

ORDINANCE NO. 2011- 4-1-3.1

AN ORDINANCE REGULATING TATTOO PARLORS AND
BODY PIERCING FACILITIES IN MORGAN COUNTY, INDIANA

WHEREAS, the State of Indiana has amended the laws concerning tattoos and tattoo parlors, and

WHEREAS, tattoo operations and procedures are becoming more and more common among residents of the State of Indiana and the residents in Morgan County, Indiana, and

WHEREAS, the safe and proper operation of a tattooing parlor and business is in the best interests of the residents of Morgan County, Indiana, and

WHEREAS, an improperly operated or improperly clean tattoo business could have serious and detrimental effects upon the citizens of Morgan County, Indiana, and

WHEREAS, there exists a very real and distinct possibility of the transmission of serious infectious diseases from the tattooing of a person if that tattoo parlor and artist are not sufficiently skilled and knowledgeable of the dangers associated with said activity, and

WHEREAS, the Morgan County Commissioners are empowered to protect the health and safety of the citizens of Morgan County, and

WHEREAS, the Morgan County Health Department can best inspect and provide the necessary training and expertise to oversee the operation of these tattoo businesses, and

WHEREAS, the Morgan County Commissioners believe that tattoo businesses should be licensed and subjected to reasonable inspections of the Health Department,

WHEREAS, the Morgan County Board of Health has approved this Ordinance and recommends its adoption to the Board of Commissioners of Morgan County; and,

WHEREAS, the Board of Commissioners of Morgan County desire to adopt an ordinance to regulate the operation of tattoo businesses in Morgan County, Indiana.

NOW THEREFORE, BE IT PASSED, ORDAINED AND RESOLVED by the Board of Commissioners of Morgan County, Indiana, as follows:

SECTION 1. SANITARY OPERATION OF TATTOO PARLORS AND BODY PIERCING FACILITIES.

All places, individuals and businesses that offer to affix any type of permanent tattoo to a person or that engage in body piercing shall be regulated by this ordinance and shall maintain the premises in which tattoos or body piercing are performed and equipment used in the tattoo or body piercing process in a sanitary manner. For the purposes of this Ordinance, all regulations and requirements set forth herein shall equally apply to body piercing, a body piercer or a body piercing facility and any reference herein to a tattoo operator, tattoo parlor or tattoo artist shall include body piercing, a body piercer and a body piercing facility.

SECTION 2. DEFINITIONS.

(A) "Blood." "Blood" means human blood.

(B) "Bloodborne Pathogens." "Bloodborne pathogens" means pathogenic microorganisms that are present in human blood and can cause disease in humans. These pathogens include, but are not limited to, the following:

- (1) HBV
- (2) HCV
- (3) HIV

(C) "Body Alteration." "Body alteration" shall refer to any procedure that alters or manipulates the body to appear differently through means that perforate the skin or would otherwise be considered a medical or surgical procedure or require medical licensure, including, but not limited to, the following: tongue splitting, dermal anchors, scarification or implants.

(C) "Body piercer." "Body piercer" means any person who performs body piercing on an individual.

(D) "Body piercing." "Body piercing" means the perforation of any human body part other than ear lobe for the purpose of inserting jewelry or other decoration or for some other nonmedical purpose.

(E) "Cleaned." "Cleaned" means the removal of all visible dust, soil, or any other foreign material.

(F) "Contaminated." "Contaminated" means the presence or reasonably anticipated presence of blood or OPIM on an item or surface.

(G) "Decontaminated." "Decontaminated" means the use of physical or chemical means to remove, inactivate, or destroy bloodborne pathogens on a surface or item which does not require sterilization to the point where they are no longer capable of transmitting infectious particles and the surface or item is rendered safe for handling, use, or disposal.

(H) "Department." "Department" means the Morgan County Health Department. The Morgan County Board of Health shall be considered part of the Department.

(I) "Facility." "Facility" means a tattoo parlor or a body piercing facility, or both, which is any room or space where tattooing or body piercing, or both, is provided or where the business of tattooing or body piercing, or both, is conducted.

(J) "HBV." "HBV" means the hepatitis B virus.

(K) "HCV." "HCV" means the hepatitis C virus.

(L) "HIV." "HIV" means the human immunodeficiency virus.

(M) "Health Officer." "Health Officer" means the duly appointed Health Officer as set forth in IC 16-20-2-16. The County Health Officer or designee shall be designated as the official in charge of enforcing this ordinance. The Health Officer may designate someone in the health department to perform those duties and responsibilities of the Health Officer.

(N) "Infectious Waste." "Infectious waste" means waste that epidemiologic evidence indicates is capable of transmitting a dangerous communicable disease. Infectious waste includes, but is not limited to, the following:

- (1) Contaminated sharps or contaminated objects that could potentially become contaminated sharps.
- (2) Infectious biological cultures, infectious associated biologicals, and infectious agent stock.
- (3) Pathological waste.
- (4) Blood and blood products in liquid and semiliquid form.
- (5) Carcasses, body parts, blood, and body fluids in liquid and semiliquid form, and bedding of laboratory animals.
- (6) Other waste that has been intermingled with infectious waste.

(O) "Mobile Facility." "Mobile facility" means a tattoo parlor or a body piercing facility, or both, which is any moveable room or space where tattooing or body piercing, or both, is provided or where the business of tattooing or body piercing, or both, is conducted.

(P) "Other Potentially infectious Materials." "Other potentially infectious materials" or "OPIM" means the following:

- (1) Human body fluids as follows:
 - (a) Semen.
 - (b) Vaginal secretions.
 - (c) Cerebrospinal fluid.
 - (d) Synovial fluid.
 - (e) Pleural fluid.
 - (f) Pericardial fluid.
 - (g) Peritoneal fluid.

- (h) Amniotic fluid.
 - (i) Saliva in dental procedures.
 - (j) Any body fluid that is visibly contaminated with blood.
 - (k) All body fluids where it is difficult or impossible to differentiate between body fluids.
- (2) Any unfixed tissue or organ, other than intact skin, from a human, living or dead.
- (3) HIV-containing cell or tissue cultures, and HIV or HBV-containing culture medium or other solutions; and blood, organs, or other tissues from experimental animals infected with HIV or HBV.
- (Q) "Parenteral." "Parenteral" means piercing the mucous membranes or the skin barrier through such events as needlesticks, human bites, cut, or abrasions.
- (R) "Personal Protective Equipment." "Personal protective equipment" means specialized clothing or equipment worn for protection against contact with blood or OPIM.
- (S) "Secure Area." "Secure area" means an area that is designated and maintained to prevent the entry of unauthorized persons.
- (T) "Semiliquid Blood, Blood Products." "Semiliquid blood, blood products" means blood, blood products that have intermediate fluid properties and are capable of flowing in a manner similar to liquid.
- (U) "Sterilize." "Sterilize" means the use of a physical or chemical procedure to destroy all microbial life, including highly resistant bacterial endospores.
- (V) "Store." "Store" means the containment of infectious waste in such a manner as not to constitute collection, treatment, transport, or disposal.
- (W) "Tattoo." "Tattoo" means:
- (1) any indelible design, letter, scroll, figure, symbol, or other mark placed with the aid of needles or other instruments; or
 - (2) Any design, letter, scroll, figure, or symbol done by scarring; upon or under the skin.
- The term "tattoo" shall include permanent makeup, which is a cosmetic technique that employs tattoos as a means of producing designs which resemble make-up. The term "tattoo" shall also include "body piercing".
- (X) "Tattoo Artist." "Tattoo artist" means any person who provides a tattoo to an individual or who performs any type of piercing of the mucous membranes or the skin through which needles or other objects are inserted for temporary or permanent placement. The term "tattoo artist" shall include "body piercer".
- (Y) "Tattoo Operator." "Tattoo operator" means a person who controls, operates, conducts, manages, or owns any tattoo parlor.

(Z) "Tattoo Parlor." "Tattoo parlor" means any room or space where tattooing or body piercing is provided or where the business of tattooing or body piercing is conducted.

(AA) "Universal Precautions." "Universal precautions" means an approach to infection control in which all human blood and certain human body fluids are treated as if known to be infectious for HIV, HBV, HCV, and other bloodborne pathogens.

SECTION 3. TATTOO OPERATOR TRAINING RESPONSIBILITIES.

An individual or entity that is a tattoo operator shall comply with the following training responsibilities:

(1) Ensure that the training described in the Indiana occupational safety and health administration's bloodborne pathogens standard (as found in 29 CFR 1910.1030) is provided to all tattoo artists, anyone employed by the tattoo parlor, or anyone acting on behalf of the tattoo parlor who has a reasonably anticipated risk for skin, eye, mucous membrane, or parenteral contact with blood or OPIM.

(2) Ensure that training on the handling of infectious waste is provided to all tattoo artists, anyone employed by the tattoo parlor, or anyone acting on behalf of the tattoo parlor who has a reasonably anticipated risk for skin, eye, mucous membrane, or parenteral contact with blood or OPIM.

(3) Ensure that a record of training described in subdivision (1) is maintained, as required under the Indiana occupational safety and health administration's bloodborne pathogens standard (as found in 29 CFR 1910.1030) of an individual's participation in the training that is provided. The record shall be made available to the department for inspection upon request.

(4) Ensure that a record of training described in subdivision (2) is maintained.

SECTION 4. TATTOO OPERATOR RESPONSIBILITIES.

(A) The tattoo operator shall ensure that tattoo artists, anyone employed by the tattoo parlor, or anyone acting on behalf of the tattoo parlor who has a reasonably anticipated risk for skin, eye, mucous membrane, or parenteral contact with blood are provided personal protective equipment and expendables needed to implement the precaution required by this rule and the Indiana occupational safety and health administration's bloodborne pathogens standard (as found in 29 CFR 1910.1030).

(B) The tattoo operator shall require tattoo artists, anyone employed by the tattoo parlor, or anyone acting on behalf of the tattoo parlor who has a reasonably anticipated risk for skin, eye, mucous membrane, or parenteral contact with blood to provide evidence of compliance with the universal precautions education requirements set forth in this Ordinance or otherwise required by law.

(C) The tattoo operator shall display a description of compliance with the requirements contained in subsection (d).

(D) The tattoo operator shall display written materials prepared or approved by the department explaining universal precautions and patrons' rights under this Ordinance. These materials shall include information on how to report violations of universal precautions and shall include information regarding the department's duties to investigate.

(E) The tattoo operator shall insure that no illicit drugs or alcohol are consumed or permitted in the tattoo parlor.

(F) The tattoo operator shall insure that no tattoo shall be affixed to any person that is intoxicated.

(G) The tattoo operator shall maintain written records and verification that the tattoo operator is in compliance with the requirements of this Ordinance and shall provide the Department access to such records upon request and shall have such records available during any inspection.

SECTION 5. TATTOO OPERATOR POLICIES.

The tattoo operator shall develop a written policy in compliance with this Ordinance and the requirements of the Indiana occupational safety and health administration's bloodborne pathogen standard (as found in 29 CFR 1910.1030) that:

- (1) requires the use of universal precautions when performing tattooing and any activity or duty that includes any reasonably anticipated skin, eye, mucous membrane, or parenteral contact with blood or OPIM;
- (2) includes the safe handling of infectious waste; and
- (3) Provides sanctions, including discipline and dismissal, if warranted, for failure to use universal precautions and/or handle infectious waste safely.

SECTION 6. TATTOO ARTIST MINIMUM TRAINING AND CERTIFICATION REQUIREMENTS.

(A) All tattoo artists, anyone employed by the tattoo parlor, and anyone acting on behalf of the tattoo parlor who has a reasonably anticipated risk for skin, eye, mucous membrane, or parenteral contact with blood or OPIM shall complete the training program that is required under the requirements of the Indiana occupational safety and health administration's bloodborne pathogen standard (as found in 29 CFR 1910.1030). The programs under this section shall be as follows:

(1) A bloodborne pathogen training session provided by the tattoo operator meeting the requirements under the Indiana occupational safety and health administration's bloodborne pathogens standard (as found in 29 CFR 1910.1030).

(2) Any bloodborne pathogen continuing education program accredited by a health care licensing entity.

(B) All tattoo artists, anyone employed by the tattoo parlor, and anyone acting on behalf of the tattoo parlor who has a reasonably anticipated risk for skin, eye, mucous membrane, or parenteral contact with blood or OPIM must be trained in the tattoo parlor's policies on the handling of infectious waste.

SECTION 7. PATRON RECORDS.

Records of each patron shall be maintained for two (2) years. The record shall include the following:

- (1) Patron's name
- (2) Address.
- (3) Age. Age must be verified by two items of identification, one of which must be a valid government issued identification.
- (4) Date tattooed.
- (5) Design of the tattoo.
- (6) Location of the tattoo on the patron's body.
- (7) The name of the tattoo artist who performed the work.
- (8) Parental consent must be in writing when performed on any minor as permitted by law.

SECTION 8. ILLNESS.

Tattoo artists who are experiencing symptoms of acute disease that include, but are not limited to the following shall refrain from providing tattoos:

- (1) diarrhea;
- (2) vomiting;
- (3) fever;
- (4) rash;
- (5) productive cough;
- (6) jaundice; or
- (7) draining (or open) skin infections, boils, impetigo, or scabies;

SECTION 9. HANDWASHING.

(A) Handwashing facilities provided with both hot and cold running water shall be readily accessible in the same room where tattooing is provided.

(B) Hands shall be washed with soap and running water immediately before putting on gloves and after removal of gloves or other personal protective equipment.

(C) Only single use towels shall be used.

SECTION 10. PERSONAL PROTECTIVE EQUIPMENT.

Appropriate personal protective equipment shall be worn as follows:

(1) A clean protective clothing layer shall be worn whenever there is a reasonably anticipated risk of contamination of clothing by blood or OPIM.

(2) Masks in combination with eye protection devices, such as goggles or glasses with solid side shield, or chin length face shield, shall be worn whenever splashes, spray, splatter, or droplets of blood or OPIM may be generated and eye, nose, or mouth contamination can be reasonably anticipated.

(3) Disposable gloves shall be worn during the tattooing process. Gloves shall be changed and properly disposed of each time there is an interruption in the application of the tattoo, when the gloves become torn or punctured, or whenever the ability to function as a barrier is compromised. Disposable gloves shall not be reused.

(4) Gloves shall be worn when decontaminating environmental surfaces and equipment.

SECTION 11. TATTOOING EQUIPMENT.

(A) Only single use razors shall be used to shave the area to be tattooed.

(B) All stencils shall be properly disposed of after a single use.

(C) If the design is drawn directly onto the skin, it shall be applied with a single use article only.

SECTION 12. NEEDLES.

(A) Needles shall be individually packaged and sterilized prior to use.

(B) Needles shall be single use only.

(C) Needles shall be discarded in sharps containers immediately after use.

(D) Contaminated needles shall not be bent or broken or otherwise manipulated by hand.

SECTION 13. REUSABLE EQUIPMENT.

- (A) Heating procedures capable of sterilization must be used when heat stable, nondisposable equipment is sterilized.
- (B) Records must be maintained to document the following:
- (1) Duration of sterilization technique.
 - (2) Determination of effective sterility, such as use of a biological indicator, is performed monthly.
 - (3) Equipment is maintained as recommended by the owner's manual and proof is available that the owner's manual recommendations are reviewed monthly.
- (C) Reusable contaminated equipment shall not be stored or processed in a manner that requires any person to reach by hand into the containers where these sharp items have been placed.
- (D) Reusable contaminated equipment shall be:
- (1) placed in puncture-resistant containers;
 - (2) labeled with the biohazard symbol;
 - (3) leakproof on both sides and bottom; and
 - (4) Stored in a manner that does not require reaching by hand into the container where the equipment is stored until cleaning prior to sterilization.
- (E) Contaminated reusable equipment shall be effectively cleaned prior to sterilization.
- (F) Reusable tubes shall be effectively cleaned and sterilized before use.

SECTION 14. DYES OR PIGMENTS.

- (A) All dyes or pigments in tattooing shall be from professional suppliers specifically providing dyes or pigments for the tattooing of human skin.
- (B) In preparing dyes or pigments to be used by tattoo artists, only nontoxic sterile materials shall be used. Single use or individual portions of dyes or pigments in clean, sterilized containers shall be used for each patron.
- (C) After tattooing, the remaining unused dye or pigment in single use or individual containers shall be discarded along with the container.

SECTION 15. WORK ENVIRONMENT.

- (A) No tattooing shall be conducted in any room used as living quarters or in any room that opens directly into living or sleeping quarters.
- (B) Live animals shall be excluded from areas where tattooing is being conducted. This exclusion does not apply to the following:
- (1) Patrol dogs accompanying security or police officers.

(2) Guide dogs accompanying the following:

- (a) Blind persons.
- (b) Partially blind persons.
- (c) Physically disabled persons.
- (d) Guide dog trainers.
- (e) Persons with impaired hearing.

(C) Eating, drinking, smoking or applying cosmetics shall not be allowed in work areas where there is a likelihood of exposure to blood or OPIM.

(D) Food and drink shall not be kept in areas where there is a reasonably anticipated risk of exposure to blood or OPIM.

(E) All equipment and environmental surfaces shall be cleaned and decontaminated after contact with blood or OPIM.

(F) Environmental surfaces and equipment not requiring sterilization that has been contaminated by blood shall be cleaned and decontaminated.

(G) All work surfaces shall be:

- (1) nonabsorbent,
- (2) easily cleanable,
- (3) smooth, and
- (4) free of:
 - (a) Breaks,
 - (b) open seams,
 - (c) cracks,
 - (d) chips,
 - (e) pits, and
 - (f) Similar imperfections.

(H) Disinfectant solutions shall be:

- (1) a hospital grade, tuberculocidal Environmental Protection Agency (EPA) registered disinfectant; or
- (2) Sodium hypochlorite, five-tenths percent (0.5%) concentration, by volume (common household bleach is ten percent (10%) in water); the solution shall be dated and shall not be used if it is more than twenty-four (24) hours old.

SECTION 16. INFECTIOUS WASTE CONTAINMENT.

(A) Contaminated disposable needles or instruments shall be:

- (1) Stored in leak-resistant, puncture-resistant containers, tightly sealed to prevent expulsion, labeled with the biohazard symbol, and effectively treated in accordance with this rule prior to being stored in an unsecured area and sent for final disposal.

(B) Infectious wastes that are contaminated sharps or objects that could potentially become contaminated sharps shall be placed in containers that meet the following requirements:

- (1) Impervious to moisture.
- (2) Sufficient strength and thickness to prevent expulsion.
- (3) Secured to prevent leakage expulsion.
- (4) Labeled with the biohazard symbol.
- (5) Effectively treated in accordance with this rule prior to being placed in an unsecured area and sent for final disposal.

(C) If infectious waste is stored prior to final disposal, all persons subject to this rule shall store infectious waste in a secure area that:

- (1) is locked or otherwise secured to eliminate access by or exposure to the general public;
- (2) affords protection from adverse environmental conditions and vermin; and
- (3) Has a prominently displayed biohazard symbol.

(D) Infectious waste shall be stored in a manner that preserves the integrity of the containers, and is not conducive to rapid microbial growth and putrefaction.

(E) Disinfect reusable containers for infectious waste each time that they are emptied unless the surfaces of the reusable containers have been protected from contamination by disposable liners, bags, or other devices that are removed with the infectious waste.

SECTION 17. TREATMENT AND TRANSPORT OF INFECTIOUS WASTE.

(A) All tattoo operators shall ensure that infectious waste is either treated on-site in accordance with this rule or transported off-site for treatment in accordance with this rule.

(B) A treatment is effective if it reduces the pathogenic qualities of infectious waste for safe handling, is designed for the specific waste involved, and is carried out in a manner consistent with this rule. Effective treatment may include:

- (1) incineration in an incinerator designed to accommodate infectious waste
- (2) steam sterilization;
- (3) chemical disinfection under circumstances where safe handling of the waste is assured;
- (4) thermal inactivation;
- (5) irradiation; or
- (6) Discharge in a sanitary sewer or septic system that is properly installed and operating in accordance with state and local laws.

(C) All persons subject to this rule shall:

- (1) transport infectious waste in a manner that reasonably protects waste haulers and the public from contracting a dangerous communicable disease; and
- (2) Effectively treat infectious waste in accordance with this rule before it is compacted.

(D) The tattoo operator shall ensure that infectious waste, effectively treated or not is transported off-site in compliance with 410 IAC 1-3.

SECTION 18. PERMITS.

(A) Tattoo Parlor. Each tattoo parlor operation shall obtain a permit from the Morgan County Health Department. The permit shall provide the name and address of the owner of the business and the name and address of each and every tattoo artist located at each location. The cost for this permit shall be as set forth on the fee schedule for the Health Department and shall not be transferable. The permit expires on December 31st of each year and must be renewed thereafter on an annual basis. All renewals of a permit shall be subject to the permit fee. Any holder of a permit shall be subject to inspection as set forth herein. The Morgan County Health Department shall provide the appropriate forms for this permit. Said permit shall be posted at the tattoo parlor in the place where the tattoos are performed and clearly visible to the public. In the event a tattoo parlor operation shall conduct business without first obtaining a permit or shall reinstate its permit after it has been revoked, the permit fee shall be as double the amount of a permit.

(B) Mobile Facility. Mobile tattoo/body piercing facility operations are prohibited from operation in Morgan County and no mobile facility shall be eligible for a permit under this Ordinance.

SECTION 19. INSPECTIONS.

The Morgan County Health Department shall conduct inspections of each and every tattoo parlor located in Morgan County, Indiana. The Health Department may conduct a minimum of one (1) inspection per year. The Health Department may conduct additional inspections as they determine and/or in response to complaints submitted. The results of the inspections shall be provided to each operator. Violations noted by the Health Department shall be corrected immediately. The Health Department shall conduct follow-up inspections to determine compliance with this ordinance.

SECTION 20. REVOCATION OF PERMIT.

The Health Officer may suspend or revoke the permit of any tattoo operator for any period of time for any violation of this ordinance, state or federal regulations concerning bloodborne pathogens, tattoos or work-place regulations (OSHA). The suspension and/or revocation shall be effective upon issuance by the Health Officer. The tattoo operator may have the permit reinstated upon compliance with this Ordinance, state or federal regulation concerning bloodborne pathogens, tattoos or work place regulations (OSHA) and to the satisfaction of the Health Officer. Appeals of orders of revocation shall be conducted pursuant to IC 4-21.5-3-1 et. seq. The Board of Health shall conduct administrative hearings concerning the suspension or revocation of any permit issued herein as set forth in IC 4-21.5-3 et. seq.

SECTION 21. BODY ALTERATIONS PROHIBITED.

It shall be unlawful and a violation of this Ordinance for any person to perform body alterations.

SECTION 22. PENALTIES.

(A) If a tattoo operator shall fail to obtain a permit prior to the conduct of their business or at any time after one has been issued, but has expired, the tattoo operator may be subject to a fine of not more than \$2,500.00 (two thousand five hundred). Each day the tattoo artist and/or operator shall be in violation of this ordinance shall constitute a separate offense.

(B) The Health Officer may bring an action in the Circuit or Superior Court to enforce this ordinance. The Health Officer shall be entitled to recover all costs and expenses associated with any action for enforcement of this ordinance including reasonable attorney fees.

SECTION 23. CONFLICTS AND SEVERABILITY.

(A) The provisions of this Ordinance are intended to be supplemental to the laws of the State of Indiana and to the extent that they may conflict with said laws, the laws of the State of Indiana shall control.

(B) Should any provision of this Ordinance be found by a court to be invalid, the remainder of the Ordinance shall remain in full force and effect.

SECTION 24. CONSTRUCTION.

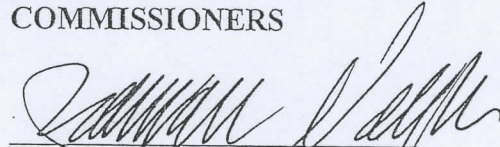
All terms of this Ordinance, unless defined or otherwise apparent from the context in which they are used, shall be construed in terms of their plain and ordinary meaning. Masculine terms shall be construed so as to include the feminine and singular terms shall include the plural.

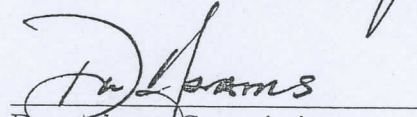
SECTION 25. REPEAL AND EFFECTIVE DATE.

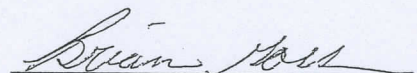
All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed and this Ordinance shall be effective upon publication as by law required.

So Passed and Ordained this 1 day of August, 2011.

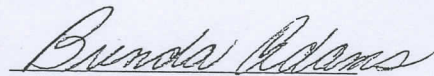
MORGAN COUNTY BOARD OF
COMMISSIONERS


Norman Voyles, Commissioner


Don Adams, Commissioner


Brian Goss, Commissioner

ATTEST:


Brenda Adams,
Morgan County Auditor