

June 6, 2013

A recommendation to the Bryan City Council regarding an amendment to the text of Bryan Code of Ordinances Chapter 130 (Zoning) regarding tattoo studio uses

BACKGROUND:

Bryan's Zoning Ordinance defines "tattoo/body piercing studio" uses as

the workshop of a tattoo artist, and/or a facility where the piercing of body parts, other than ears, is performed for purposes of allowing the insertion of jewelry. (Sec. 130-3)

The Zoning Ordinance allows tattoo/piercing studios by right in C-2 (Retail), C-3 (Commercial) and I (Industrial) zoning districts of Bryan.

In late 2012, City staff received a citizen request to change the Zoning Ordinance in order to allow a tattoo studio use on property located at 307 W. 26th Street. The property is currently zoned Downtown – South (DT-S) District which does not permit tattoo studios. During its workshop meeting on January 17, 2013, it was the consensus of the Commission to not schedule this item for further consideration.

At the request of two Councilmembers, staff presented the citizen request to the Council during its workshop meeting on April 9, 2013. During that workshop meeting, the Council asked that the Planning and Zoning Commission review the Zoning Ordinance relative to the entire downtown area and evaluate the list of allowed and potentially allowed land uses.

During its regular meeting on May 16, 2013, Commissioners voted to designate a Planning and Zoning Commission subcommittee to study allowed land uses in the downtown zoning districts and report back to the full Commission by the Commission's regular meeting scheduled for July 18, 2013. The subcommittee met on May 24, 2013, reviewed pertinent information, and formulated the recommendations below. A summary of other cities' tattoo studio regulations is also attached.

SUBCOMMITTEE RECOMMENDATIONS:

The subcommittee recommends the following changes to the Zoning Ordinance:

1. that tattoo studio uses be potentially allowed in the Downtown – South (DT-S) zoning district, with prior approval of a Conditional Use Permit; and
2. that the following new use-specific standards shall apply to all tattoo studio uses city-wide:
 - a. All structures housing a tattoo studio use shall be located at least 5,280 feet from another structure housing a tattoo studio use.

- b. All structures housing a tattoo studio use shall have a minimum of 3,000 square feet of floor area and a maximum of 5,000 square feet of floor area.
- c. Consumption of alcoholic beverages shall be prohibited in the tattoo studio (in accordance with 25 Texas Administrative Code, Chapter 229, Subchapter V, “Minimum Standards for Licensure of Tattoo and Certain Body Piercing Studios”, Rule 229.404 (h), as may be amended from time to time).

The subcommittee recommendation would require City Council’s approval of an amendment to the text of the Zoning Ordinance, specifically to Sections 130-18(c) and by adding a new Section 130-34(l). Sections 130-14(b) and 130-23(b) would also be amended to reference the new use-specific standards in Section 130-34(l) in zoning districts where tattoo studio uses are already allowed.

The subcommittee also reviewed other land uses currently allowed or potentially allowed in the three downtown zoning districts. Commissioners discussed ideas on how zoning regulations can continue to promote future development in the central area of the city while protecting the character of the downtown area. Rather than making specific recommendations about downtown land uses at this time, however, the subcommittee concluded that a more inclusive investigation is necessary to help protect the substantial public and private investment that has been made here since the adoption of the Downtown Master Plan in 2001. The subcommittee therefore recommends that a far-reaching examination of land use in the downtown area be undertaken as part of an update to the City’s Comprehensive Plan for which another Planning and Zoning Commission subcommittee was already established earlier this year. Commissioners agreed that an update to the 2001 Downtown Master Plan in the context of a Comprehensive Plan Update would be more appropriate, avoid a duplication of effort, and could better account for all the aspects affecting development and quality of life the downtown area and the City as a whole. The Comprehensive Plan Update subcommittee is scheduled to hold its first meeting within a few weeks.

OPTIONS:

The Planning and Zoning Commission is scheduled to make a recommendation to the City Council regarding tattoo studio uses during its regular meeting on June 6, 2013. Commissioners may

1. accept the subcommittee’s recommendations and suggest them to the City Council for approval; or
2. recommend alternate changes to the Zoning Ordinance regarding tattoo studio uses; or
3. recommend no changes to the Zoning Ordinance at this time.

OTHER CITIES' REGULATION OF TATTOO STUDIO USES:

There does not appear to be a “one fits all” solution on the subject of regulating tattoo studios in general or downtown areas in particular. Some communities allow tattoo studios by right in all areas where other personal service-related retail sales and service uses, for example, hair studios or tanning salons, are also allowed. This suggests that tattooing appears to have become more acceptable in some cities, which appear to view tattooing as art form and part of the mainstream. In 6 of the 10 cities surveyed, tattoo studio uses are either allowed or potentially allowed with additional review (i.e., Conditional Use/Special Use Permit).

In talking to other city planners around the state, staff found however, that negative preconceptions about tattooing (“sailors, bikers, gang members”) appear to be just as prevalent. Several of the surveyed communities have chosen to limit tattoo business locations either to certain zoning districts or to adopt specific use restrictions, such as locational separation requirements, for example, from residential districts, liquor stores, churches, or other tattoo establishments. Below is a summary of other cities’ regulation of tattoo studios.

- City of College Station, TX
 - considered a personal service shop
 - allowed by right and no restrictions in Office, Suburban Commercial, General Commercial, Commercial Industrial, and in all Northgate Districts
- City of Waco, TX
 - defined as a personal service shop
 - allowed by right with no restrictions in C-1 Community Commercial, C-2 Community Commercial, C-3 General Commercial, C-4 Central Commercial, C-5 Service Commercial District, and in downtown district
- City of Killeen, TX
 - tattoo studio only allowed but with no restrictions in B-5 Commercial District;
 - studio must be licensed per TX Health Code
- City of San Marcos, TX
 - defines tattoo/piercing studio
 - allowed by right with no restrictions in Community Commercial, General Commercial and Heavy Commercial districts, and with conditional use permit in Mixed Use, Vertical Mixed Use, Neighborhood Commercial
- City of San Angelo, TX
 - considered a personal service-oriented retail sales and service use
 - allowed by right with no restrictions in Neighborhood Commercial, General Commercial, Central Business District (downtown), and with conditional use permit in Office Commercial, Heavy Commercial and Manufacturing zoning districts
- City of Tyler, TX
 - considered a personal and consumer service use
 - allowed by right with no restrictions in C-2 Commercial in Industrial districts, not in downtown

- City of Nacogdoches, TX
 - defines tattoo studio
 - requires specific use permit in B-1, B-2, Medical and downtown, allowed with no restriction in I-1 (Light Industrial District)

- City of Mesquite, TX
 - defines use as body art/decoration
 - allowed with special use permit in Town East Retail district (downtown area)
 - requires that the use be located 1,000 ft. from the nearest property line of the following uses:
 - any residential zoned district
 - any lot currently in residential use
 - any public/private school or daycare
 - any library, park, playground or Rec. Facility
 - place of worship
 - city-owned properties
 - any other body art/decorations use

- City of Georgetown, TX
 - classifies tattoo uses as Restricted Personal Service shops “generally less desirable when located adjacent to residential areas”
 - allowed by right in C3 district and with special use permit in C-1 and downtown district

- Orange Bend, AL
 - no liquor stores within 500 ft.
 - not allowed within 5,000 ft. of body piercing, palm reader, cash advance or loan outlets