



MEMORANDUM

Date: January 7, 2025

To: Honorable Mayor and Commissioners

Via: Todd Stoughton, Interim City Manager

From: Katie P. Halloran, Director, Planning Department

Subject: **File – 24-6499 - Text Amendment of the Land Development Regulations** - A resolution of the City of Key West Planning Board recommending an Ordinance to the City Commission to amend the Land Development Regulations Chapter 122, entitled "Zoning," Article IV, entitled "Districts," Subdivision II, entitled "Limited Commercial District (CL)," Subdivision III, entitled "General Commercial District (CG)," Division 7, entitled "Historic Residential Commercial Core Districts (HRCC-1 to 3)," Subdivision II, entitled "HRCC-1 Duval Street Gulfside District," Subdivision III, entitled "HRCC-2 Key West Bight District," Subdivision IV, entitled "HRCC-3 Duval Street Oceanside District, Article V, entitled "Supplementary District Regulations," Division 13, entitled "Tattoo Establishments," Section 122-1542, entitled "Definitions," Section 122-1543, entitled "Separation Requirements," Chapter 86, entitled "General Provisions," and Section 86-9, entitled "Definitions; providing for severability; providing for repeal of inconsistent provisions; providing for an effective date.

Introduction

The City of Key West has regulated tattoo establishments in a variety of means over the years with varying degrees of success. Approximately, nine (9) years ago, the U.S. Court of Appeals for the Eleventh Circuit in the case of Brad Buehrle vs. City of Key West, found that the City's most recent regulation of tattoo establishments failed to represent "a reasonable time, place, and manner restriction on protected expression." As a result, the current Ordinance contained in Chapter 122 (Zoning), Article V (Supplementary District Regulations), Division 13 – Tattoo Establishments is not valid.

Background

The City Attorney requested that the Planning Department modify the Ordinance to address the concerns

raised by the Court. The proposed Ordinance was drafted in coordination with the City Attorney, and the Code Compliance Department, and sponsored by the Interim City Manager pursuant to Sec. 90-518 of the Code of Ordinances.

The proposed amendments to Division 13 – Tattoo Establishments may be grouped into two categories. First, the number of zoning categories in which tattoo establishments are permitted has been expanded to include General Commercial (CG), Limited Commercial (CL), and Historic Residential Commercial Core District-1, 2 and 3 (HRCC-1, HRCC-2, HRC-3). In addition, tattoo establishments have been designated as “permitted,” not “conditional” uses in these districts. The second category of changes includes the elimination of some of the more onerous and legally problematic aspects of the regulatory process. This includes, but is not limited to the following:

- All tattooing shall be performed by a person licensed to practice medicine or dentistry under F.S. chs. 458 and 459 or 466, or by a person under his general supervision.
- The supervising physician, osteopathic physician, or dentist, initially upon assuming duties as the supervisor and semi-annually thereafter, shall review and inspect the techniques, procedures, and equipment utilized by the tattooist in the performance of tattooing.
- The supervising physician, osteopathic physician, or dentist shall provide semi-annual training for the tattooist in the areas of infection control, sterilization, and emergency procedures.
- A person certified in the use of a defibrillator, CPR, first aid, and blood borne pathogens shall be present on-site during the time tattooing is performed. All certificates must be prominently displayed in the establishment and copies of all certificates shall be submitted each year at the time of city licensing renewal.
- Autoclave equipment shall be spore tested monthly or every 40 hours of use, whichever occurs first. All testing and maintenance records shall be available for inspection.
- The removal of tattoos shall be prohibited in any tattoo establishment.

The separation requirements associated with tattoo establishments have been retained based on the recommendation of the City Attorney and Code Compliance Department. The State Department of Health will also continue to license and regulate tattoo establishments.

Procurement

This action will not result in City expenditures.

Recommendation

The Planning Board recommend that the City Commission **approve** this draft ordinance as indicated through Resolution 2024-039.

The Planning Department, based on the criteria established by the Comprehensive Plan and the Land Development Regulations, recommends that proposed text amendment to the Land Development Regulations be **approved** by the City Commission.

Exhibits:

Exhibit A – Draft Ordinance