



# Sumter County Council

**OA-11-07, Tattoo Parlors (County)**

A request to amend **Article 5, Section B: 5.b.3.I. Tattoo Parlors** in order to reflect State law requirements for Tattoo Parlors and to remove the residential separation requirement from Special exception review criteria for Tattoo Parlors.

**First Reading:** August 23, 2011

**Second Reading/Public Hearing:** September 13, 2011

**Third/Final Reading:** September 27, 2011

# Sumter City-County Planning Commission

July 27, 2011

## OA-11-07, Tattoo Parlors (County)

### I. THE REQUEST

**Applicant:** Jessica Balmer

**Request:** A request to amend **Article 5, Section B: 5.b.3.l. Tattoo Parlors** in order to reflect State Law requirements for Tattoo Parlors and to remove the residential separation requirement from the Special Exception review criteria for Tattoo Parlors.

### II. BACKGROUND

In 1966 the state of South Carolina passed a law banning tattoo parlors. For over 40 years tattooing was not legal in the state, however; on June 17, 2004 the General Assembly and Governor signed into law the *South Carolina Tattoo Act* lifted the ban on tattoo facilities within the state.

In the spring of 2004 when it became apparent that the state would again allow tattooing, Planning Department Staff was directed to draft an Ordinance Amendment making tattoo parlors a special exception use in the General Commercial (GC) and Light Industrial Warehouse (LI-W) zoning district within the County subject to the following specific criteria:

*Section 5.b.3.l: Tattoo Parlor:*

- 1. The reference use shall not be located within five hundred feet (500 ft.) [measured in a straight line from property line to property line] of a residential use, church or religious institution, public or private school, public park or recreational facility or any other tattoo parlor.*

The Ordinance Amendment was subsequently adopted by County Council, thereby making it possible to operate a tattoo facility within Sumter County. Although tattoo parlors were legalized in the summer of 2004 within the state, DHEC did not finalize tattoo facility health licensing regulations until 2006. Because the Special Exception review criteria were developed and passed at the local level prior to the establishment of state licensing requirements, local regulations do not parallel state requirements. They are more restrictive.

*DHEC Regulation Number 61-111 Standards for Licensing Tattoo Facilities; Section 200 – License Requirements & Fees; 201.F.2. States:*

*“A license shall not be granted nor issued to a tattooing business, nor shall a business conduct tattooing operations within 1,000 feet of a church, school, or playground. This distance shall be the shortest route of ordinary pedestrian or vehicular travel along the public thoroughfare from the nearest point of the grounds in use as part of the church, school, or playground. These restrictions shall not apply to the renewal of an existing license or to ownership changes for locations that are licensed at the time the application is filed with the department.”*

In effect, the applicant’s request would modify the current special exception review criteria to reflect a 1,000 ft. separation as measured by DHEC from churches, schools and playgrounds with no separation requirement from other tattooing facilities or residences. The primary differences between the current local regulation and the state regulation are as follows:

- 1) Sumter County requires a 500 ft. separation measured in a straight line from property line to property line—the state measures 1,000 ft. by path of pedestrian or vehicular travel;
- 2) Sumter County requires a residential separation in addition to separation from churches, schools, parks, public playground and any other tattooing facility—state regulations do not require a residential separation nor do they require that tattooing facilities be separated from one another;
- 3) In Sumter County tattooing facilities are a special exception and are subject to review and approval by the Board of Zoning Appeals, as such there is a public hearing with neighbor notification as well as posting of the property. In addition, a site analysis is conducted to ensure that the proposed location meets the separation criteria as well as ensuring that the proposed use is in substantial harmony with the surrounding area. As part of this assessment the site is also inspected to determine whether it meets minimum zoning standards for the required number of parking spaces, as well as access and landscaping. DHEC does not address site development standards as specifically as the local regulations.

*Other Jurisdictions:*

As part of the research for this amendment proposal, Planning Staff reviewed how other jurisdictions across the state treat tattoo facilities.

Richland County – treated as a By-Right use in GC and CC-3 zoning districts. These two zoning districts are their most-intense commercial/mixed-use districts and closely approximate the GC (General Commercial) district in Sumter County.

Florence County – treated as a Conditional Use in the B-3 zoning district. B-3 is a commercial zoning district.

Clarendon & Kershaw Counties – Do not permit tattoo facilities anywhere in the county.

Beaufort County – Permitted in the Light Industrial zoning district with the following conditions—1000 ft. separation from the property line to any residential zoning district

(not use), church, school or daycare center and a 500 ft. separation from other tattooing facilities.

Aiken County – treated as a By-Right use in the Urban Development District, a mixed use commercial zoning district.

Bamberg County – a proposed location must meet the following requirements—tattooing facilities shall not be located closer than 500 ft. from adult daycare facilities, child daycare facilities, public or private schools, religious institutions, RC or RD zoning district (these are residential districts) and any other tattooing facility.

### **PROPOSED ORDINANCE AMENDMENTS**

The request as submitted by the applicant would result in the following changes:

#### 5.b.3.1: Tattoo Parlor:

1. The reference use shall not be located within ~~five hundred feet (500 ft.)~~ ***one thousand feet (1,000 ft.)*** ~~[measured in a straight line from property line to property line]~~ of a ~~residential use,~~ church or religious institution, public or private school, public park or recreational facility or ~~any other tattoo parlor.~~ ***The distance shall be the shortest route of ordinary pedestrian or vehicular travel along the public thoroughfare from the nearest point of grounds in use as part of the church school or playground.***

The Ordinance would be amended in the above fashion (new language ***bold and italics***):

### **III. STAFF RECOMMENDATION**

Planning Staff has reviewed this request and believes there are three potential options:

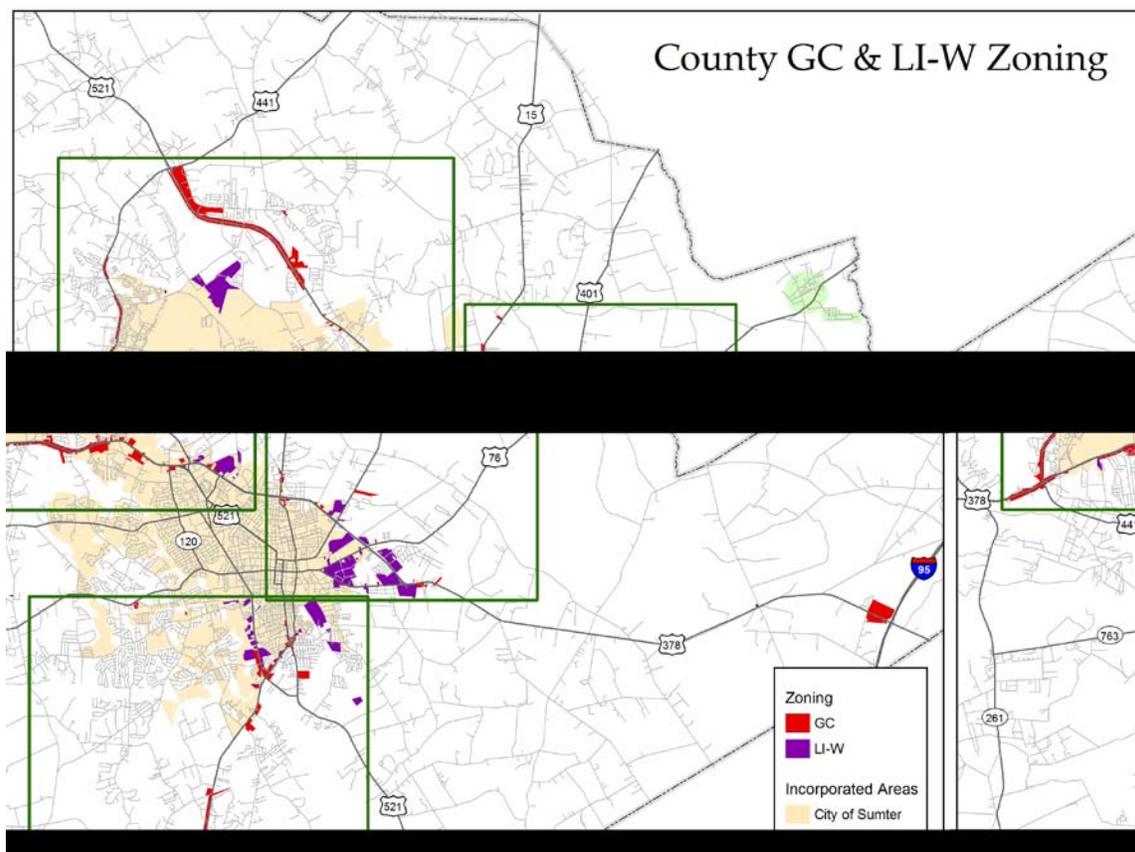
- 1) Leave the Ordinance unchanged.
- 2) Amend that Special Exception review criteria to reflect State guidelines as outlined in the Proposed Ordinance Amendment section of this report. This would mean amending how separation is measured and the removal of the residential and “other” tattoo facility separation criteria. Or
- 3) Make tattoo facilities a by-right use in the GC and LI-W zoning districts.

There are pros and cons to each option listed above. Options 1 and 2 continue to maintain public notice at the local level through the Board of Zoning Appeals public hearing process, however Option 1 may be too restrictive.

The impetus for this amendment request was in-fact an application for a tattoo facility within the county that was denied because of the proximity of a residential use. Since 2006, there have been four successfully located tattoo facilities within the City of Sumter while only one location has been approved within the County. This is likely due to a difference in measuring

requirements. The City regulations measure from structure to structure while the County requires measuring from property line to property line.

As shown in the map below, because of the configuration of much of the General Commercial (GC) and Light Industrial-Warehouse (LI-W) zoning within the county, it is very challenging to find a property that is not within 500 ft. of a residential use when measured from property line to property line.



Option 3, making tattooing facilities a by-right use in GC and LI-W zoning district would remove the local public hearing process but it would not waive the state level licensing requirement. Due to location of the GC and LI-W districts within the County's jurisdiction, this would focus the use in primarily commercial corridors on main thorough-fares. Each site would still be required to meet all applicable zoning development standards related to parking and landscaping but ultimate use approval would be dependent upon meeting all applicable DHEC licensing requirements prior to operation.

#### **IV. PLANNING COMMISSION – JULY 27, 2011**

The Sumter City-County Planning Commission at its meeting on Wednesday, July 27, 2011, voted to recommend approval of this request with the exception to leave the separation criteria to any other tattoo parlor in place.

#### **V. COUNTY COUNCIL – AUGUST 23, 2011 – FIRST READING**