

May 16, 2013



A recommendation to the Bryan City Council regarding an amendment to the text of Bryan Code of Ordinances Chapter 130 (Zoning), to allow tattoo studio uses in the Downtown – South District (DT-S)

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 or formal action.

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. A general discussion on downtown land uses is scheduled for the Commission's workshop agenda on May 16, 2013. During the regular meeting on May 16, 2013, the Commission will have an opportunity to make a recommendation regarding tattoo studio uses in downtown to the City Council.

ANALYSIS:

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

OPTIONS:

Staff has identified the following options for regulating tattoo studio uses in the DT-S District for the Commission to review and consider, and possibly recommend to the City Council.

1. Recommend no change to current zoning regulations. Tattoo studio uses would not be allowed in the DT-S District.
2. Recommend that tattoo studio uses be allowed in the DT-S zoning district by right with no restrictions.
3. Recommend that tattoo studio uses be allowed in the DT-S zoning district by right, subject to certain use-specific restrictions.
4. Potentially allow tattoo studio uses in the DT-S zoning district with prior approval of a Conditional Use Permit, with no pre-set restrictions, but subject to any other conditions the Commission may find appropriate on a property for which a Conditional Use Permit has been requested, in accordance with Zoning Ordinance Section 130-33(d)(3).
5. Potentially allow tattoo studio uses in DT-S zoning district with prior approval of a Conditional Use Permit, subject to certain use-specific restrictions and any other conditions the Commission may find appropriate on a property for which a Conditional Use Permit has been requested, in accordance with Zoning Ordinance Section 130-33(d)(3).

Use-specific restrictions that could be part of a recommendation of options no. 3 and no. 5 may include, for example:

- a. That a tattoo studio must be licensed by the State of Texas and all tattoo artists must have valid license.
- b. That the building used for a tattoo studio must have a minimum of ... square feet of floor area of which at least ... % or ... square feet must be designated for art gallery purposes.
- c. That hours of operation be limited from ... to ... and/or certain days of the week.
- d. That no window displays shall be allowed.
- e. That no piercing service or other forms of body modification (branding, scarring or implanting) be allowed

- f. That all structures housing a tattoo studio must shall be located least ... feet from the property boundary line of any lot used for
1. place of worship;
 2. public or private school having a curriculum equivalent to an elementary or secondary school;
 3. day care center or child care facility;
 4. public hospital;
 5. liquor store;
 6. bar or nightclub;
 7. any establishment selling alcoholic beverages;
 8. any residential zoned district;
 9. any lot currently in residential use;
 10. any public library, park, playground or recreation facility;
 11. city-owned properties;
 12. another structure housing a tattoo studio;

Zoning Ordinance Section 130-33(d)(3) allows the Planning and Zoning Commission to establish conditions when considering any Conditional Use Permit request to help mitigate potentially adverse impacts. Conditions that can be considered if options no. 4 or no. 5 is recommended may include

requirements for special yards, lot sizes, open spaces, buffers, fences, walls or screening; requirements for installation and maintenance of landscaping or erosion control measures; requirements for street improvements and dedications, regulation of vehicular ingress and egress, and traffic circulation; regulation of signs; regulation of hours or other characteristics of operation; establishment of development schedules or time limits for performance or completion; and such other conditions as the planning and zoning commission may deem necessary to ensure compatibility with surrounding uses and to preserve the public health, safety, and welfare.

Commissioners may recommend any one of the aforementioned options regarding tattoo studio uses with some, or all, or without any specific restrictions listed above to the City Council.