



Legislation Details (With Text)

File #: 19-712B **Version:** 1

Type: Ordinance **Status:** Passed

File created: 7/19/2019 **In control:** City Council

On agenda: 8/20/2019 **Final action:** 8/20/2019

Title: Waive the first reading and pass the ordinance amending 4:7, 6:1 and 6:7 pertaining to body art facilities as an accessory use operated in conjunction with a permitted salon or spa. - PZC 19-1-071 (requires six positive votes)

Sponsors:

Indexes:

Code sections:

Attachments: 1. Ordinance, 2. Ordinance 19-080 from 6-4-2019, L1 regarding AMEND CH 7 TATTOO AND BODY PIERCING OF TITLE 4 HEALTH, 3. 7.17.19 PZC Minutes

Date	Ver.	Action By	Action	Result
8/20/2019	1	City Council	passed	Pass

CITY COUNCIL AGENDA ITEM

ACTION REQUESTED:

Waive the first reading and pass the ordinance amending 4:7, 6:1 and 6:7 pertaining to body art facilities as an accessory use operated in conjunction with a permitted salon or spa. - PZC 19-1-071 (requires six positive votes)

DEPARTMENT: Transportation, Engineering and Development

SUBMITTED BY: Allison Laff, AICP, Deputy Director

BOARD/COMMISSION REVIEW:

The PZC conducted the public hearing regarding PZC 19-1-071 on July 17, 2019. One member of the public spoke in favor of the request. Following public input, the PZC closed the public hearing and made a motion to approve PZC 19-1-071 (passed, 9-0). During their meeting on August 8, 2019, the Downtown Advisory Commission (DAC) discussed the pending ordinance amendment as it relates to the downtown. At the conclusion of their discussion, DAC made a motion to support the text amendment as written, specifically noting support for body art facilities as an accessory use operated in conjunction with a permitted B4 salon or spa (vote 9-1). Commissioner Nagle cast the dissenting vote based on concerns regarding the applicability of the accessory use requirement to salon suite facilities.

BACKGROUND:

During public forum at the May 7, 2019 City Council meeting, a member of the public requested that the City Council consider an amendment to the Naperville Municipal Code in order to permit microblading to be performed by a person other than a physician or osteopath, as is required by the current code. Microblading is a new form of cosmetic application that uses the principles of tattooing to place permanent ink under the skin to create the likeness of hair, often eyebrows. Based on

Municipal Code regulations, microblading was defined as a tattoo and therefore subject to Naperville code requirements that it be performed only by a physician or osteopath in a facility operated by a physician or osteopath.

Following discussion of the existing ordinance, the City Council directed staff to prepare a code amendment for review at a future meeting. Per City Council direction, this amendment modified Chapter 7 (Tattooing and Body Piercing) of Title 4 (Health and Sanitation) to permit both tattooing and microblading within the City without requiring the involvement of a physician or osteopath.

The first reading of the proposed ordinance amendment was held before the City Council on May 21, 2019 (note: Planning and Zoning Commission review was not required because the proposed amendments did not impact or modify any existing zoning regulations). The City Council approved the proposed ordinance amendment, as presented (see attached), on June 4, 2019.

Additional City Council Direction - Zoning

During public forum at the June 18, 2019 City Council meeting, Mira Smith noted concerns that the zoning allowances for tattooing/microblading are too restrictive, specifically noting that she is not permitted to perform microblading services in the tenant space that she leased within the Downtown (zoned B4). In response, staff noted that currently the only zoning district in which tattoo and body piercing establishments may be located is in B3 (General Commercial District), subject to review and approval of a conditional use. In contrast, health spas, salons, and medical offices (which may be customary settings for a microblading establishment) are generally permitted in the B1, B2, B3, B4, B5, OCl, and TU zoning districts. Following this discussion, City Council directed staff to process an amendment to the Zoning Ordinance to increase zoning options for tattooing and microblading establishments.

DISCUSSION:

Proposed Ordinance

In response to City Council's direction, staff has drafted an amendment to Chapter 1 (Zoning Title, Purpose, Definitions) and Chapter 7 (Business Districts) of Title 6 (Zoning Ordinance). The proposed amendments are attached; in summary, the amendments propose to:

- Create a new "body art" definition in Title 4 (Health and Sanitation) which encompasses body piercing, artistic and cosmetic tattooing, and permanent makeup. Note: amendments to Title 4 are not subject to review by the Planning and Zoning Commission.
- Delete the existing Title 6 (Zoning Ordinance) definitions of "body piercing" and "tattooing" in Title 6 (Zoning Ordinance). Add in a new "body art establishment" definition to Title 6 which is consistent with that established in Title 4.
- Maintain the existing requirement for a conditional use in the B3 zoning district for a body art establishment which functions as a principal use.
- Add body art establishments as a permitted accessory use when offered in conjunction with a permitted beauty shop/salon, health spa/massage establishment, and medical office. As defined, the body art services shall not exceed 25% of the gross floor area of the permitted principal use.

Key Takeaways

- On June 18, 2019, City Council directed staff to amend Title 6 (Zoning Ordinance) to increase zoning options for tattooing and microblading establishments.

- Staff finds that the proposed ordinance is responsive to City Council’s direction in that it maintains existing zoning rights for “body art establishments” which function as a principal use, while significantly increasing zoning options for “body art establishments” which function as an accessory use when performed in conjunction with a beauty shop/salon, health spa/massage establishment, or medical office.
- At their July 19, 2019 meeting, the Planning and Zoning Commission unanimously recommended approval of the proposed amendments.

FISCAL IMPACT:

None