



## Legislation Text

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File #: 19-712, Version: 1

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### PLANNING AND ZONING COMMISSION AGENDA ITEM

#### **ACTION REQUESTED:**

Conduct the public hearing regarding amendments to Chapter 1 (Zoning Title, Purpose, Definitions) and Chapter 7 (Business Districts) of Title 6 (Zoning Ordinance) pertaining to body art establishments - PZC 19-1-071

**DEPARTMENT:** Transportation, Engineering and Development

**SUBMITTED BY:** Erin Venard, AICP, Community Planner

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

Public notice for PZC 19-1-071 was published in the Daily Herald on July 1, July 3, and July 5, 2019.

#### **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.
- Staff recommends that the Planning and Zoning Commission conduct the public hearing on the proposed amendments pertaining to body art establishments and recommend their approval.