

CITY OF PRAIRIE DU CHIEN

214 East Blackhawk Avenue - PO Box 324 - Prairie du Chien, WI 53821

Phone: (608) 326-6406 Fax: (608) 326-8182

Notice is hereby given according to State Statutes that the **PLAN COMMISSION** of the City of Prairie du Chien will meet on **Monday September 16th 2013 at 7:00 P.M.** in the Council Chambers of City Hall

* * *

PROOF OF POSTING AFFIDAVIT: This agenda was posted more than 24 hours prior to the start of this meeting as follows: City Hall, 214 E. Blackhawk Avenue (kiosk) - Library, 125 S. Wacouta Avenue - U.S. Post Office, 120 S. Beaumont Rd. - Mailed & emailed to Members - News media as requested.

MEETING NOTICE – PLAN COMMISSION

Monday September 16th 2013 – 7:00 P.M. – Council Chambers – City Hall

ITEMS TO BE DISCUSSED AND ACTED UPON:

1. Call to order/Roll Call
2. Certification of the open meeting law agenda requirements and approval of the agenda
3. APPROVAL – Minutes of the August 19th 2013 meeting
4. DISCUSSION AND ACTION – Ordinance 2013-21 (CREATING SECTION 12.35 (TATTOO AND BODY PIERCING ESTABLISHMENTS) OF THE MUNICIPAL CODE)
Under the proposed ordinance, “no license shall be granted to any applicant whose business (tattoo and body piercing) premises is located in an area of the City of Prairie du Chien not zoned as (F) B-2 (Highway Commercial District) or (H) I-1 (Industrial/Nonmanufacturing District).” If the Plan Commission concurs with this zoning restriction, staff will draft an ordinance to change the Zoning Code to reflect the changes created Ordinance 2013-21.
5. ADJOURNMENT


Aaron Kramer, City Administrator

Minutes of the Plan Commission (August 19th 2013)

A meeting of the Plan Commission of the City of Prairie du Chien was held on Monday August 19th 2013 at 7:00 PM in the Council Chambers of City Hall. Mayor Dave Hemmer (Plan Commission Chairman) called the Plan Commission meeting to order.

1. CALL TO ORDER/ROLL CALL

PRESENT – Dave Hemmer (Chairperson), Dan Key, Linda Munson, Judeen Ames, Tom Nelson
ABSENT – Roger Grunow, Ross Ritchie CITY STAFF ALSO PRESENT – Zoning Administrator Julie Jackson, Attorney Mark Peterson, City Administrator Aaron Kramer

2. Certification of the open meeting law agenda requirements and approval of the agenda

MOTION: Ames SECOND: Munson VOTE: 5-0

3. APPROVAL – Minutes of the July 15th 2013 meeting

ACTION: To approve MOTION: Nelson SECOND: Key VOTE: 5-0

4. DISCUSSION AND ACTION - Review and recommendation on Certified Survey Map located in Farm Lot 37 of the Private Land Claims at Prairie du Chien, City of Prairie du Chien, Crawford County, Wisconsin, also being Block 161, replat of Lower Prairie du Chien Addition to the City of Prairie du Chien, part of Block 79, Lower Prairie du Chien Addition to the City of Prairie du Chien, and the vacated 21st Street and alley recorded in Volume 333, Pages 27-29 – brought by Stephen Welter

The final approval by the City Council will take place at its August 20th meeting. Discussion was held on the use of the property, and whether that could be a factor in approving the CSM. Peterson said that if the CSM meets the city rules, the Commission should not use future use as a factor in voting on the CSM. ACTION: To recommend the Council approve the CSM MOTION: Hemmer SECOND: Munson VOTE: 5-0

5. DISCUSSION AND ACTION - Review and recommendation on Certified Survey Map located in Farm Lots 33 and 34 of the Private Land Claims at Prairie du Chien, City of Prairie du Chien, Crawford County, Wisconsin, also being part of Lots 5 and 10, Block 126, Union Plat of the City of Prairie du Chien, and part of Lot 1, Crawford County Certified Survey Map Number 1091, Document Number 292109, and the vacated Webster Street and alley – brought by Richard Sheckler Construction, LLC.

The final approval by the City Council will take place at its August 20th meeting. ACTION: To recommend the Council approve the CSM MOTION: Nelson SECOND: Hemmer VOTE: 5-0

6. DISCUSSION AND ACTION - Review and recommendation on Certified Survey Map located in Farm Lot 43 of the Private Land Claims at Prairie du Chien including all of Lot 1 of Crawford County Certified Survey Map Number 327, Town of Bridgeport, which is in the extraterritorial limits of the City of Prairie du Chien, Crawford County, Wisconsin – brought by Nathan and Lindsay Cejka

The final approval by the City Council will take place at its August 20th meeting. ACTION: To recommend the Council approve the CSM MOTION: Munson SECOND: Nelson VOTE: 5-0

7. DISCUSSION AND ACTION - Review and recommendation on Certified Survey Map located in Lot 4 of Crawford County Certified Survey Map Number 493, located in the SW1/4 of the NW1/4 of Section 32, T7N, R6W, Town of Bridgeport, which is in the extraterritorial limits of the City of Prairie du Chien, Crawford County, Wisconsin – brought by Eric Frydenlund

The final approval by the City Council will take place at its August 20th meeting. ACTION: To recommend the Council approve the CSM MOTION: Hemmer SECOND: Key VOTE: 5-0

8. DISCUSSION AND ACTION - Review and recommendation on request from Pellock Construction, Inc., to rezone Lots 3, 4 & 5 and N. 20' of Lot 6 (parcel #12-271-1853-0000), Block 117; Union Plat, City of Prairie du Chien, Crawford County, Wisconsin; from R-1 "Low Density Residential" to R-2 "Medium Density Residential" Zoning District

A Public Hearing will be held at the Council Meeting on September 17th. Steve Pellock was present and said he intends to build duplexes on the lots, which are located in the 300 block of Buchanan Street. ACTION: To recommend the Council approve the rezoning MOTION: Nelson SECOND: Ames VOTE: 5-0

9. ADJOURNMENT (7:23 PM)

MOTION: Hemmer SECOND: Nelson VOTE: 5-0

Submitted by City Administrator Aaron Kramer

ORDINANCE 2013-21

CREATING SECTION 12.35 (TATTOO AND BODY PIERCING ESTABLISHMENTS) OF THE MUNICIPAL CODE OF THE CITY OF PRAIRIE DU CHIEN, CRAWFORD COUNTY, WISCONSIN

The Common Council of the City of Prairie du Chien, Crawford County, Wisconsin, do ordain as follows:

Section 1: That Section 12.35 of the Municipal Code of the City of Prairie du Chien, Wisconsin be created to read as follows:

12.35 (TATTOO AND BODY PIERCING ESTABLISHMENTS)

(1) STATE REGULATIONS ADOPTED.

- (a) The provision of §§ 252.23 to 252.245 of the Wisconsin Statutes and Wisconsin Administrative Code Chapter HFS 173 as they may be from time to time amended are adopted by reference and incorporated into this section as if fully set forth herein.
- (b) If the provisions of the law and regulations set forth in subsection (a) above conflict with the regulations set forth below, the law and regulations noted at subsection (a) above shall govern.

(2) DEFINITIONS. For the purpose of this section, the following definitions shall apply:

- (a) "Branding" shall be defined as the burning of skin with a hot tool, cauterizing laser, or dry ice, so that a mark is imbedded in the deep tissues.
- (a) "Business Premises" shall be defined as the licensed premises, property owned or leased by the tattoo or body piercing establishment and contiguous with the licensed premises, and parking lots, alleys, and sidewalks contiguous with the licensed premises.
- (c) "Implantation" shall be defined as the insertion of an object under the skin, so that it remains under the skin, in whole or in part, after the procedure. This definition shall not apply to the post used in body piercing to keep the perforation from closing.
- (d) "Scarification" shall be defined as the cutting of the skin so that when it heals, scar tissue remains.

(3) LICENSES

- (a) No tattoo or body piercing establishment shall be operated or maintained in the City of Prairie du Chien without first obtaining a license from the City.
- (b) Any operator desiring to operate more than one (1) tattoo or body piercing establishment in the City must have a license for each such establishment, except that a combination tattoo/body piercing establishment license may be issued for one (1) location.
- (c) No license or interest in a license may be transferred to any person, partnership or corporation.
- (d) It shall be unlawful for any tattooist, body piercer, or operator to knowingly perform any service directly related to the operation of a tattoo or body piercing establishment which does not have a valid license pursuant to this section.
- (e) No license shall be granted to any applicant whose business premises is

located in an area of the City of Prairie du Chien not zoned as (F) B-2 (Highway Commercial District) or (H) I-1 (Industrial/Nonmanufacturing District).

(4) APPLICATION FOR LICENSE

(a) Any person, partnership or corporation desiring to secure a tattoo establishment, body piercing establishment or combination tattoo/body piercing establishment license shall make application to the City Clerk.

(b) The application shall provide the following information:

1. The name(s) (including aliases), addresses and dates of birth of the applicant, any partner or limited partner in a partnership application, any shareholder holding more than 10% of the stock of a corporate applicant, any members and/or managers, and each corporate officer and director.

2. Written proof that each person required to be identified in subsection (b) (1) above is at least 18 years of age.

3. The address of the establishment to be licensed.

4. Whether the applicant or any person required to be identified in subsection (b) (1) above is currently operating or has previously operated, in this or any other municipality or state, under a tattoo or body piercing establishment license, whether the applicant or person required to be named in § 226-4B(1) has ever had such a license or permit suspended or revoked, the reason therefore and the business entity or trade name under which the applicant operated that was subject to the suspension or revocation.

5. If the applicant is a corporation or LLC, the name of the corporation or LLC, the date and state of incorporation or organization, and the name and address of the registered agent, or members and managers if an LLC.

6. Proof of ownership, lease or other legally enforceable right to possess, use and control premises where the licensed establishment is to be located.

(c) Failure or refusal of the applicant to completely and truthfully provide responses to the application questions, to give any information relevant to the investigation of the application or refusal to appear at any reasonable time and place for examination regarding said application shall constitute an admission by the applicant that the applicant is ineligible for such license and shall be grounds for denial thereof.

(5) INVESTIGATION. Upon receipt of an application and fee, the City Clerk shall refer the application to the Police Department, Fire Department, and Building Inspection Department. The Fire and Building Inspections Departments shall make an investigation of the premises to ensure that it complies with applicable state and local laws. The Police Department shall make an investigation of the statements made in the application. Each department shall notify the City Clerk as to the results of its investigation.

(6) STANDARDS FOR GRANTING A LICENSE. The Common Council may grant a license if all of the following conditions are met:

(a) That the business operation as proposed by the applicant will comply with the provisions of this section and all other applicable rules, regulations, ordinances, and State law.

(b) That, subject to §111.321, 111.322, and 111.335, Wis. Stats., the applicant, or any of the officers, directors, or persons holding more than 10% of the corporation stock or any of the partners have not, within the five (5) years immediately preceding the date of the application been convicted of violating this ordinance, or of any other offense substantially related to tattooing or body piercing.

(c) That the applicant, if an individual, partners, or the officers, directors, or persons holding more than 10% of the corporate stock if the applicant is a corporation, are at least 18 years of age on the date of application.

(d) That applicant, if an LLC, has listed all members and managers.

(e) That the applicant has not knowingly made any false, misleading, or fraudulent statement of fact or omission in the license application or other information required in conjunction therewith.

(f) That the applicant, if a corporation, is licensed to do business and is in good standing in the State of Wisconsin.

(g) That the applicant has substantially complied with all building, zoning, plumbing, electrical, fire, and health codes.

(7) FEES. The following fees shall be assessed all applicants.

(a) A nonrefundable license fee of \$50.00, plus the State of Wisconsin administrative fee shall be submitted with the application for a tattoo establishment license.

(b) A nonrefundable license fee of \$50.00, plus the State of Wisconsin administrative fee shall be submitted with the application for a body piercing establishment license.

(c) A nonrefundable license fee of \$100.00, plus the State of Wisconsin administrative fee shall be submitted with the application for a combination tattoo/body piercing establishment license.

(d) A one-time, non-refundable \$50.00 pre-inspection fee for each original tattoo, body piercing, or tattoo/body piercing establishment license.

(8) LICENSE YEAR.

(a) All licenses granted under this section shall expire on June 30 and must be renewed.

(b) There shall be no proration of license fees.

(c) An annual nonrefundable renewal fee in the amount of \$50.00 as well as any and all State of Wisconsin administrative fees shall be paid by the renewal applicant.

(d) Application for renewal shall be made no later than June 1.

(9) STERILIZATION PROCEDURES, SHARPS, AND INFECTIOUS WASTE DISPOSAL AND CARE INSTRUCTIONS.

(a) Each operator shall submit written procedures to the City Clerk setting forth each step to be taken by a tattooist, body piercer, or other employee in sterilizing equipment that is not single use.

(b) Each operator shall submit written procedures to the City Clerk setting forth each step to be taken by a tattooist or body piercer in cleaning, preparing, and applying antiseptic to the skin of the patron.

(c) Each operator shall submit to the City Clerk written care instructions which shall be required to be provided to each patron after completion of the tattoo or body piercing procedure.

(d) Each operator shall submit written proof to the City Clerk of the

establishment's ability to properly dispose of sharps and infectious waste as provided in Wisconsin Administrative Code §NR 526.

(e) Each operator shall require employees to sign a statement acknowledging awareness of the written procedures set forth in this subsection and an agreement to comply with these procedures and shall submit a copy of that acknowledgement and agreement to the City Clerk.

(f) Any costs incurred by the City in reference to this section shall be paid for by the operator

(10) INSURANCE. All tattoo and body piercing establishment licensees shall submit to the City Clerk proof of workers' compensation and comprehensive general liability insurance in minimum amounts of \$500,000 per occurrence and \$1 million aggregate, covering all potential personal injury to patrons and all operations and procedures conducted on the licensed premises, including, but not limited to the tattooing and piercing of a person's skin and any complications arising therefrom. All licensees shall also deliver a certificate of insurance to the City Clerk requiring 30 days prior notice to the City Clerk of any change or cancellation of the policy. The City shall be listed on all policies as an entity that must be notified of any modification, renewal or lapse of said insurance. Such insurance shall be maintained at all times the tattoo or body piercing establishment is open for business.

(11) DISPLAY OF LICENSE. No tattooist or body piercer may perform tattooing or body piercing procedures unless a current and valid license issued by the City is posted in the establishment in a public and conspicuous place. Such license shall be displayed to any member of the City of Prairie du Chien Building Inspection Department or Police Department upon request. Any person performing such procedures shall also maintain any non-establishment personal license in their possession at all times for such display, accordingly.

(12) HOURS OF OPERATION. Tattoo or body piercing establishments shall be allowed to be open only between the hours of 8:00 a.m. and 10:00 p.m. Monday through Saturday and 10:00 a.m. and 6:00 p.m. on Sunday.

(13) TEMPORARY ESTABLISHMENTS. No temporary establishment may be operated in the City of Prairie du Chien without first obtaining a license from the City. A temporary tattoo or body piercing establishment shall comply with all regulations for regular establishments as well as those set forth in Wisconsin Administrative Code HFS 173.11.

(14) SINGLE USE NEEDLES FOR TATTOOING. Tattoo needles shall be disposable, sterile, and for single patron use only

(15) PIERCING GUN USE. No body piercer may use a piercing gun or similar device for body piercing a patron unless such piercing gun is disposable, sterile, and for single patron use only or is sterilized between each use as set forth in Wisconsin Administrative Code HFS 173.03(20).

(16) PERSONS UNDER 16 PROHIBITED. No person under the age of sixteen (16) shall be permitted on the premises of any tattoo and/or body piercing establishment without a parent or legal guardian present.

(17) LEAD IN SOLDER PROHIBITED. No tattooist shall use and no tattoo establishment shall suffer or permit the use of solder which contains lead to be used to fasten needles.

(18) APRONS. All tattooists and body piercers shall wear single use aprons which shall be disposed of after completing the procedure on a patron.

(19) PROHIBITED PRACTICES. It shall be unlawful to do any of the following:

- (a) Use, cause, or promote the use of false, misleading, or deceptive advertising, promotional literature, warranty, label, or insignia.
- (b) Knowingly deceive a patron or the public by acting in a manner so as to mislead the patron or the public as to the person's professional or license status.
- (c) Knowingly employ, directly or indirectly, any suspended, revoked, or unlicensed person to perform tattooing or body piercing.
- (d) Knowingly permit another person to use the license issued under this section.
- (e) Practice tattooing or body piercing under a false, misleading, or deceptive name.
- (f) To sexually harass, as the term "sexual harassment" is defined in §111.32(13), Wis. Stats., a patron.

(20) LOITERING PROHIBITED. No operator or employee of a tattoo or body piercing establishment shall allow, suffer, or permit loitering on the business premises.

(21) IMPLANTING, BRANDING AND SCARIFICATION PROHIBITED. No person shall engage in the practice of implanting, branding, or scarification in the City of Prairie du Chien. The prohibition set forth in this subsection shall not apply to Wisconsin licensed physicians, or procedures or orders delegated by a licensed Wisconsin physician.

(22) RESPONSIBILITY OF THE OPERATOR. Every act or omission by an employee, agent or independent contractor, in the employment of or service to the operator, constituting a violation of the provisions of this ordinance shall in addition be deemed the act or omission of the operator and the operator shall be liable for all purposes for such act or omission in the same manner as if the operator committed the act or caused the omission.

(23) ENFORCEMENT AND INSPECTION.

(a) The City of Prairie du Chien Building Inspector, Fire Inspector and Police Department shall have the authority to enter any tattoo or body piercing establishment at all reasonable times to inspect the premises and enforce this ordinance. The Building Inspector shall inspect each tattoo and body piercing establishment at least once annually to ensure compliance with the provisions of this ordinance.

(b) If upon inspection of a tattoo or body piercing establishment, the authorized employee or agent of the department finds that the tattoo or body piercing establishment is not planned, equipped, or operated as required by this chapter, the employee or agent shall notify the operator in writing. The notice shall include an order that directs the operator to make specified changes that will bring the establishment into compliance with standards established in this chapter and that stipulates that compliance is to take place within ten (10) working days.

(24) SUSPENSION, REVOCATION AND NON-RENEWAL.

(a) A license issued pursuant to the provisions of this section is subject to suspension, revocation, or non-renewal by written order of the Common Council, upon the recommendation of the Personnel, License and Insurance Committee.

(b) The Personnel, License and Insurance Committee may recommend that the Common Council suspend, revoke, or refuse to renew a tattoo or body piercing license for any of the following reasons:

1. Violation of this section or any other ordinance, administrative rule, or statute related to the practice of tattooing or body piercing.

2. Failure to correct violations noted in an order issued under this subsection by the expiration of the time period stated in the order or any reasonable extension of that time period.

3. Knowingly misrepresenting, misstating, or failing to disclose information requested on the application form(s) or requested by the Personnel, License and Insurance Committee.

4. Using, causing, or promoting the use of false, misleading, or deceptive advertising; promotional literature; warranty; label; or insignia.

5. Knowingly deceiving a patron or the public by acting in a manner as to mislead the patron or the public as to the person's professional or license status.

6. Knowingly employing, directly or indirectly, any suspended, revoked, or unlicensed person to perform tattooing or body piercing.

7. Knowingly permitting another person to use the license issued under this section.

8. Practicing tattooing or body piercing under a false, misleading, or deceptive name.

9. "Sexual harassment", as that term as defined in §111.32(13), Wis. Stats., of a patron.

(c) An operator whose license has been revoked or not renewed shall not be eligible for licensure under this ordinance for a period of one (1) year from the date the revocation or non-renewal takes effect.

(d) Except for emergency suspensions for the public health and safety, a suspension shall be not for less than 10 days nor more than 90 days.

(e) Any person aggrieved by such order set forth in this subsection may request a hearing before the Prairie du Chien Municipal Court to challenge the order. A request for a hearing under this subsection shall be submitted to the City Administrator within 15 days of issuance of the order. Procedures for the hearing shall be in accordance with Wis. Stats., §68.11 and 68.12 and the decision shall be appealable by either party under procedures set forth at Wis. Stats., §68.13.

(25) SUMMARY SUSPENSION.

(a) The provisions of subsection (23) above notwithstanding, whenever the Police Department, Fire Chief or Building Inspector have reasonable cause to believe that the sanitary conditions, operations, methods of operation of the premises, or equipment used on the premises creates an immediate danger to health or safety or whenever the City Clerk has reasonable cause to believe that the insurance required in subsection (10) above has been changed or canceled so as not to provide the required insurance, the Police Department, Fire Chief, City Clerk or Building Inspector may issue a temporary order suspending the operation of a tattoo or body piercing establishment.

- (b) The order may be made orally but must be followed within 24 hours by a written order personally delivered to the licensed establishment.
- (c) The order may require cessation of all operations authorized by the license or prohibit a particular operation or condition which creates the immediate danger.
- (d) The order shall be effective for up to 14 days unless sooner rescinded, but may be extended for one (1) additional 14-day period if the condition still exists or to complete analysis of samples or specimens.
- (e) No person may operate a tattoo or body piercing establishment or operate as a tattooist or body piercer at an establishment that has been suspended pursuant to this subsection.
- (f) Any order issued under this section shall be accompanied by a notice of hearing as required by Wis. Stats., §66.124(3) and 68.11(1). The hearing must be held within fifteen (15) days of the service of the notice unless both parties agree to a later date. A final decision must be issued within 10 days of the hearing. The hearing shall be held before the Prairie du Chien Municipal Court.

(26) PENALTIES AND PROSECUTION.

- (a) Any person, partnership, entity, or corporation who is found to have violated any provision of this ordinance shall forfeit the sum of not less than \$50.00 nor more than \$500.00, together with the costs of prosecution, and in default of payment of such forfeiture and costs, by imprisonment until the forfeiture and costs are paid, but not in excess of the number of days set forth in §800.095, Wis. Stats.
- (b) Each violation of this ordinance shall be considered a separate offense, and each and every day an offense continues shall be considered a separate offense.
- (c) Notwithstanding the above minimum forfeiture of \$50.00 and specifically pertaining only to a violation of this ordinance in the City by a “practitioner”, as defined in HFS 173.03(16), the minimum forfeiture for a second offense, within one (1) calendar year, shall be \$250.00, and for a third offense shall be \$500.00.
- (d) In addition to the monetary penalty imposed, violation of this section may further result in the suspension, revocation, or non-renewal of any license issued under this section and may also be enforced by way of all other legal and equitable actions and remedies available under law.

Section 2: Any ordinance or parts thereof inconsistent herewith are hereby repealed.

Section 3: This Ordinance shall be effective from and after its passage and publication as required by law.

Passed and approved this, 2013.

David Hemmer, Mayor

ATTEST:

Aaron Kramer, City Administrator