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NOTICE OF MEETING

CITY COUNCIL

Joe Frank
President
Sara Continenza
Chanell Elston
Jane Goodman
Ruth Gray
Susan Hardy
Justin Tisdale

MEETING OF: **ZONING & PLANNING COMMITTEE MEETING & PUBLIC HEARING**

CALLED BY: RUTH GRAY, CHAIR

DATE: **OCTOBER 26, 2020**

LOCATION: VIRTUAL MEETING

TIME: 6:00 P.M.

RE: ORD. 03-20 CONDITIONS FOR TATTOO & BODY PIERCING BUSINESSES

COMMITTEE/COUNCIL MEMBERS:

CHANELL ELSTON
JANE GOODMAN

MEMBERS OF COUNCIL:

SARA CONTINENZA
JOE FRANK
JANE GOODMAN
JUSTIN TISDALE

ADMINISTRATION

LAURA HEILMAN, BUILDING COMMISSIONER
MIKE LOVE, ECON. DEVELOPMENT DIRECTOR
KEITH BENJAMIN, COMM. SERVICES DIRECTOR
PLANNING COMMISSION MEMBERS



COME TOGETHER & THRIVE

NOTICE OF PUBLIC HEARING

Notice is hereby given that a public hearing will be held by the Council of the City of South Euclid, Ohio regarding Ordinance 03-20, regarding the conditions for allowance of Tattoo and Body Piercing Businesses in the City of South Euclid. The Public Hearing will be held on Monday, October 26, 2020 at 6:00 pm via Webex Virtual Meeting Platform. The agenda and login information will be available 72 hours prior to the meeting on the City's homepage at www.cityofsoutheuclid.com.

By order of the Mayor of the City of South Euclid, Ohio.

Keith A. Benjamin, Clerk of Council

THE CITY OF SOUTH EUCLID, OHIO

ORDINANCE NO.: 03-20 February 24, 2020
INTRODUCED BY: Frank As Recommended by Planning Commission: July 23, 2020
REQUESTED BY: Mayor Second Reading: September 14, 2020

AN ORDINANCE

ENACTING NEW SECTION 732.03 “TATTOO AND BODY PIERCING BUSINESSES” OF CHAPTER 732 “CONDITIONAL USES IN COMMERCIAL DISTRICTS” OF TITLE THREE “COMMERCIAL DISTRICT REGULATIONS” OF PART SEVEN “PLANNING AND ZONING CODE” OF THE CODIFIED ORDINANCES OF THE CITY OF SOUTH EUCLID, OHIO.

WHEREAS, as tattoo and body piercing businesses become more common throughout the State of Ohio, the reasonable regulation of such businesses is necessary to promote the health, welfare, and safety of the residents of South Euclid; and

WHEREAS, an improperly operated or unclean tattoo parlor or body piercing business location may have serious and detrimental effects upon the citizens of South Euclid; and

WHEREAS, the City of South Euclid can best inspect and oversee the operation of tattoo parlors and body piercing businesses in the City; and

WHEREAS, the State of Ohio and Cuyahoga County have adopted reasonable rules to regulate the sanitary operation of tattoo parlors and body piercing facilities; and

WHEREAS, this Council desires to adopt an Ordinance to enforce the regulations of the operation of tattoo parlors and body piercing facilities in the City by making such businesses a conditional use; and

WHEREAS, this legislation amending the zoning code was referred to the Planning Commission for review; and

WHEREAS, notice of a meeting on the aforesaid requested zoning amendment has been duly given, and a full meeting has been held thereon by the Planning Commission, pursuant to such notice and as prescribed by law; and

WHEREAS, upon holding a public hearing, Council deems that the aforesaid zoning amendment should be made and the same is conducive to the public health, safety, convenience and general welfare of the City.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of South Euclid, Ohio:

Section 1: That New Section 732.03 “Tattoo and Body Piercing Businesses” of Chapter 732 “Conditional Uses in Commercial Districts” of Title Three “Commercial District Regulations” of Part Seven “Planning and Zoning Code” of the Codified Ordinances of the City of South Euclid, Ohio, be and the same is hereby enacted to read as follows:

“732.03 TATTOO AND BODY PIERCING BUSINESSES”

(a) Definitions

1. “Board of Health” means the Cuyahoga County Board of Health.
2. “Body pierce,” “body pierced,” or “body piercing” refer to any method of invasive penetration of the skin for decorative purposes, including ear piercing except when the ear piercing procedure is performed with an ear piercing gun.
3. “Building Commissioner” shall mean the administrative official charged with the duty of administering the regulations of this Section, which promote the health, safety, and welfare of the citizens of the City of South Euclid.
4. “Business” means any entity that provides tattoo and/or body piercing services.

5. "Certificate of Occupancy" shall mean written approval from the Building Commissioner, or his/her authorized representative, that said tattooing and/or body piercing establishment has been inspected and meets all terms of this Section.

6. "Conditional Use Permit" shall mean a Permit approved by Council pursuant to Chapter 762 of these Codified Ordinances.

7. "Ear piercing gun" means a mechanical device that pierces the ear by forcing a disposable single-use stud or solid needle through the ear.

8. "Health Officer" shall mean a duly authorized employee of the Division of Environmental Health for the Cuyahoga County Board of Health.

9. "Operator" shall mean any individual, firm, company, corporation or association that owns or operates an establishment where tattooing and/or body piercing is performed, and/or any individual who performs or practices the art of tattooing and/or body piercing on the person of another.

10. "Tattoo," "tattooed," or "tattooing" refer to any method of placing designs, letters, scrolls, figures, symbols or any other marks upon or under the skin with ink or any other substance resulting in the coloration of the skin by the aid of needles and/or any other instruments designed to touch or puncture the skin.

11. "Tattoo parlor and/or body piercing establishment" means the location wherein tattooing and/or body piercing is performed.

(b) Location Requirements

The location for a tattoo parlor or body piercing establishment shall be governed by the following provisions:

1. **Separation.** No such use shall be established within one thousand feet (1,000) of a daycare center, preschool, elementary or secondary school, public library, church, outdoor or indoor playground, and public or nonprofit recreation center or community center.

2. **Spacing.** No such use shall be established within five hundred feet (500) of another such use.

3. **Appeals.** The Board of Zoning Appeals may recommend approval of an application which does not meet the regulations of this Section if, after public notice and hearing, the Board determines that the proposed use, by virtue of its nature and location, will not adversely affect nearby residential areas or other protected uses listed in paragraph (1). Should the Board approve such an application, the applicant will still be subject to the conditional use process defined in Chapter 762 of the Codified Ordinances.

(c) Tattoo and Body Piercing Business as Conditional Use; Permit Required

A tattoo and/or body piercing business is hereby classified as a conditional use which may be permitted in the following city zoning districts; C-2 (General Commercial), C-3 (Special Commercial), M-1 (Limited Manufacturing), and M-2 (General Manufacturing), in accordance with the corresponding standards and requirements of the Planning and Zoning Code. A Conditional Use Permit issued pursuant to Chapter 762 of these Codified Ordinances shall be required in order to operate a tattoo parlor and/or body piercing business; said permit shall be effective for as long as the holder of the permit remains in operation and in compliance with the conditions listed in the permit. Said permit shall be automatically voided shall there be a change in ownership of the tattoo parlor or body piercing business. The new owners will be required to go reapply through the conditional use process in order to operate. When applying or reapplying for Conditional Use, the applicant shall provide a floor plan illustrating the proposed operation, a site plan indicating all on-site improvements, if any, a plan to comply with the requirements of Section 772 "Parking" and any additional information as requested by the Building Commissioner, Planning Commission, or City Council. A tattoo parlor or body piercing business shall be classified as a nonretail service for the purposes of calculating the parking space requirements. Notification of a public hearing held by the Planning Commission shall be given by the Secretary to all real properties within 500 feet of the property line of the parcel upon which the conditional use is requested. Said notice shall be by first class mail, postage prepaid.

(d) Permit Requirements

1. It shall be unlawful for any person to engage in the business of operating a tattoo parlor and/or body piercing establishment without first obtaining a Conditional Use Permit to engage in such business in accordance with the provisions hereof.

2. In addition to obtaining a Conditional Use Permit, an annual Certificate of Occupancy shall be required in accordance with Chapter 1607 of the Codified Ordinances

3. A tattoo parlor and/or body piercing establishment shall not be operated as a Home Occupation.

4. A copy of valid Cuyahoga County Board of Health tattoo and/or body piercing license is required prior to issuance of a Conditional Use Permit, Occupancy Permit, and Renewed Occupancy Permit.

5. The provisions of Chapters 3730 and 3734 of the Ohio Revised Code regulating tattooing and body piercing in the State of Ohio shall be applicable along with the provisions of this Chapter.

(e) Establishment Requirements

Each person, firm, or corporation who operates a tattooing or body piercing establishment within the City of South Euclid shall comply with the following requirements:

1. Tattooing and Body Piercing Room

A. The room in which tattooing and body piercing is done shall have an area of not less than one hundred (100) square feet. Each room in which tattooing or body piercing is performed shall accommodate only one customer at a time. The walls and floors shall have impervious, smooth, and washable surfaces, and shall not be subject to public view.

B. Toilet facilities shall be located within the tattoo parlor or body piercing establishment and shall be accessible at all times during operating hours. The lavatory(ies) shall have hot and cold running water, soap, and single use towels available at all times.

C. All tables and other equipment shall be constructed of impervious materials, with smooth, washable surfaces, and shall be separated from waiting customers or observers. No procedure may be performed in public view.

D. The entire premises and all equipment shall be maintained in a clean, sanitary condition and in good repair. Sufficient spotlight illumination shall be used to highlight the area to be tattooed or pierced.

E. A minimum of forty (40) foot candles of light must be provided at the level where tattooing is being performed.

2. Preparation and Procedure for Tattooing or Body Piercing

A. Written inquiry shall be made of the customer for a history of the following conditions: jaundice or hepatitis, swelling of the lymph nodes, AIDS or positive HIV test, skin disease or skin cancer at the site, hemophilia, allergies or anaphylactic reaction to dyes. Any individual indicating a history of any of the above shall not be tattooed nor have their body pierced.

B. Any individual who is inebriated or obviously under the effect of alcohol and/or drugs shall not be tattooed or have their body pierced.

C. The operator shall engage in proper hand washing and wear a clean, new pair of disposable gloves for each new customer.

D. Tattooing shall not be performed on the hands below the waist line, on the feet below the ankle line, on genitalia, scrotum or in the anal area. Tattooing shall not be undertaken over the site of a recent hypodermic injection.

E. Single service razors, safety razors, and straight edge razors are to be used in preparation for the procedure and must be properly discarded after use.

F. The area of the body to be tattooed or pierced shall first be thoroughly washed with warm water to which an antiseptic liquid soap has been added.

G. Petroleum jelly in a collapsible metal or plastic tube shall be used on the area to be tattooed and it shall be applied with a sterile gauze, tissue, or paper towel.

H. The use of styptic pencils, alum blocks, other solid styptic to check the flow of blood is prohibited.

I. Single service containers, pigments, inks, dyes, needles and other paraphernalia shall be properly discarded immediately after each procedure. Excessive pigment, dye, ink, liquids, or solutions shall be removed with individual sterile sponge or gauze and shall be immediately discarded in an approved manner. After completing the tattoo or body piercing procedure on any person, the tattooed area shall be washed with sterile gauze, cotton balls, tissue or paper towels saturated with an antiseptic soap solution or a seventy percent alcohol solution. The tattooed area shall be allowed to dry and a topical cream or antiseptic from a collapsible tube shall be applied using sterile gauze, tissue, or paper towel. A sterile gauze dressing or saran covering shall then be fastened to the tattooed area.

J. Operators performing tattooing or body piercing shall be immunized against the Hepatitis B virus in accordance with OSHA regulations for health care workers.

K. Written instructions on the care of the tattoo or body piercing, approved by the Cuyahoga County Board of Health, shall be given to each person who receives a tattoo or has been the subject of a body piercing.

L. Needles and other instruments used for body piercing shall be of the same gauge as the ornaments, jewelry or similar items that are or can be inserted through the opening created by the body piercing.

M. Tattooing and body piercing shall only be performed between the hours of 8:00 a.m. and 10:00 p.m.

3. Sterilization of Equipment and Storage

A. A steam sterilizer (autoclave) shall be provided for sterilizing multi-use instruments such as needle bars, grips and tubes, and other tattoo and body piercing equipment needing sterilization. Sterilization of equipment shall be accomplished by exposure to live steam for at least thirty (30) minutes at a minimum pressure of fifteen pounds per square inch (15 psi) with a temperature of two hundred fifty degrees Fahrenheit (250F). Autoclave indicator temperature strips or other similar devices shall be used to monitor autoclave performance with each use. Alternative sterilizing equipment and procedures may be used if specifically approved by the Board of Health.

B. Preparation of instruments for sterilization. After each tattoo procedure, the tattoo machine shall be placed in an ultrasonic type machine to remove the excess dye from the tubes and the needle bars. When this process is completed, the tubes and needle bars shall be removed from the tattoo machines. The tubes, grips, and needle bars shall then be placed into sterilizer bags or wrappers for sterilization by autoclaving.

C. All ready to use needles, needle bars, grips and tubes, and instruments shall be left in wrappers or sterilizer bags used during the autoclaving process. These wrapped items shall be stored in a closed cabinet or container when not in use. Such storage equipment shall be maintained in a safe and sanitary condition at all times.

D. The needles and instruments required to be sterilized shall be handled and used in such a way as to prevent contamination during the tattooing procedure.

(f) Keeping of Records

Permanent records of each patron or customer shall be maintained by the operator of the establishment. Before the tattooing and/or body piercing operation begins, the patron or customer shall be required to enter, on a record form provided for each establishment, the date, his or her name, address, age, and his or her signature. This data will be verified by requiring the patron to produce a valid state driver's license or other form of picture identification. The operator of the tattoo and/or body piercing establishment must affix his/her name to the record form and sign a statement verifying the performance of the duties required under this Chapter. Such records shall be maintained in the tattoo and/or body piercing establishment and shall be available for examination upon request by the Building Commissioner. Records shall be retained by the operator for a period of not less than five (5) years. In the event of a change in ownership or closing of the business, all such records shall be retained by the operator and made available to the Building Commissioner upon request.

(g) Disposal

1. All pigments, dyes, inks, or colors used in tattooing shall be sterile and free from bacteria, virus particles and noxious agents and substances. The pigments, dyes, and colors used from stock solutions for each customer or patron shall be obtained from an approved source, and shall be placed in a single-serve receptacle. Such receptacle and the remaining solution shall be discarded after use on each customer or patron.

2. All bandages and surgical dressings used in connection with the tattooing and/or body piercing of a person shall be sterile and disposed of in a manner which complies with Chapter 3734 of the Ohio Revised Code pertaining to infectious waste.

(h) Certificate of Inspection, Renewal, Annual Inspection

1. An applicant for a license to operate a tattooing and/or body piercing establishment shall first obtain a Conditional Use Permit, as approved by City Council.

2. The Building Commissioner shall issue a Certificate of Occupancy upon approval of the Conditional Use Permit, and approval from the Cuyahoga County Board of Health, the Fire

Department, and the Building Department that the establishment has been inspected and is in compliance with all provisions of this Section.

3. The Building Commissioner shall engage the Cuyahoga County Board of Health for the purpose of conducting annual and other periodic inspections, as may be necessary, and any tattooing and/or body piercing establishment for the purpose of determining whether or not said establishment, and the persons performing the art of tattooing and/or body piercing therein, are in compliance with all applicable provisions contained within this regulation and other pertinent regulations of the Board of Health. It shall be unlawful for any person or operator of a tattooing and/or body piercing establishment to willfully prevent or restrain an employee of the Cuyahoga County Board of Health, or his/her designee, from entering any licensed establishment where tattooing and/or body piercing is being performed for the purpose of inspecting said premises, after proper identification is presented to the operator.

4. The Building Commissioner shall renew the Certificate of Occupancy on an annual basis, provided the establishment is in compliance with the Conditional Use Permit, the Cuyahoga County Board of Health, all City of South Euclid laws and regulations, and the Ohio Revised Code. Said Certificate of Occupancy shall be posted within the tattoo and/or body piercing establishment to serve as public notice that said establishment has been inspected and is in compliance with the provisions of this Section.

(i) Limitations of Persons

1. It shall be unlawful to tattoo and/or body pierce any person who is known to have, or who shows signs of having, any communicable disease or any disease of the skin. This includes but is not limited to rashes, pimples, boils, infections or any manifestation or evidence of other unhealthy conditions.

2. It shall be unlawful for any tattoo and/or body piercing operator to be under the influence of alcohol and/or narcotic drug or drug of abuse when tattooing and/or body piercing.

3. It shall be unlawful to tattoo and/or body pierce any individual who is under eighteen (18) years of age, regardless of whether the operator knows this person to be less than eighteen (18) years of age, without the prior express written consent of such person's parent or guardian. The operator shall be considered strictly liable for any violation of this Section.

(j) Penalty

1. The City of South Euclid may suspend or revoke a Tattoo and/or Body Piercing Establishment Conditional Use Permit and/or Certificate of Occupancy for violation of any provision of this Section.

2. The provisions of this Section shall apply to all tattoo and/or body piercing establishments and/or tattoo and/or body piercing operators which are currently in existence, or which may come into existence after the effective date of this Section. The provisions of this Section shall not apply to a Physician licensed to practice medicine in the State of Ohio who is tattooing for a medical purpose.

3. In the event of conflict between any provisions of this Section and the Ohio Revised Code, including any rules and regulations adopted pursuant to this Section or the Ohio Revised Code, and any provisions of City Ordinances, including any rules and regulations adopted pursuant to such Ordinance, that provision which establishes the higher standard for the promotion or protection of the health or safety of the people shall govern.

4. Whoever violates any provisions of this Section shall be guilty of a misdemeanor of the first degree. Such person and/or business shall be deemed guilty of a separate offense for each and every day or portions thereof during which any violation of any of the provisions of this Section is committed, permitted or continued. This Section shall be enforced by the Director of Public Safety or designee, the Division of Police, and/or any public health official.

Section 2: That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees on or after November 25, 1975, that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 3: This Ordinance shall take effect and be enforced from and after the earliest period allowed by law and upon signature of the Mayor.

Passed this _____ day of _____, 2020.

Joseph Frank, President of Council

Attest:

Approved:

Keith A. Benjamin, Clerk of Council

Georgine Welo , Mayor

Approved as to form:

Michael P. Lograsso, Director of Law