



## Legislation Text

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File #: 19-500B, Version: 1

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### CITY COUNCIL AGENDA ITEM

#### **ACTION REQUESTED:**

Pass the ordinance amending Chapter 7 (Tattooing and Body Piercing) of Title 4 (Health and Sanitation) of the Naperville Municipal Code.

**DEPARTMENT:** Legal Department

**SUBMITTED BY:** Kristen Foley, Senior Assistant City Attorney and Allison Laff, Deputy Director - TED

#### **BOARD/COMMISSION REVIEW:**

Not required.

#### **BACKGROUND:**

During public forum at the May 7, 2019 City Council meeting, Jenna Lesko 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.

Following discussion of the existing ordinance and current request, the City Council directed staff to prepare a code amendment for review at a future meeting. The first reading of the proposed ordinance was conducted at the May 21, 2019 City Council meeting; there were no speakers on this item.

#### **DISCUSSION:**

##### ***Existing Regulations***

Chapter 7 (Tattooing and Body Piercing) of Title 4 (Health and Sanitation) of the Naperville Municipal Code defines a tattoo as "any method of placing designs, letters, scrolls, figures, symbols or any other marks upon, under or in the skin with ink or any other substance resulting in the coloration of the skin by the aid of needles or any other instrument designed to touch or puncture the skin".

Section 4-7-4 (Prohibitions) of this same Section notes that (1) It is prohibited for any person to tattoo or do body piercing on another human being unless it is performed by a physician or osteopath or in the presence of and under direction of a physician or osteopath and (2) It is prohibited for any person to engage in or operate a tattoo parlor or body piercing establishment unless he or she is a physician or osteopath.

Based on the existing Municipal Code regulations, microblading would be defined as a tattoo and can therefore only be performed by a physician or osteopath in a facility operated by a physician or osteopath.

It is important to note that when the requirement that tattoos and body piercing be performed by a physician or osteopath was added to the Naperville Municipal Code in 1999, it was done to prevent the spread of communicable diseases. The State of Illinois currently regulates and registers tattoo and body piercing establishments and has disinfection, sterilization and sanitation requirements to prevent the spread of communicable diseases from these activities. In 2014, the City relaxed the body piercing restrictions to allow ear piercing without a physician. Because piercing establishments are licensed by the State, staff finds that it would also be appropriate to remove the requirement that body piercing be performed by a physician or osteopath.

The proposed ordinance amends the municipal code to allow both tattooing and microblading within the City, without requiring the involvement of a physician or osteopath, subject to zoning regulations.

### ***Zoning***

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 (note: conditional uses require a public hearing before the Planning and Zoning Commission prior to a final City Council recommendation). The B3 district is largely found along Ogden Avenue.

In contrast, health spas, salons, and medical offices (which may be customary settings for a microblading establishment) are permitted in the B1, B2, B3, OCI, TU, and B5 zoning districts. If City Council wishes to extend the districts in which tattooing would be permissible, they should initiate an amendment to Title 6 (Zoning Ordinance). This amendment would require review through a Planning and Zoning Commission public hearing (subject to notice requirements) followed by a City Council vote.

Finally, it should be noted that because ear piercing is excluded from the definition of body piercing, such facilities would be permitted by right in any commercial zoning district as a retail use (or as accessory to a retail use).

### **FISCAL IMPACT:**

None