

ORDINANCE NO. 2760

AN ORDINANCE AMENDING ORDINANCE 2057; WHICH AMENDS CHAPTER 7 BUSINESS LICENSES AND BUSINESS REGULATIONS, SECTION 7-2 BODY ALTERING ESTABLISHMENTS BY ELIMINATING THE DISTANCE LIMITATIONS CHURCHES AND BODY ALTERING ESTABLISHMENTS; REMOVING CERTAIN RESTRICTIONS ON SIGNS; AUTHORIZING CODIFICATION; REPEALING ORDINANCES IN CONFLICT, PROVIDING FOR SEVERABILITY, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Commission of the City of Panama City (the "City") has determined the distance limitation to churches within the Body Altering Establishment code has become too restrictive over the last decade to facilitate economic growth of the City;

WHEREAS, the establishment of a body altering business within one thousand (1,000) feet radial spacing of a church is no longer contrary to the peace, laws, health, safety, and welfare of the inhabitants of Panama City, Florida;

WHEREAS, the City has determined the distance limitation to churches within the Body Altering Establishment code has become too restrictive over the last decade to facilitate economic growth of the City;

WHEREAS, the establishment of a body altering business within one thousand (1,000) feet radial spacing of a church is no longer contrary to the peace, laws, health, safety, and welfare of the inhabitants of Panama City, Florida;

WHEREAS, the City has determined that there is no longer a reason to regulate signage for Body Altering Establishments differently than the sign requirements for all businesses;

WHEREAS, the City has considered public comments and testimony and desires to maintain a distance limitation between Body Altering Establishments based on general principles of aesthetics and the desire to space out Body Altering Establishments;

WHEREAS, the tattooing has been found to be a form of artistic expression and the City may regulate with valid time, place and manner restrictions;

WHEREAS, the City has determined that maintaining a distance between Body Altering Establishments is a valid place restriction because it is content neutral and not unreasonably restrictive;

WHEREAS, maintaining a distance between Body Altering Establishments is necessary to protect the health, safety and welfare of the Citizens by promoting fair competition and preventing pricing wars which may allow for safety measures to be cut that are too expensive;

WHEREAS, other local governments have made findings that they perceive health issues will be generated by too much "next door" competition which would result in pricing wars and safety measures being cut;

WHEREAS, the intent of the City Commission is to allow body altering businesses an opportunity to relocate to, or locate in, other areas in Panama City.

NOW, THEREFORE, BE IT ENACTED BY THE PEOPLE OF THE CITY OF PANAMA CITY;

(~~Strikethrough~~ words are deletions; Underlined words are additions.)

Sec. 7-2. - Body altering establishments.

- (a) *Short title.* This section may be known as the "Panama City Body Altering Business Locational Ordinance."
- (b) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Body altering business means a body piercing establishment or tattoo establishment.

Body piercing establishment means a commercial establishment or place of business at which the body or skin of a human being is pierced, or which holds itself out to the public as a place where such body piercing can be purchased or arranged. The use of a mechanized, presterilized ear-piercing system that penetrates the outer perimeter or lobe of the ear, or both, is exempt from this definition.

~~*Church* means a church, temple or other structure used on a permanent basis primarily for public worship.~~

Tattoo establishment means a commercial establishment or place of business at which the skin of a human being is marked by piercing in or otherwise applying coloring matter so as to form indelible or lasting marks or figures, or which holds itself out to the public as a place where such tattooing can be purchased or arranged.

- (c) *Businesses designated.* The following uses are declared to be body altering businesses:

- (1) Body piercing establishments.
 - (2) Tattoo establishments.
- (d) *Distance limitations.* None of the body altering businesses as defined in this section shall be located nearer than 500 ~~1,000~~ feet to any other body altering business. ~~nor nearer than 1,000 feet to any church.~~ Such distance shall be measured by radial spacing as follows:
- (1) In the case of another body altering business ~~or a church~~, by measuring from the nearest corner of the body altering business building or on-premises free-standing sign associated with such business building, to the nearest corner of ~~the church building or~~ the other body altering business building or on-premises free-standing sign associated with such business building.
 - (2) In all such measurements, building projections, eaves or overhangs shall be excluded.
 - (3) In the case of a body altering business operated outside a building, measurement shall be from the closest place of such operation.
- ~~(e) Sign and appearance requirements.~~ The definitions applicable to chapter 106 also apply to this subsection. All new body altering businesses and all existing body altering businesses shall comply with the following on-premises sign and appearance requirements on or before May 1, 2005:
- ~~(1) All signs shall be flat wall signs.~~
 - ~~(2) The amount of allowable sign area shall be one square foot of sign area per linear foot of frontage of that premises, to a maximum of 25 square feet.~~
 - ~~(3) No merchandise or pictures of the products on the premises shall be displayed in building glass areas or any area where they can be viewed from a street.~~
 - ~~(4) Window signs are prohibited. A single, one square foot sign may be placed on the door to state hours of operation and admittance of adults only. A single, three-square foot sign containing only the word "open" may be placed in a window.~~
 - ~~(5) Freestanding on-premises signs are prohibited.~~
- (fe) *Application to new churches.* Where a body altering business is located in conformity with the provisions of this section, the subsequent locating of a church within 1,000 feet of such existing designated use shall not be construed to cause such designated use to be in violation hereof.
- (gf) *Retroactivity; discontinuance of nonconforming use.*
- (1) Except as otherwise provided in this section, the provisions of this section shall not be construed to be retroactive, and any existing body altering business which conformed to the regulations in effect when such body altering business was established shall not be rendered illegal by the adoption of this section; provided, however, that any body altering business, whether preexisting or hereafter established, shall immediately and fully comply with this section even if such business must cease operation in order to comply if such business:

- a. Voluntarily or involuntarily discontinued, vacated, closed or abandoned for a period of 90 days in any 120-day period shall lose all rights hereunder and shall be required to qualify as a newly-established designated use before reopening;
 - b. Has a voluntary or involuntary change of beneficial ownership in any degree (including transfer of stock in a corporation owning such business) after the adoption of this section; or
 - c. Is increased, enlarged or extended in any way after the adoption of this section, except to effect a change to a conforming use.
- (2) If two or more body altering are within 500 ~~1,000~~ feet radial spacing of one another and otherwise in a permissible location, the body altering business which was first established and continually operating at a particular location is the conforming use and the later-established body altering businesses are nonconforming.
- (hg) *Construction.* Nothing in this section shall be construed to permit the establishment or maintenance of any body altering business not otherwise permitted by the other provisions of this section.
- (ih) *Exclusions.* Nothing in this section shall be construed to apply to permanent make-up artists or licensed barbers, cosmetologists, manicurists, artists, pedicurists, physical therapists, midwives, nurses, or agents, servants or employees of a licensed hospital, nursing home or other licensed healthcare entity, licensed physicians, osteopaths, chiropractors, podiatrists, naturopathic physicians or other licensed medical practitioners, or the agents, servants or employees of such licensed medical practitioners acting in the course of such agency, service or employment and under the supervision of the licensee; provided in all cases that such license is issued by the state and is in good standing.

PASSED, APPROVED, AND ADOPTED at the regular meeting of the Commission of the City of Panama City, Florida on the 27th of October, 2020.

CITY OF PANAMA CITY, FLORIDA

By 
Greg Brudnicki, Mayor

ATTEST:


Brandy Waldron, Interim City Clerk-Treasurer

APPROVED AS TO FORM AND CORRECTNESS:

Nevin J. Zimmerman, City Attorney
Burke Blue P.A.