline if you have additional items you wish to include.

1. Sterilization methods used for all reusable items.
2. Testing methods used to ensure sterilization process is working.
3. Storage methods used to ensure all sterilized items remain sterilized.
4. Method used to gather client information and record storage method.
5. Method used for maintaining records of all procedures performed.
6. Method used to ensure client is eighteen years of age.
7. Method for collection of parental consent if client is a minor requesting piercing procedure.
8. Method for preparing the procedure site.
9. Method for aftercare procedure and client instructions.
10. Work station cleanup after procedure is completed.
11. Methods used to deal with a possible emergency. (*These do not need to include any type of medical analysis or EMT services. The emergency procedure is necessary to ensure everyone knows what actions to take during an emergency and to prevent unplanned actions during any emergency. An example for an emergency procedure can be as simple as dialing 9-1-1.)*

Attachment Two: Floor plan of establishment

Submit a floor plan of the facility. This attachment **does not require** an architectural drawing or blue print. The following items must be included in the drawing. *The drawing may include other features as needed.*

1. Entrance and exits
2. Workstations
3. Hand sinks
4. Sterilization area
5. Washroom
6. Storage room
7. Sitting area if available

Attachment Three: Aftercare Instructions

Please include a copy of the instructions given to clients after any procedure has been performed. The instructions should include directions on using any washes, salves or creams, the rinse schedule and the actions that need to be taken if problems arise as a result of the procedure.

Attachment Four: Parental Consent form (For Body Piercing ONLY)

Please include a copy of the consent form used to obtain the parental consent for minors when Body Piercing procedures are made available. *If this service is not available, a consent form shall not be required.*

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER m: FOOD DRUGS AND COSMETICS

PART 797
BODY ART CODE

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AUTHORITY: Implementing and authorized by the Tattoo and Body Piercing Establishment Registration Act [410 ILCS 54].

SOURCE: Adopted at 33 Ill. Reg. 246, effective December 26, 2008.

Section 797.100 Definitions

The following shall be the accepted definitions of the terms used in this Part:

"Act" means Tattoo and Body Piercing Establishment Registration Act [410 ILCS 54].

"Aftercare" means oral and written instructions given to the client, specific to the body art procedures rendered, about caring for the body art and surrounding area.

These instructions will include information about when to seek medical treatment, if necessary.

"Antiseptic" means an agent that reduces disease-causing microorganisms on human skin or mucosa.

"Apprentice" means an individual who works under the supervision of a body artist and performs body art activities.

"Autoclave" means an apparatus that is registered and listed with the federal Food and Drug Administration for sterilizing articles by using superheated steam under pressure.

"Body Art" means the practice of physical body adornment, including, but not limited to, the following techniques: body piercing, tattooing, cosmetic tattooing, branding and scarification. This definition does not include practices that are considered medical procedures by the Illinois State Medical Board, such as implants under the skin, which shall not be performed in a body art establishment. Nor does this definition include piercing of the non-cartilaginous portion or lobe of the ear with pre-sterilized single-use stud-and-clasp ear-piercing systems.

"Body Artist" means a person who conducts or practices body art activities and/or procedures.

"Body Art Establishment" or *"Establishment" means a body-piercing operation, a tattooing operation,* body modification establishment *or a combination of* all *operations in a multiple-type establishment,* whether public or private, temporary or permanent in nature or location, profit or not for profit. (Section 10 of the Act)

"Body Piercing" means penetrating the skin to make a hole, mark, or scar that is generally permanent in nature, including, but not limited to, micro-dermal anchors, acts of suspension and sub-dermal/trans-dermal implants. *"Body piercing" does not include practices that are considered medical procedures or the puncturing of the* non-cartilaginous portion *or lobe of the ear using a pre-sterilized, single-use stud-and-clasp ear piercing system.* (Section 10 of the Act)

"Certificate of Registration" means written permission by the Department to operate a body art establishment. Approval is given in accordance with this Part and is separate from any other licensing requirement that may exist within communities or political subdivisions comprising the jurisdiction.

"Change of Ownership" means any of the following:

In the case of a body art establishment owned by a corporation, the transfer of the facility by the corporation to another corporation, to a partnership or association, or to a natural person. Transfer of stock in a corporation does not constitute change of ownership.

In the case of a body art establishment owned by a partnership or association, the transfer of the facility by the partnership or association to another partnership or association, to a corporation, or to a natural person. Transfer of interest in the partnership or association or substitution of any or all partners or members of the association does not constitute change of ownership.

In the case of a body art establishment owned by a natural person, the transfer of the facility to any corporation, partnership, association or other natural person, whether or not the owner retains any interest in the facility.

"Clean" or "Cleaning" means the removal of foreign materials from objects, normally accomplished with detergent, water and mechanical action.

"Client" means the person, customer, or patron whose skin will be tattooed, modified *or pierced.* (Section 10 of the Act)

"Cosmetic Tattooing" (see "Tattooing").

"Dentist" means a person licensed to practice dentistry in this State pursuant to the Illinois Dental Practice Act [225 ILCS 25].

"Department" means the Illinois Department of Public Health or its designated agent.

"Director" means the Director of Public Health or his or her designee. (Section 10 of the Act)

"Disclosure Warning Statement" means a sign or poster that is provided by the Department that advises the public of the potential health risks of body art services.

"Disinfect" or "Disinfection" means a process that provides an effective concentration of a United States Environmental Protection Agency registered chemical for enough contact time as specified by the manufacturer to reduce bacterial count, including pathogens, to a safe level (when disease organisms that

may be present are destroyed so as to prevent transfer) on equipment surfaces and in toilet and hand-washing facilities.

"Ear Piercing" means the puncturing of the non-cartilaginous portion or lobe of the ear with a pre-sterilized single-use stud-and-clasp ear-piercing system, following manufacturer's instructions. Under no circumstances shall ear piercing studs and clasps be used anywhere on the body other than the non-cartilaginous portion and lobe of the ear.

"Equipment" means all machinery, including fixtures, containers, vessels, tools, devices, implements, furniture, display and storage areas, sinks, and all other apparatus and appurtenances used in connection with the procedures of body art.

"Good Hygienic Practices" means practices conducive to maintaining health and preventing disease, especially through cleanliness. Good hygienic practices include, but are not limited to, restrictions on eating, drinking and the use of tobacco products in the establishment; maintaining a high degree of personal cleanliness; hand washing and proper hand washing techniques; use of single-use disposable gloves; preventing employees from contaminating work surfaces; and availability of hand washing facilities and supplies.

"Hand-Washing Sink" means a sink equipped with hot and cold running water under pressure, tempered by means of a mixing valve or combination faucet, activated by wrist blade or knee control or other hands-free means, used solely for washing hands, arms and other portions of the body.

"Hot Water" means water that attains and maintains the temperature of not less than 120 degrees F.

"Imminent Health Hazard" means any hazard to the public health when the evidence shows that a product or practice creates or may create a public health situation, including, but not limited to, a lack of water or electricity, lack of sterilization, infections that are epidemiologically associated with a body art establishment, or the occurrence of a single case of a life-threatening illness that is epidemiologically associated with a body art establishment.

"Instruments Used for Body Art" means hand pieces, needles, needle bars, and other instruments that may come in contact with a client's body or may be exposed to body fluids during body art procedures.

"Invasive" means entry into the body either by incision or insertion of an instrument into or through the skin or mucosa, or by any other means intended to puncture, break or compromise the skin or mucosa.

"Jewelry" means any personal ornament inserted into a pierced area. The ornament shall be free of nicks, scratches or irregular surfaces and must have been properly sterilized prior to use.

"Mobile Body Art Establishment" or "Mobile Body Art Unit" means a mobile establishment or unit that is self-propelled or otherwise movable from place to place and is self-sufficient for utilities such as gas, water, electricity and liquid waste disposal.

"Operator" means an individual, partnership, corporation, association, or other entity engaged in the business of owning, managing, or offering services of body art. (Section 10 of the Act)

"Person" means any individual, corporation, partnership, firm, association, society, trust, estate, public or private institution, group, agency, political subdivision of this State, any other state or political subdivision or agency of that state, and any legal successor, representative, agent or agency of a person.

"Physician" means a person licensed under the Medical Practice Act of 1987 [225 ILCS 60] to practice medicine in all of its branches.

"Potable Water" means water that is safe for human consumption and meets the water quality standards of the Primary Drinking Water Standards (35 Ill. Adm. Code 611).

"Procedure Surface" means any surface of a work area, including, but not limited to, the procedure chair that comes into contact with the client's body during a body art procedure, skin preparation of the area adjacent to and including the body art procedure, or any associated work area that may require disinfecting.

"Regulated Waste" means any liquid or semi-liquid blood or other potentially infectious materials; contaminated items that would release blood or other potentially infectious materials in a liquid or semi-liquid state if compressed; items that are caked with dried blood or other potentially infectious materials and are capable of releasing these materials during handling; sharps and any wastes containing blood and other potentially infectious materials, as defined in 29 CFR 1910.1030 (Bloodborne Pathogens).

"Scarification" means to create a design on the skin by means of shallow cuts or skin removal that are sometimes rubbed with a colorant or irritant to enhance the resulting scar tissue.

"Sharps" means any objects (sterile or contaminated) that may purposefully or accidentally cut or penetrate the skin or mucosa, including, but not limited to, pre-sterilized single-use needles, scalpel blades, and razor blades.

"Sharps Disposal Container" means a puncture-resistant, leak-proof container that can be closed for handling, storage, transportation and disposal and that is labeled with the international biohazard symbol.

"Single Use" means products or items that are intended for one-time, one-person use and are disposed of after use on each client, including, but not limited to, cotton swabs or balls, tissues or paper products, paper or plastic cups, gauze and sanitary coverings, razors, piercing needles, tattoo needles, scalpel blades, stencils, ink cups and protective gloves.

"Standard Precautions" means infection prevention and control measures that apply to all clients regardless of condition or presumed infection status (see 77 Ill. Adm. Code 690.1010(a)(1)).

"Sterile" means free of all living organisms, including spores.

"Sterilization" means the use of a physical or chemical process to destroy all living organisms, including spores.

"Sterilization Packaging" means packaging materials, including, but not limited to, bags, packs, pouches or tubing designed for steam sterilization use. The sterilization packaging shall allow penetration of steam to allow sterilization and to maintain the sterility of the item after sterilization.

"Sterilize" means to destroy all living organisms including spores. (Section 10 of the Act)

"Sterilizer" means equipment used to sterilize body art devices, equipment and supplies by direct exposure to a selected sterilization agent validated by a sterile indicator strip.

"Tattooing" means any method of placing ink or other pigment into the skin or mucosa by the aid of needles or any other instrument used to puncture the skin,

resulting in permanent coloration of the skin or mucosa. This term includes all forms of cosmetic tattooing.

"Tempered Water" means water ranging in temperature from 85 degrees F to, but not including, 120 degrees F.

"Temporary Body Art Establishment" means any place or premise operating for educational, trade show or product demonstration purposes at a fixed location where a body artist/apprentice performs body art procedures for no more than 14 days consecutively in conjunction with a single event or celebration.

"Temporary Certificate of Registration" means a certificate of registration issued by the Department *for educational, trade show, or product demonstration purposes only. The temporary certificate of registration shall be valid for a maximum of 14 calendar days.* (Section 20 of the Act)

"Ultrasonic Unit" means a unit used for cleaning soiled and/or used instruments before they are sterilized, using the emission of high frequency sound waves.

"Violation" means a finding of violation of a Section of the Act or this Part by a court of competent jurisdiction in this State, or by the Director in a Final Order issued pursuant to the Act, or by a notice of warning issued in accordance with this Part.

"Work Station" means an area where body art procedures are performed.

Section 797.200 Incorporated and Referenced Materials

a) The following materials are incorporated or referenced in this Part:

1) Illinois Statutes and Administrative Rules:

A) Criminal Code of 1961 [720 ILCS 5]

B) Rules of Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100)

C) Illinois Plumbing Code (77 Ill. Adm. Code 890)

D) Control of Communicable Diseases Code (77 Ill. Adm. Code 690)

E) Electrologist Licensing Act [225 ILCS 412]

F) Acupuncture Practice Act [225 ILCS 2]

G) Administrative Review Law [735 ILCS 5/Art. III]

H) Illinois Food, Drug and Cosmetic Act [410 ILCS 620]

I) Public Area Sanitary Practice Code (77 Ill. Adm. Code 895)

J) Drinking Water Systems Code (77 Ill. Adm. Code 900)

K) Private Sewage Disposal Code (77 Ill. Adm. Code 905)

L) Illinois Water Well Construction Code (77 Ill. Adm. Code 920)

2) Federal Regulations:

Bloodborne Pathogens, Occupational Safety and Health Administration (OSHA), 29 CFR 1910.1030(g)(2) (July 2005)

3) Federal Guidelines:

A) Guidelines for Prevention of Transmission of Human Immunodeficiency Virus and Hepatitis B Virus to Health-Care and Public-Safety Workers, in Morbidity and Mortality Weekly Report (MMWR), June 23, 1989, Vol. 38, No. S-6

B) Recommendations for Preventing Transmission of Human Immunodeficiency Virus and Hepatitis B Virus to Patients During Exposure-Prone Invasive Procedures, in MMWR, July 12, 1991, Vol. 40, No. RR-8

b) All incorporations by reference of federal regulations and guidelines refer to the materials on the date specified and do not include any amendments or editions subsequent to the date specified.

c) Copies of all incorporated materials are available for inspection and copying by the public at the Department's Central Office, Division of Food, Drugs, and Dairies, 525 West Jefferson Street, Springfield, Illinois 62761.

Section 797.300 General Requirements

The following information shall be kept on file on the premises of a body art establishment and shall be available for inspection by the Department:

a) Body Artist/Apprentice information

1) Full names and exact duties;

2) Date of birth;

3) Home address;

4) Home and work telephone numbers;

5) Identification photographs;

6) Current places of employment;

7) Training documentation/certificates; and

8) Proof of completion of a bloodborne pathogen training program compliant with Bloodborne Pathogens, OSHA, 29 CFR 1910.1030.

b) Establishment Information

1) Name of Establishment;

2) Hours of Operation;

3) Owner's name and home address;

4) A copy of the operation procedure (see Section 797.300(c));

5) Owner's telephone numbers; and

6) A complete description of all body art procedures performed.

c) Emergency Procedures Information
The owner or operator of a body art establishment shall prepare, maintain and implement an operation procedure that meets the following requirements:

1) The operation procedure shall provide for response to the occurrence of any sudden, serious and unexpected sickness or injury that would lead a

reasonable person, possessing an average knowledge of health, to believe that the sick or injured person requires urgent or unscheduled medical care.

2) The operation procedure shall include a method to address emergency situations, including, but not limited to, adverse reactions, anaphylactic reactions, and accidental needle sticks.

3) The operation procedure shall include procedures to be used when blood, plasma, serum or body fluids, such as semen, saliva, breast milk, vaginal secretions and any fluid contaminated with blood, are exposed to:

A) mucous membranes, including eye, mouth or other mucous membranes;

B) broken or non-intact skin;

C) abraded or irritated skin; or

D) skin surfaces that are otherwise compromised.

4) The operation procedure shall describe methods for obtaining appropriate medical care in the event of such an exposure and designate personnel to be notified in the event of an emergency.

5) The operation procedure must be maintained in the body art establishment in a location accessible to all employees.

c) The establishment shall also keep on file a copy of this Part.

Section 797.400 Operational Requirements

a) It shall be unlawful for any person to perform body art procedures unless such procedures are performed in a body art establishment with a current certificate of registration.

b) A body artist/apprentice shall be a minimum of 18 years of age.

c) Eating or drinking by anyone other than a client is prohibited in the area where body art is performed.

d) Smoking is prohibited in the body art establishment.

e) *Body* art *procedures must not be performed, without medical clearance, on skin surfaces where sunburn, rash, acne, infection, open lesions, or other questionable skin lesions exist and must not be performed on any person who is impaired by drugs or alcohol.* (Section 27 of Act) Medical clearance must be in the form of a written and signed statement by a physician.

f) The body artists/apprentice shall maintain a high degree of personal cleanliness, conform to good hygienic practices, and wear clean clothes when performing body art procedures. Before performing body art procedures, body artists/apprentices shall thoroughly wash their hands for a minimum of 20 seconds in tempered running water with liquid soap, then rinse hands and dry with disposable paper towels. This shall be done as often as necessary to remove contaminants.

g) In performing body art procedures, the body artist/apprentice shall wear single-use medical grade gloves. Gloves shall be changed if they become contaminated by contact with any non-clean surfaces or objects or by contact with a third person. The gloves shall be discarded, at a minimum, after the completion of each procedure on an individual client, and hands shall be washed before the next pair of gloves is donned. Under no circumstances shall a single pair of gloves be used on more than one person. The use of single-use, medical grade gloves does not preclude or substitute for hand-washing procedures as part of a good personal hygiene program.

h) If, while performing a body art procedure, the body artist's/apprentice's glove is pierced, torn or otherwise compromised, the procedure in subsection (f) shall be repeated immediately. The contaminated gloves shall be immediately discarded, and the hands washed thoroughly (see subsection (e)) before a fresh pair of gloves is applied. Any item or instrument used for body art that is contaminated during the procedure shall be replaced immediately with a new disposable item or a new sterilized instrument or item before the procedure resumes.

i) Regulated waste that may release liquid blood or body fluids when compressed, or may release dried blood or body fluids when handled, shall be placed in an approved bag marked with the international biohazard symbol. The regulated waste shall then be disposed of in compliance with 29 CFR 1910.1030. Sharps ready for disposal shall be disposed of in approved sharps disposal containers. Storage of regulated waste on site shall comply with the regulations in 29 CFR 1910.1030, and storage of regulated waste awaiting pick-up shall not exceed 30 days.

j) Waste that does not release liquid blood or body fluids when compressed or does not release dried blood or body fluids when handled may be placed in a covered receptacle and disposed of through normal disposal methods.

k) No person shall perform any tattoo procedure upon a person under the age of 18 years that is prohibited by Sections 12-10 through 12-10.2(c) of the Criminal Code of 1961. Age verification shall be obtained by government issued identification containing a birth date and photograph. In any procedure other than tattooing, the parent or legal guardian shall sign a consent form in the presence of an operator/body artist. The consent form shall indicate that the parent or legal guardian has read and understood the disclosure warning statement required under Section 797.600(c).

l) Before the oral cavity of a person under 18 years of age may be pierced, the written consent form signed by the parent or legal guardian must contain a provision in substantially the following form:

> *I understand that the oral piercing of the tongue, lips, cheeks, or any other area of the oral cavity carries serious risk of infection or damage to the mouth and teeth, or both infection and damage to those areas, that could result in but is not limited to nerve damage, numbness, and life threatening blood clots.* (Section 12-10.1 of the Criminal Code of 1961)

m) Any skin or mucosal surface that is to receive a body art procedure shall be free of rash, irritation or any visible infection.

n) No body artist/apprentice affected with boils, infected wounds, open sores, abrasions, weeping dermatological lesions or acute respiratory infection, possibly manifested by fever, chills and/or a chronic productive cough, shall work in any area of a body art establishment in any capacity in which that person could contaminate body art equipment, supplies or working surfaces with body substances or pathogenic organisms.

o) Any body artist can refuse service to any individual, at any time, and for any reason.

Section 797.500 Exemptions

The following practices, occupations and persons are exempted from this Part:

a) *The practice of electrology as defined in the Electrologist Licensing Act* [225 ILCS 412] (Section 10 of the Act);

b) *The practice of acupuncture as defined in the Acupuncture Practice Act* [225 ILCS 2]) (Section 10 of the Act);

c) *The use, by a physician licensed to practice medicine in all its branches, of colors, dyes, or pigments for the purpose of obscuring scar tissue or imparting color to the skin for cosmetic, medical, or figurative purposes* (Section 10 of the Act); and

d) Individuals who pierce only the non-cartilaginous portion or lobe of the ear with a pre-sterilized single-use stud-and-clasp ear-piercing system.

Section 797.600 Public Notification Requirements

a) Written public education materials, provided by the Department, shall be offered and explained to all clients prior to receiving body art procedures.

b) Verbal and written instructions for the aftercare of the body art shall be provided to each client.

c) The written public education materials shall advise the client to consult a physician or dentist as appropriate at the first sign of infection. The written public education materials shall also contain the name, address and phone number of the establishment. These documents shall be signed and dated by both parties, with a copy given to the client, and the operator shall retain the original with all other required records for a period of no less than one year. In addition, all establishments shall prominently display a disclosure warning poster, provided by the Department, that advises the public of the potential health risks of body art services.

d) The operator and/or body artist shall report in writing to the Department all infections or diseases, resulting from a body art procedure, that required medical attention. The written report shall be sent to the Department by mail or facsimile within 24 hours after receiving a report that medical attention was required. The report shall include:

1) The name, address and phone number of the affected individual;

2) The date of the body art procedure;

3) Identification of the body artist/apprentice who performed the service;

4) The name, address and certificate of registration number of the body art establishment involved;

5) The anatomical location, condition and description of the affected site;

6) The name, address and phone number of the affected individual's health care provider;

7) The date that medical attention was sought; and

8) Any other information considered relevant to the situation.

Section 797.700 Disclosure of Pre-existing Conditions

The body artist/apprentice shall request information from all clients as follows:

"To ensure that your body art procedure heals properly, we ask that you disclose if you have or have had any of the following conditions. Disclosure does not prevent you from having a body art procedure.

a) Diabetes;

b) History of hemophilia (bleeding);

c) History of skin diseases, skin lesions or skin sensitivities to soaps, disinfectants, etc.;

d) History of allergies or adverse reactions to pigments, dyes or other skin sensitivities such as, but not limited to, latex;

e) History of epilepsy, seizures, fainting or narcolepsy;

f) Medications used, such as anticoagulants that thin the blood and/or interfere with blood clotting;

g) Human immunodeficiency virus (HIV);

h) Hepatitis;

i) Any other information that would aid us in evaluating your body art healing process."

Section 797.800 Preparation and Care of the Body Art Area

a) Before a body art procedure is performed, the immediate skin area and the areas of skin surrounding the location of the body art procedure shall be washed with liquid soap and water or a skin antiseptic. If shaving is necessary, single-use disposable razors shall be used. Following shaving, the skin and surrounding area shall be washed with liquid soap and water or a skin antiseptic. The single-use disposable razor and washing pad shall be discarded after a single use.

b) If bleeding occurs, all products used to check the flow of blood or to absorb blood shall be single use and shall be disposed of immediately after use in appropriate covered containers. (See definition of "regulated waste" in Section 797.100.)

Section 797.900 Disinfection and Sterilization Procedures

a) All non-disposable instruments used for body art shall be cleaned after each use by scrubbing with an appropriate soap or disinfectant solution and hot water, or by following the manufacturer's instructions, to remove blood and tissue residue, and shall then be placed in an ultrasonic unit operated in accordance with manufacturer's instructions.

b) After cleaning, all non-disposable instruments used for body art shall be packed individually in sterilization packaging and subsequently sterilized (see subsection (c)). All sterilization packaging shall contain either a sterilization indicator or internal temperature indicator. Sterilization packaging shall be dated with an expiration date not to exceed six months or in accordance with manufacturer's instructions. If sterilization packaging is compromised or expired, the instrument shall be removed, repackaged and re-sterilized.

c) All cleaned non-disposable instruments used for body art shall be sterilized in an autoclave that meets the criteria specified in subsection (i). The autoclave shall be used, cleaned and maintained according to manufacturer's instruction. The operator shall retain on-site a copy of the manufacturer's recommended procedures for the operation of the sterilization unit and a daily temperature log for each day's use. If the body art establishment uses only single-use disposable instruments and products, and uses sterile single-use needles and tubes, an autoclave shall not be required.

d) After sterilization, the instruments used for body art procedures shall be stored in a dry, clean cabinet or tightly covered container reserved for the storage of such instruments.

e) All instruments shall remain stored in sterile packages until just prior to the performance of a body art procedure. When assembling instruments used for body art procedures, the operator shall wear single-use disposable medical grade gloves and use aseptic techniques to ensure that the instruments and the gloves are not contaminated.

f) All inks, pigments, needles and equipment shall be specifically manufactured for performing body art procedures and shall be used according to manufacturer's instructions. Single-use needles, specifically manufactured for body art, may be purchased and used to construct a needle bar by the body artist.

g) Pigment shall be reconstituted using only distilled or sterile water or a glycerin product.

h) Immediately before a tattoo is applied, the quantity of the ink to be used shall be transferred from the ink bottle and placed into single-use containers. Upon completion of the tattoo, these single-use containers and their contents shall be discarded.

i) Each certificate of registration holder shall demonstrate, by monthly spore destruction tests, that the autoclave used is capable of attaining sterilization. These tests shall be verified through an independent laboratory. Test records shall be retained on-site by the operator for a period of one year.

Section 797.1000 Requirements for Single-Use Items

a) Single-use items shall not be used on more than one client for any reason. After use, all single-use needles, razors and other sharps shall be immediately disposed of in approved sharps disposal containers.

b) All products applied to the skin, including body art stencils, shall be single-use and disposable. Petroleum jellies, soaps and other products used in the application of stencils shall be dispensed and applied to the area to be tattooed with gauze or in a manner to prevent contamination of the original container and its contents.

c) Single-use items must be stored in a clean, covered location, in a manner to prevent any contamination.

Section 797.1100 Requirements for Premises

a) All walls, floors and procedure surfaces of a body art establishment shall be smooth, free of open holes and cracks, and washable. Walls, floors and ceilings shall be in good repair and maintained in a clean condition. All procedure surfaces, including client chair/benches, shall be of such construction as to be easily cleaned and disinfected after each client. All procedure surfaces shall be cleaned and disinfected after each procedure. The body art establishment shall be maintained in a clean and sanitary condition at all times.

b) All body art establishments shall be completely separated, by solid partitions or by walls extending from floor to ceiling, from any room used for human habitation, any food establishment or room where food is prepared, any hair salon, or any other such activity that may cause potential contamination of work surfaces.

c) Effective measures shall be taken by the operator/body artist/apprentice to protect against the presence of insects, vermin and rodents in the establishment. Exterior doors shall be self-closing and tight fitting. If windows open, they shall have tight-fitting screens.

d) Each body art establishment shall have an area that may be screened from public view for clients requesting privacy. Dividers, curtains or partitions, at a minimum, shall be available to separate multiple work stations.

e) The establishment shall be well ventilated and provided with an artificial light source equivalent to at least 20 foot candles.

f) No animals of any kind shall be allowed in a body art establishment, except service animals used by persons with disabilities. Fish aquariums shall be allowed in waiting rooms and non-procedural areas.

g) A separate hand-washing sink (see Section 797.100) shall be readily accessible to the operators within the body art establishment. The hand sink shall be supplied with liquid soap and disposable paper towels. One hand sink shall serve no more than six stations.

h) Each body art establishment shall have a minimum of one hand-washing sink, excluding any service sinks, and one toilet facility. The toilet facility shall be equipped with a hand-washing sink, as well as liquid soap and paper towels in dispensers. Toilet facilities shall have tight fitting, self-closing doors. Such doors shall not be left open except during cleaning or maintenance. A supply of toilet tissue shall be provided at each toilet at all times. Toilet facilities shall also be equipped with mechanical ventilation to the outside air.

i) At least one covered waste receptacle shall be provided at each work station, lavatory facility, and toilet facility. Receptacles in the work station shall be emptied daily, and solid waste shall be removed from the premises at least weekly. All refuse containers shall be cleanable, and kept clean. Waste receptacles shall be kept uncovered during use and covered while not in use.

j) All instruments and supplies shall be stored in clean, dry, covered containers. The dirty contaminated equipment, including the autoclave and ultrasonic units, along with cleaning supplies and cleaning equipment, shall be stored in an area separate from the procedure area. This area shall not be publicly accessible.

k) If reusable cloth items are used, they shall be mechanically washed with detergent and dried after each use. The cloth items shall be stored in a dry, clean environment until used.

l) In addition to complying with all of the requirements of this Part, mobile body art vehicles and body artists/apprentices working from a mobile body art establishment shall also comply with the following requirements:

1) Body art shall be performed only from an enclosed vehicle such as a trailer or mobile home. No body art procedures shall be performed outside of the enclosed vehicle.

2) Potable water shall be maintained for the mobile body art establishment at all times during operation.

3) All liquid wastes shall be stored in a storage tank with a capacity at least 50 percent greater than the capacity of the on-board potable water supply. Liquid wastes shall be disposed of in accordance with State and federal laws.

4) A toilet facility, equipped with a hand sink, shall be available within the mobile body art establishment. The hand sink shall be supplied with hot and cold running water, under pressure, to a mixing-type faucet, as well as liquid soap and paper towels in dispensers. Toilet facilities shall have tight fitting, self-closing doors. The doors shall not be left open except during cleaning or maintenance. A supply of toilet tissue shall be provided at each toilet at all times. Toilet facilities shall also be equipped with mechanical ventilation to the outside air.

Section 797.1200 Establishment Certificate of Registration Requirements

a) The operator of a body art establishment shall maintain a current certificate of registration from the Department, to be renewed annually. The owner shall file an application with the Department using an application provided by the Department and shall include all of the following information:

1) *The applicant's name, address, telephone number, and age.* To qualify for the certificate of registration, the applicant shall be *at least 18 years of age*;

2) *The name, address, and phone number of the establishment*;

3) *The type and year of manufacture of equipment proposed to be used for body art,* if available;

4) A floor plan of the premises, showing the location of required facilities and work stations;

5) *The sterilization and operational procedures to be used by the establishment* (Section 15 of the Act);

6) The total number of work stations located in the establishment. This number shall include all work stations, whether utilized or not.

b) With each annual certificate of registration application, the applicant shall submit a $500 non-refundable fee. The $500 non-refundable fee shall satisfy the cost of the certificate of registration and the registration of one work station. For each additional work station located in the facility, applicants shall submit, at the time of application, an additional $50 non-refundable fee.

c) Any attempt to obtain a certificate of registration by means of fraud, misrepresentation or concealment is prohibited.

d) *The certificate of registration issued by the Department shall be conspicuously displayed within the sight of clients upon entering the establishment.*

e) *Registration is valid for a single location and only for the operator named on the certificate. Registration is not transferable.* (Section 35 of Act)

f) *In the event of a change of ownership, the new owner must apply for a certificate of registration prior to* the opening *of the property.* (Section 40 of Act)

Section 797.1300 Body Artist Proficiency Requirements

a) The operator shall hire only body artists who have complied with the body artist proficiency requirements of this Part.

b) No person shall conduct body art procedures without first demonstrating proficiency and knowledge of this Part.

c) The operator shall determine that each body artist possesses knowledge of the following subjects:

1) Anatomy;

2) Infectious disease control, including waste disposal, hand-washing techniques, sterilization equipment operation and methods, and sanitization/disinfection/sterilization methods and techniques; and

3) Skin diseases, disorders and conditions (including diabetes).

d) Body artists/apprentices shall maintain documentation of completion of "Bloodborne Pathogen Training", as required by OSHA (29 CFR 1910.1030) at the body art establishment.

e) A list of all body artists who have complied with this Section and all other provisions of this Part shall be posted in a prominent and conspicuous area of the establishment.

Section 797.1400 Temporary Certificate of Registration Requirements

a) *A temporary certificate of registration may be issued by the Department for educational, trade show or product demonstration purposes that include body art procedures. The temporary certificate of registration shall be valid for a maximum of 14* consecutive *calendar days.* (Section 20 of Act)

b) The establishment shall be contained in a completely enclosed non-mobile facility (e.g., inside a permanent building).

c) An operator who wishes to obtain a temporary certificate of registration for his or her establishment/booth shall submit a temporary certificate of registration application for review by the Department at least 30 days prior to the event. The application shall specify:

1) Inclusive dates during which the temporary certificate of registration is needed (not to exceed 14 consecutive calendar days per event), without reapplication;

2) Compliance with body artist proficiency requirements as specified in Section 797.1300;

3) The address where the temporary certificate of registration will be used.

d) A temporary certificate of registration shall not be issued unless the applicant has paid a non-refundable fee of $250.

e) A temporary certificate of registration shall not be transferable from one place or person to another.

f) Compliance with all of the requirements of this Part includes, but is not limited to, the following:

1) Conveniently located hand-washing sink with liquid soap, paper towels and hot and cold water under adequate pressure shall be provided. Drainage in accordance with local plumbing codes is to be provided. Alcohol-based single-use hand wipes shall be available in each work station to augment the hand-washing requirements of this Section;

2) There shall be at least 20 foot candles of light at the level where the body art procedure is being performed; and

3) The establishment shall provide a sterilizer in compliance with this Part, on which a spore test has been performed 30 or fewer days prior to the date of the event, or use only single-use prepackaged sterilized equipment.

g) A temporary certificate of registration issued by the Department is required prior to the performance of any body art procedures.

h) Body art procedures shall not be performed before the Department has inspected the location identified on the temporary certificate of registration application.

i) If the holder of a temporary certificate of registration fails to comply with the requirements of the Act or this Part, the Department shall suspend the temporary certificate of registration.

j) The temporary certificate of registration and the disclosure warning poster (see Section 797.600(c)) provided by the Department shall be prominently posted.

Section 797.1500 Enforcement

a) The Department shall inspect any establishment, mobile body art establishment/unit, or any other place that it believes is required to apply for a certification of registration under the Act and this Part, as often as necessary to ensure compliance with this Part. The initial inspection of a mobile body art establishment shall take place at a location identified by the Department. Additional inspections may be performed at any event where the mobile body art establishment is scheduled to operate.

b) If the Department is denied access to any establishment, mobile body art establishment/unit, or any other place that it believes is required to apply for certification of registration under the Act and this Part, the Department shall request intervention of local, county or State law enforcement agencies to seek a court order or warrant to investigate and enter the establishment, mobile body art establishment/unit, or any other place. Any person or entity preventing the Department from carrying out its duties under the Act or this Part shall be guilty of a violation of the Act and shall be subject to penalties.

c) If the Department suspects that a communicable disease is or may be transmitted by an operator/apprentice, by use of unapproved or malfunctioning equipment, or by unsanitary or unsafe conditions and practices or other imminent health hazard that may adversely affect the health of the public, upon written notice to the owner or operator, the Department shall do any or all of the following:

1) Issue an order excluding any or all operators/apprentices from the body art establishment who are responsible, or appear to be responsible, for the transmission of a communicable disease until the Department determines there is no further risk to public health;

2) Issue an order to immediately suspend the certificate of registration of the establishment until the Department determines that there is no further risk to the public health. The order shall state the cause for the action.

Section 797.1600 Procedures for Suspension, Revocation, or Refusal to Issue a Certificate of Registration

A certificate of registration may be denied, suspended, or revoked, or the renewal of a certificate of registration may be denied, for any of the following reasons:

a) Any single violation of the Act or this Part;

b) *Conviction of an applicant or registrant of an offense arising from false, fraudulent, deceptive or misleading advertising. The record of conviction or a certified copy shall be conclusive evidence of the conviction;*

c) *Revocation of a certificate of registration during the previous 5 years or surrender or expiration of the certificate of registration during the pendency of action by the Department to revoke or suspend the certificate of registration during the previous 5 years, if, before the certificate of registration was issued to the individual applicant, a controlling owner or controlling combination of owners of the applicant, or any affiliate of the individual applicant or controlling owner of the applicant or affiliate of the applicant, was a controlling owner of the prior certificate of registration.* (Section 45 of the Act)

Section 797.1700 Violations and Fines

a) In addition to any other action authorized by the Act or this Part, the Department may assess fines, in addition to denying, suspending and revoking certificates of registration, against a person for any violation of any provision of the Act or this Part.

b) A fine *not to exceed $1,000 per day for each day the registrant remains in violation* shall be issued for any violation of the Act or this Part. (Section 80 of Act)

c) A violation is a failure to adhere to any of the provisions of the Act or this Part. A violation shall also include any of the following:

1) Failure to abide by any stop operation or stop use order issued under this Part;

2) Failure to notify the Department of any incident, accident or public health emergency involving any equipment or operator, as required in Section 797.600;

3) Failure to allow the Department to perform inspections and investigations in accordance with Section 30 of the Act and Section 797.1500;

4) Use of autoclave or body art equipment in a manner inconsistent with its labeling or directions;

5) Performing a body art procedure in a faulty, careless or negligent manner;

6) Performing a body art procedure in violation of the certificate of registration requirements of Section 15 of the Act;

7) Performing a body art procedure in violation of an order issued by the Department;

8) Failure to use methods or materials suitable for body art;

9) Performing a body art procedure on a person under the age of 18 years, in violation of the Criminal Code of 1961;

10) Allowing a certificate of registration to be used by another person;

11) Aiding or abetting a person in evading any provision of the Act;

12) Failure to comply with the operator proficiency requirements of Section 797.1300;

13) Failure to comply with waste removal requirements of Section 797.400;

14) Failure to maintain client records as required by Sections 797.600(c) and 797.900(i);

15) Failure to maintain premises in sanitary condition as required by Section 797.1100;

16) Failure to establish and maintain records of monthly autoclave spore destruction tests in accordance with Section 797.700(i);

17) Failure to renew a certificate of registration in accordance with Section 35 of the Act;

18) Failure to notify the Department of a change in business ownership in accordance with Section 40 of the Act and Section 797.1200 of this Part;

19) Failure to provide information to the Department upon request in accordance with Section 55 of the Act;

20) Failure to display or provide a current permit, in accordance with Section 35 of the Act.

Section 797.1750 Administrative Hearings

a) All hearings shall be conducted pursuant to the Act and the Department's Rules of Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100) or Section 50(d) of the Act.

b) The Department shall serve notice of fine and/or penalty assignments, and provide an opportunity for hearing.

c) If a person fails to request a hearing within the time provided in the notice, the person shall be deemed to have waived the right to an administrative hearing, and the fine, pursuant to Section 797.1700 and/or action pursuant to Section 797.1600, shall be due immediately upon issuance of a final order by the Department.

d) All fines and/or actions that are upheld in whole or in part by final order of the Department shall be due in full at the conclusion of the time period for filing for administrative review pursuant to the Administrative Review Law, unless the person has, within that time, filed proceedings in administrative review specifically appealing the fine and/or adverse licensure action and unless the court has stayed enforcement of the fine and/or adverse licensure action.

Public Act 094-1040

SB0927 Enrolled LRB094 04534 LJB 34563 b

AN ACT concerning regulation.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

Section 1. Short title. This Act may be cited as the Tattoo and Body Piercing Establishment Registration Act.

Section 5. Purpose. It has been established that non-sterile needles can lead to the spread of certain blood-borne illnesses such as Hepatitis and HIV. Tattoo and body piercing practices affect the health, safety, and welfare of the public, therefore, the General Assembly finds that the regulation of tattoo and body piercing establishments by the State is necessary to ensure public health, safety, and welfare. It is further declared that the purpose of this Act is to provide for a safe and adequate blood supply. This Act shall be liberally construed to carry out these objectives and purposes.

Section 10. Definitions. In this Act:

"Aseptic technique" means a practice that prevents and hinders the transmission of disease-producing microorganisms from one person or place to another.

"Body piercing" means penetrating the skin to make a hole, mark, or scar that is generally permanent in nature. "Body piercing" does not include practices that are considered medical procedures or the puncturing of the outer perimeter or lobe of the ear using a pre-sterilized, single-use stud and clasp ear piercing system.

"Client" means the person, customer, or patron whose skin will be tattooed or pierced.

"Communicable disease" means a disease that can be transmitted from person to person directly or indirectly, including diseases transmitted via blood or body fluids.

"Department" means the Department of Public Health or other health authority designated as its agent.

"Director" means the Director of Public Health or his or her designee.

"Establishment" means a body-piercing operation, a tattooing operation, or a combination of both operations in a multiple-type establishment.

"Ink cup" means a small container for an individual portion of pigment that may be installed in a holder or palette and in which a small amount of pigment of a given color is placed.

"Multi-type establishment" means an operation encompassing both body piercing and tattooing on the same premises and under the same management.

"Procedure area" means the immediate area where instruments and supplies are placed during a procedure.

"Operator" means an individual, partnership, corporation, association, or other entity engaged in the business of owning,

managing, or offering services of body piercing or tattooing.

"Sanitation" means the effective bactericidal and veridical treatment of clean equipment surfaces by a process that effectively destroys pathogens.

"Single use" means items that are intended for one time and one person use only and are to then be discarded.

"Sterilize" means to destroy all living organisms including spores.

"Tattooing" means making permanent marks on the skin of a live human being by puncturing the skin and inserting indelible colors. "Tattooing" includes imparting permanent makeup on the skin, such as permanent lip coloring and permanent eyeliner. "Tattooing" does not include any of the following:

(1) The practice of electrology as defined in the Electrology Licensing Act.

(2) The practice of acupuncture as defined in the Acupuncture Licensing Act.

(3) The use, by a physician licensed to practice medicine in all its branches, of colors, dyes, or pigments for the purpose of obscuring scar tissue or imparting color to the skin for cosmetic, medical, or figurative purposes.

Section 15. Registration required.

(a) A certificate of registration issued by the Department shall be required prior to the operation of any establishment or multi-type establishment. The owner of the facility shall file an application for a certificate of registration with the Department that shall be accompanied by the requisite fee, as determined by the Department, and include all of the following information:

(1) The applicant's (owner) name, address, telephone number, and age. In order to qualify for a certificate of registration under this Act, an applicant must be at least 18 years of age.

(2) The name, address, and phone number of the establishment.

(3) The type and year of manufacture of the equipment proposed to be used for tattooing or body piercing.

(4) The sterilization and operation procedures to be used by the establishment.

(5) Any other information required by the Department.

(b) If the owner owns or operates more than one establishment, the owner shall file a separate application for each facility owned or operated.

Section 20. Temporary registration. A temporary certificate of registration may be issued by the Department for educational, trade show, or product demonstration purposes only. The temporary certificate of registration shall be valid for a maximum of 14 calendar days.

Section 25. Operating requirements. All establishments registered under this Act must comply with the following requirements:

(1) An establishment must ensure that all body piercing and tattooing procedures are performed in a clean and sanitary environment that is consistent with sanitation techniques established by the Department.

(2) An establishment must ensure that all body piercing and tattooing procedures are performed in a manner that is

consistent with an aseptic technique established by the Department.

(3) An establishment must ensure that all equipment and instruments used in body piercing and tattooing procedures are either single use and pre-packaged instruments or in compliance with sterilization techniques established by the Department.

(4) An establishment must ensure that single use ink is used in all tattooing procedures.

Section 27. Prohibitions. Body piercing procedures must not be performed, without medical clearance, on skin surfaces where sunburn, rash, acne, infection, open lesions, or other questionable skin lesions exist and must not be performed on any person who is impaired by drugs or alcohol.

Section 30. Duties of the Department; rulemaking.

(a) Before issuing a certificate of registration to an applicant, the Department, or its designee, shall inspect the premises of the establishment to insure compliance under the requirements of this Act.

(b) Once a certificate of registration is issued, the Department may periodically inspect each establishment registered under this Act to ensure compliance.

(c) The Department shall adopt any rules deemed necessary for the implementation and administration of this Act.

Section 35. Expiration and renewal of registration; display.

(a) A certificate of registration issued under this Act shall expire and may be renewed annually.

(b) Registration is valid for a single location and only for the operator named on the certificate. Registration is not transferable.

(c) The certificate of registration issued by the Department shall be conspicuously displayed within the sight of clients upon entering the establishment.

Section 40. Change of ownership. In the event of a change of ownership, the new owner must apply for a certificate of registration prior to taking possession of the property. A provisional certificate of registration may be issued by the Department until an initial inspection for a certificate of registration can be performed by the Department or its designee.

Section 45. Denial; suspension; revocation; nonrenewal of registration. A certificate of registration may be denied, suspended, revoked, or the renewal of a certificate of registration may be denied for any of the following reasons:

Violation of any of the provisions of this Act or the rules and regulations adopted by the Department under this Act.

Conviction of an applicant or registrant of an offense arising from false, fraudulent, deceptive, or misleading advertising. The record of conviction or a certified copy shall be conclusive evidence of the conviction.

Revocation of a certificate of registration during the previous 5 years or surrender or expiration of the certificate of registration during the pendency of action by the Department to revoke or suspend the certificate of registration during the

previous 5 years, if before the certificate of registration was issued to the individual applicant, a controlling owner or controlling combination of owners of the applicant, or any affiliate of the individual applicant or controlling owner of the applicant or affiliate of the applicant, was a controlling owner of the prior certificate of registration.

Section 50. Administration; enforcement.

(a) The Department may establish a training program for the Department agents for administration and enforcement of this Act.

(b) In the administration and enforcement of this Act, the Department may designate and use State-certified, local public health departments as its agents in the administration and enforcement of this Act and rules.

(c) The Department shall issue grants to State-certified, local public health departments acting as agents of the Department based on 75% of the total fees and fines collected in the jurisdiction of the State-certified, local public health department for the enforcement and administration of this Act.

(d) The Department or a State-certified, local public health department acting as an agent of the Department in the administration and enforcement of this Act may use the local administrative review process of the State-certified, local public health department to resolve disputes.

Section 55. Investigation; hearing; notice. The Department may, upon its own motion, and shall upon the verified complaint in writing of any person setting forth facts which if proven would constitute grounds for the denial of an application for a certificate of registration, or refusal to renew a certificate of registration, or revocation of a certificate of registration, or suspension of a certificate of registration, investigate the applicant or registrant. The Department, after notice and opportunity for hearing, may deny any application for or suspend or revoke a certificate of registration or may refuse to renew a certificate of registration. Before denying an application or refusing to renew, suspending, or revoking a certificate of registration, the Department shall notify the applicant in writing. The notice shall specify the charges or reasons for the Department's contemplated action. The applicant or registrant must request a hearing within 10 days after receipt of the notice. Failure to request a hearing within 10 days shall constitute a waiver of the right to a hearing.

Section 60. Conduct of hearing.

(a) The hearing shall be conducted by the Director, or an individual designated in writing by the Director as a hearing officer. The Director or hearing officer may compel by subpoena or subpoena duces tecum the attendance and testimony of witnesses and the production of books and papers, and administer oaths to witnesses. The hearing shall be conducted at a place designated by the Department. The procedures governing hearings and the issuance of final orders under this Act shall be in accordance with rules adopted by the Department.

(b) All subpoenas issued by the Director or hearing officer may be served as provided for in civil actions. The fees of witnesses for attendance and travel shall be the same as the

fees for witnesses before the circuit court and shall be paid by the party to the proceedings at whose request the subpoena is issued. If a subpoena is issued at the request of the Department, the witness fee shall be paid as an administrative expense.

(c) In cases of refusal of a witness to attend or testify, or to produce books or papers, concerning any matter upon which he or she might be lawfully examined, the circuit court of the county wherein the hearing is held, upon application of any party to the proceeding, may compel obedience by proceeding as for contempt as in cases of a like refusal to obey a similar order of the court.

Section 65. Findings of fact; conclusions of law; decision. The Director or hearing officer shall make findings of fact and conclusions of law in a hearing, and the Director shall render his or her decision, or the hearing officer his or her proposal for decision within 45 days after the termination of the hearing unless additional time is required by the Director or hearing officer for a proper disposition of the matter. A copy of the final decision of the Director shall be served upon the applicant or registrant in person or by certified mail.

Section 70. Review under Administrative Review Law; venue; costs. All final administrative decisions of the Department under this Act shall be subject to judicial review under the provisions of Article III of the Code of Civil Procedure. The term "administrative decision" is defined under Section 3-101 ~~of the Code of Civil Pr~~ocedure.

Proceedings for judicial review shall be commenced in the circuit court of the county in which the party applying for review resides; provided, that if the party is not a resident of this State, the venue shall be in Sangamon County.

The Department shall not be required to certify any record or file any answer or otherwise appear in any proceeding for judicial review unless the party filing the complaint deposits with the clerk of the court the sum of 95¢ per page representing costs of certification of the record or file. Failure on the part of the plaintiff to make the deposit shall be grounds for dismissal of the action.

Section 75. Administrative Procedure Act; application. The provisions of the Illinois Administrative Procedure Act are hereby expressly adopted and shall apply to all administrative rules and procedure of the Department under this Act, except that in case of conflict between the Illinois Administrative Procedure Act and this Act the provisions of this Act shall control, and except that Section 5 of the Illinois Administrative Procedure Act relating to procedures for rulemaking does not apply to the adoption of any rules required by federal law in connection with which the Department is precluded by law from exercising any discretion.

Section 80. Penalties; fines. The Department is authorized to establish and assess penalties or fines against a registrant for violations of this Act or regulations adopted under this Act. In no circumstance will any penalties or fines exceed $1,000 per day for each day the registrant remains in violation.

Section 85. Public nuisance.

(a) The operation or maintenance of an establishment in violation of this Act or any rule adopted by the Department under this Act constitutes a public nuisance inimical to the public welfare.

(b) A person convicted of knowingly maintaining a public nuisance commits a Class A misdemeanor. Each subsequent offense under this Section is a Class 4 felony.

(c) The Director, in the name of the people of the State and through the Attorney General or State's Attorney of the county in which the establishment is located, may, in addition to the other remedies set forth in this Act, bring an action for an injunction to restrain the violation of this Act or to enjoin the future operation or maintenance of any establishment in violation of this Act.

Section 90. Tattoo and Body Piercing Establishment Registration Fund. There is hereby created in the State treasury a special fund to be known as the Tattoo and Body Piercing Establishment Registration Fund. All fees and fines collected by the Department under this Act and any agreement for the implementation of this Act and rules under this Act and any federal funds collected pursuant to the administration of this Act shall be deposited into the Fund. The amount deposited shall be appropriated by the General Assembly to the Department for the purpose of conducting activities relating to tattooing and body piercing establishments.

Section 905. The State Finance Act is amended by adding Section 5.663 as follows:

(30 ILCS 105/5.663 new)

Sec. 5.663. The Tattoo and Body Piercing Establishment Registration Fund.

Section 999. Effective date. This Act takes effect July 1, 2007.

Effective Date: 7/1/2007

Floor Actions

Date	Action
7/21/2006	Public Act 094-1040

(720 ILCS 5/12-10) (from Ch. 38, par. 12-10)

Sec. 12-10. Tattooing Body of Minor.

(a) Any person, other than a person licensed to practice medicine in all its branches, who tattoos or offers to tattoo a person under the age of 18 is guilty of a Class A misdemeanor.

(b) Any person who is an owner or employed by a business that performs tattooing, other than a person licensed to practice medicine in all its branches, may not permit a person under 18 years of age to enter or remain on the premises where tattooing is being performed unless the person under 18 years of age is accompanied by his or her parent or legal guardian. A violation of this subsection (b) is a Class A misdemeanor.

(c) As used in this Section, to "tattoo" means to insert pigment under the surface of the skin of a human being, by pricking with a needle or otherwise, so as to produce an indelible mark or figure visible through the skin.

(d) Subsection (a) of this Section does not apply to a person under 18 years of age who tattoos or offers to tattoo another person under 18 years of age away from the premises of any business at which tattooing is performed.

(Source: P.A. 94-684, eff. 1-1-06.)

(720 ILCS 5/12-10.1)

Sec. 12-10.1. Piercing the body of a minor.

(a)(1) Any person who pierces the body or oral cavity of a person under 18 years of age without written consent of a parent or legal guardian of that person commits the offense of piercing the body of a minor. Before the oral cavity of a person under 18 years of age may be pierced, the written consent form signed by the parent or legal guardian must contain a provision in substantially the following form:

"I understand that the oral piercing of the tongue, lips, cheeks, or any other area of the oral cavity carries serious risk of infection or damage to the mouth and teeth, or both infection and damage to those areas, that could result but is not limited to nerve damage, numbness, and life threatening blood clots.".

A person who pierces the oral cavity of a person under 18 years of age without obtaining a signed written consent form from a parent or legal guardian of the person that includes the provision describing the health risks of body piercing, violates this Section.

(1.5) Any person who is an owner or employed by a business that performs body piercing may not permit a person under 18 years of age to enter or remain on the premises where body piercing is being performed unless the person under 18 years of age is accompanied by his or her parent or legal guardian.

(2) Sentence. A violation of clause (a)(1) or (a)(1.5) of this Section is a Class A misdemeanor.

(b) Definition. As used in this Section, to "pierce" means to make a hole in the body or oral cavity in order to insert or allow the insertion of any ring, hoop, stud, or other object for the purpose of ornamentation of the body. "Piercing" does not include tongue splitting as defined in Section 12-10.2.

(c) Exceptions. This Section may not be construed in any way to prohibit any injection, incision, acupuncture, or similar medical or dental procedure performed by a licensed health care professional or other person authorized to perform that procedure or the presence on the premises where that procedure is being performed by a health care professional or other person authorized to perform that procedure of a person under 18 years of age who is not accompanied by a parent or legal guardian. This Section does not prohibit ear piercing. This Section does not apply to a minor emancipated under the Juvenile Court Act of 1987 or the Emancipation of Minors Act or by marriage.

This Section does not apply to a person under 18 years of age who pierces the body or oral cavity of another person under 18 years of age away from the premises of any business at which body piercing or oral cavity piercing is performed.

(Source: P.A. 93-449, eff. 1-1-04; 94-684, eff. 1-1-06.)

(720 ILCS 5/12-10.2)

Sec. 12-10.2. Tongue splitting.

(a) In this Section, "tongue splitting" means the cutting of a human tongue into 2 or more parts.

(b) A person may not perform tongue splitting on another person unless the person performing the tongue splitting is licensed to practice medicine in all its branches under the Medical Practice Act of 1987 or licensed under the Illinois Dental Practice Act.

(c) Sentence. Tongue splitting performed in violation of this Section is a Class A misdemeanor for a first offense and a Class 4 felony for a second or subsequent offense.

(Source: P.A. 93-449, eff. 1-1-04.)

City of St. Charles, Illinois

Ordinance No. 2009-Z-16

An Ordinance Amending Ordinance No. 1982-Z-6 (An Ordinance Rezoning Property to the R-5 Multiple Residence District and B-3 Service Business District and Granting a Special Use as a Planned Unit Development for the St. Charles Commercial Center Property) to Provide for an Additional Special Use (Tattoo Parlor) and Granting a Special Use for Tattoo Parlor (2045 Lincoln Highway – Ryan Harnish)

Adopted by the

City Council

of the

City of St. Charles

November 16, 2009

Published in pamphlet form by
authority of the City Council
of the City of St. Charles,
Kane and Du Page Counties,
Illinois, November 20, 2009

Nancy L Garrison

City Clerk

(SEAL)

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City of St. Charles, IL
Ordinance No. 2009-Z-16

An Ordinance Amending Ordinance No. 1982-Z-6 (An Ordinance Rezoning Property to the R-5 Multiple Residence District and B-3 Service Business District and Granting a Special Use as a Planned Unit Development for the St. Charles Commercial Center Property) to Provide for an Additional Special Use (Tattoo Parlor) and Granting a Special Use for Tattoo Parlor (2045 Lincoln Highway – Ryan Harnish)

WHEREAS, a petition to amend Ordinance No. 1982-Z-6 entitled "An Ordinance Rezoning Property to the R-5 Multiple Residence District and B-3 Service Business District and Granting a Special Use as a Planned Unit Development for the St. Charles Commercial Center Property" to provide for an additional special use (Tattoo Parlor) for a certain lot therein and grant a Special Use for a Tattoo Parlor, all for the real estate legally described in Exhibit "A" attached hereto ("Subject Property"), has been filed by Ryan Harnish ("Applicant"); and,

WHEREAS, Notice of Public Hearing on said petitions was published on or about September 18, 2009, in a newspaper having general circulation within the City, to-wit, the Kane County Chronicle newspaper, all as required by the statutes of the State of Illinois and the ordinances of the City; and,

WHEREAS, pursuant to said Notice, the Plan Commission conducted a public hearing on or about October 6, 2009 on said petitions in accordance with the statutes of the State of Illinois and the ordinances of the City; and,

WHEREAS, at said Public Hearing, the Applicant presented testimony in support of said petitions and all interested parties had an opportunity to be heard; and,

WHEREAS, the Plan Commission made the required Findings of Fact and recommended approval of the petitions on or about October 20, 2009; a copy of said Findings of Fact are attached hereto as Exhibit "B" and incorporated herein by this reference; and,

WHEREAS, the Planning and Development Committee recommended approval of the petitions on November 9, 2009; and,

WHEREAS, the City Council of the City of St. Charles has received the recommendation of the Plan Commission and the recommendation of the Planning and Development Committee and has considered the same.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ST. CHARLES, KANE AND DUPAGE COUNTIES, ILLINOIS, as follows:

SECTION 1: The preambles set forth hereinabove are incorporated herein as substantive provisions of this Ordinance as if fully set out in this Section One.

SECTION 2: The City Council of the City of St. Charles hereby adopts the Findings of Fact of the Plan Commission as fully set forth in Exhibit "B" hereto, as its Findings of Fact.

SECTION 3: That Exhibit B to Ordinance 1982-Z-6 entitled "Standards and Site Design Criteria I. Permitted Uses" is hereby amended to add "Tattoo Parlor" as a Special Use on the Subject Property.

SECTION 4: That a Special Use is hereby granted with respect to the Subject Property for a Tattoo Parlor, and Body Piercing as an Accessory Use, to be located at the specific location of 2045 Lincoln Highway, as shown in Exhibit C, and subject to the hours of operation being limited to and opening time of 10:00AM and a closing time of 10:00PM on Sunday, Monday, Tuesday, Wednesday, Thursday, and Friday and subject to the hours of operation on Saturday being limited to on opening time of 10:00AM and a closing time of 12:00AM on Sunday.

SECTION 5: That subject to the foregoing, the Subject Property shall otherwise be developed only in accordance with all ordinances of the City as now in effect or hereafter amended, except as specifically varied in Ordinance 1982-Z-6.

SECTION 6: That this Ordinance shall become effective from and after its passage and approval in accordance with law.

PRESENTED to the City Council of the City of St. Charles, Kane and DuPage Counties, Illinois this 16th day of November, 2009.

PASSED by the City Council of the City of St. Charles, Kane and DuPage Counties, Illinois this 16th day of November, 2009.

APPROVED by the Mayor of the City of St. Charles, Kane and DuPage Counties, Illinois this 16th day of November, 2009.

Donald P. DeWitte, Mayor

Attest:

Nancy Garrison, City Clerk

Vote:
Ayes: 8
Nays: 2
Absent: Ø
Abstain: Ø

EXHIBIT A
LEGAL DESCRIPTION

PARCEL 1: LOT 1 (EXCEPT PART OF LOT 1 LYING IN RANDALL ROAD COMMERCIAL BUILDING NO. 2 SUBDIVISION) AND (EXCEPT PART OF LOT 1 LYING IN RANDALL ROAD COMMERCIAL PROPERTIES PHASE V) AND ALL OF LOTS 2 AND 3 OF ST. CHARLES COMMERCIAL CENTER, UNIT NO. 2, BEING A PART OF THE SOUTHWEST QUARTER OF SECTION 33, TOWNSHIP 40 NORTH, RANGE 8, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN THE CITY OF ST. CHARLES, KANE COUNTY, ILLINOIS.

EXHIBIT B
FINDINGS OF FACT

AMENDMENT TO PUD ORDINANCE
1982-Z-6 (St. Charles Commercial Center)

i. The proposed PUD advances one or more of the purposes of the Planned Unit Development procedure stated Section 17.04.400.A.

The proposed amendment is consistent with the purposes of the Planned Unit Development when the PUD was established. The St. Charles Commercial Center PUD was approved in 1982 as retail shopping center. The PUD ordinance included a limited set of permitted and special retail and service uses that were based upon the Zoning Ordinance in effect at that time. "Tattoo Parlor" was not listed as a permitted or special use in that Zoning Ordinance. The property is currently zoned BR Regional Business and is designated as "Retail and Service" in the Comprehensive Plan. Therefore, the addition of "Tattoo Parlor", as a Special Use, in the PUD ordinance is consistent with the current BR Regional Business District and the St. Charles Comprehensive Plan.

ii. The proposed PUD and PUD Preliminary Plans conform to the requirements of the underlying zoning district or districts in which the PUD is located and to the applicable Design Review Standards contained in Chapter 17.06, except where:

a) Conforming to the requirements would inhibit creative design that serves community goals, or

b) Conforming to the requirements would be impractical and the proposed PUD will provide benefits that outweigh those that would have been realized by conforming to the applicable requirements.

Factors listed in Section 17.04.400.B shall be used to justify the relief from requirements.

Not applicable- No changes are proposed to the exterior of building or site.

iii. The proposed PUD conforms with the standards applicable to Special Uses (section 17.04.330.C.2).

a. Public Convenience: The Special Use will serve the public convenience at the proposed location.

The "tattoo parlor" use is a retail and service type of business which is consistent with the uses currently permitted at the shopping center. Retail and service uses are consistent with the Comprehensive Plan designation for the property.

b. Sufficient Infrastructure: That adequate utilities, access roads, drainage and/or necessary facilities have been, or are being, provided;

No exterior modifications are proposed in connection with the PUD ordinance amendment. Sufficient infrastructure is provided for similar retail and service uses currently located within the shopping center.

c. Effect on Nearby Property: That the Special Use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish or impair property values within the neighborhood;

Any Tattoo Parlor proposed for this location will be subject to Special Use review for each specific business. Special Use approval may contain conditions or restrictions designed to ensure that the operation of the business will not have a negative effect on nearby property. As a shopping center under unified ownership, the property management company has the ability to monitor the business and its affect on neighboring properties in the vicinity and take any corrective action it deems necessary to satisfy other tenants.

d. Effect on Development of Surrounding Property: That the establishment of the Special Use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

Not Applicable – the majority of the surrounding property is already developed.

e. Effect on General Welfare: That the establishment, maintenance or operation of the Special Use will not be detrimental to or endanger the public health, safety, comfort or general welfare.

Any Tattoo Parlor proposed for this location will be subject to Special Use review for the specific business. Special Use approval may contain conditions or restrictions designed to ensure that the operation of the business will not have a negative effect on the general welfare. Tattoo Parlors are a business regulated by the Illinois Department of Public Health and are subject to state Certificate of Registration requirements.

f. Conformance with Codes: That the proposed Special Use conforms to all existing Federal, State and local legislation and regulation and meets or exceeds all applicable provisions of this Title, except as may be varied pursuant to a Special Use for Planned Unit Development.

Tattoo Parlors are a business regulated by the Illinois Department of Public Health and are subject to state Certificate of Registration requirements.

iv. The proposed PUD will be beneficial to the physical development, diversity, tax base and economic well-being of the City.

An additional use to the PUD will add to the diversity of businesses within the area and could enhance the tax base and economic well-being of the City.

v. The proposed PUD conforms to the purposes and intent of the Comprehensive Plan.

The Comprehensive Plan designates the site for Retail and Service use. The proposed additional use is consistent with the Comprehensive Plan designation.

FINDINGS OF FACT

SPECIAL USE FOR A TATTOO PARLOR

A. **Public Convenience: The Special Use will serve the public convenience at the proposed location.**

The Special Use will serve the public convenience by creating new service choices in an existing retail building. The site is located along a State Road (Rt. 38) and access to the site is convenient to the public.

B. **Sufficient Infrastructure: That adequate utilities, access roads, drainage and/or necessary facilities have been, or are being, provided.**

The site is developed. Adequate utilities and all necessary facilities exist on the site.

C. **Effect on Nearby Property: That the Special Use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish or impair property values within the neighborhood.**

The Special Use will not effect nearby properties. The use conforms to the general characteristic of the retail and service uses located around the site. The site is designated as retail and service in the St. Charles Comprehensive Plan.

D. **Effect on Development of Surrounding Property: That the establishment of the Special Use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.**

A majority of the surrounding properties are developed. The roads, utilities, and site access already exist for these properties.

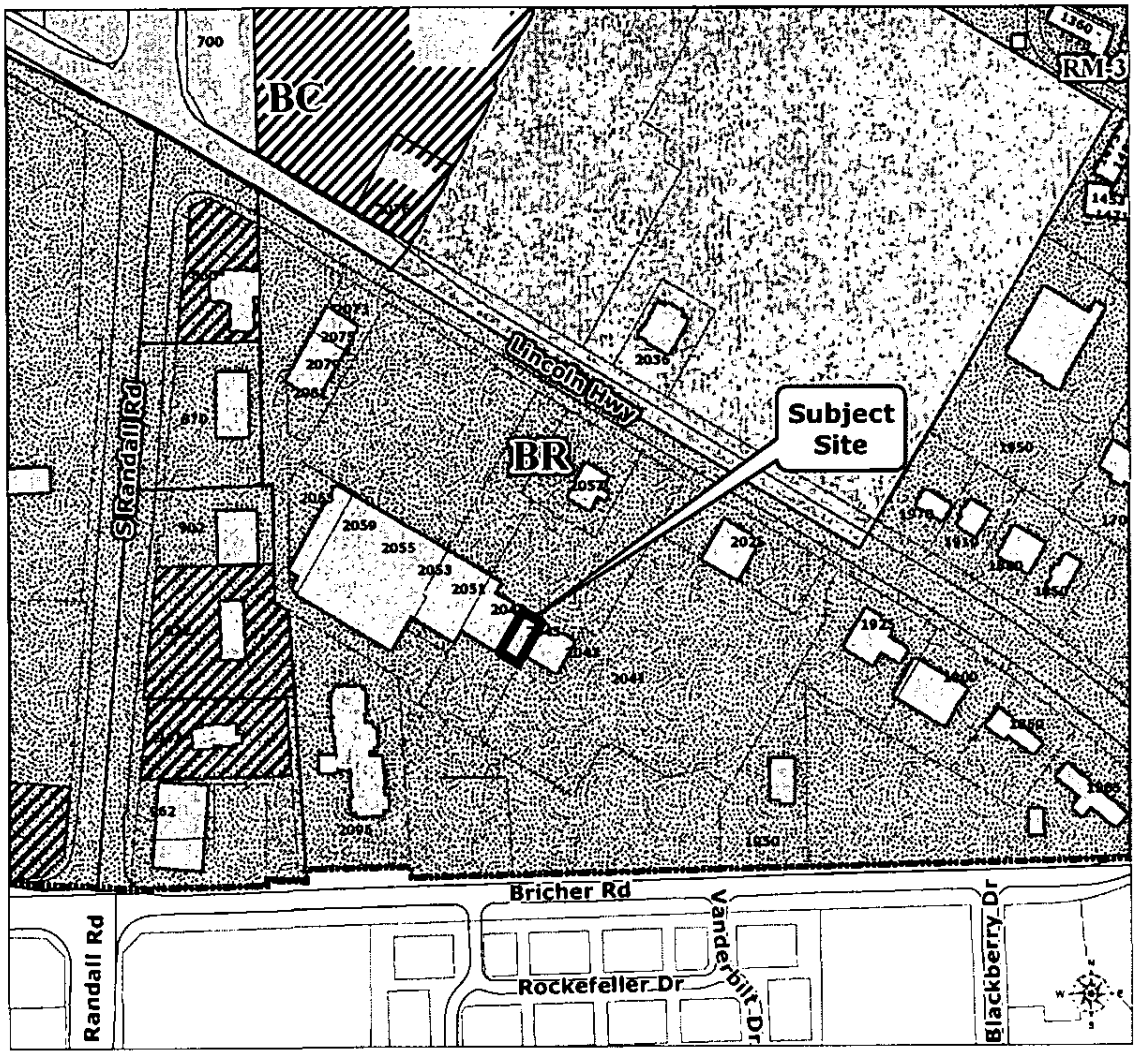
E. **Effect on General Welfare: That the establishment, maintenance or operation of the Special Use will not be detrimental to or endanger the public health, safety, comfort or general welfare.**

The special use at the proposed location will not be detrimental to or endanger the public health, safety, comfort, or general welfare. The Special Use is similar/complimentary to existing surrounding uses. The proposed use fits the retail and service oriented character of this area.

F. **Conformance with Codes: That the proposed Special Use conforms to all existing Federal, State and local legislation and regulation and meets or exceeds all applicable provisions of this Title, except as may be varied pursuant to a Special Use for Planned Unit Development.**

The Special Use will conform to all Federal, State, and local legislation; specifically, to the regulations established as part of ORD 1982-Z-6 (St. Charles Commercial Center) and Zoning Ordinance. Table 17.14-1 Permitted and Special Uses does list Tattoo Parlor as a special use in the underlying BR Regional Business District. The use is required to file an application for a Certificate of Registration with the Illinois Department of Public Health. Since the Body Art Act regulates all forms of body art piercing can be considered as an accessory use to this business. The applicant is not proposing any variances or deviations from the Zoning Ordinance.

EXHIBIT C
TENANT LOCATION DIAGRAM



State of Illinois)
) ss.
Counties of Kane and DuPage)

Certificate

I, NANCY GARRISON, certify that I am the duly elected and acting Municipal City Clerk of the City of St. Charles, Kane and DuPage Counties, Illinois.

I further certify that on November 16, 2009, the Corporate Authorities of such municipality passed and approved Ordinance No. 2009-Z-16, entitled

"An Ordinance Amending Ordinance No. 1982-Z-6 (An Ordinance Rezoning Property to the R-5 Multiple Residence District and B-3 Service Business District and Granting a Special Use as a Planned Unit Development for the St. Charles Commercial Center Property) to Provide for an Additional Special Use (Tattoo Parlor) and Granting a Special Use for Tattoo Parlor (2045 Lincoln Highway – Ryan Harnish),"

which provided by its terms that it should be published in pamphlet form.

The pamphlet form of Ordinance No. 2009-Z-16, including the Ordinance and a cover sheet thereof was prepared, and a copy of such Ordinance was posted in the municipal building, commencing on November 20, 2009, and continuing for at least ten days thereafter. Copies of such Ordinance were also available for public inspection upon request in the office of the municipal clerk.

DATED at St. Charles, Illinois, this 16th day of November 2009.

(S E A L)

Nancy Garrison
Municipal Clerk