

INTRODUCED BY:

VICE MAYOR JONES



ORDINANCE NO. 2020-11

**A BILL TO BE ENTITLED**

**AN ORDINANCE OF THE CITY OF NEPTUNE BEACH, FLORIDA, AMENDING CHAPTER 27, UNIFIED LAND DEVELOPMENT CODE; ARTICLE IV, LAND USE; AMENDING SECTION 27-226, ALLOWABLE USES WITHIN ZONING DISTRICTS; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, Article IV, Section 27-226, within the Unified Land Development Code, indicates general specific allowable uses within zoning districts; and

**WHEREAS**, services such as microblading, permanent cosmetics, micropigmentation, and similar care services provide options for individuals who may suffer hair loss or other medical conditions; and

**WHEREAS**, the City Council of the City of Neptune Beach has determined that such practices may be inadvertently prohibited by the terms of the Code of Neptune Beach; and

**WHEREAS**, the City Council desires to clarify such matters to permit such practices; and

**WHEREAS**, said proposed ordinance amendment establishes microblading, permanent cosmetics, micropigmentation, and similar care services to be considered as tattoo artistry as regulated by F.S. 381.00771-381.00791 and Chapter 64E-28 of the Florida Administrative Code, yet restricting tattoo artistry that is not specific to permanent cosmetics, where microblading is incorporated as a supplemental, yet permitted use in zoning district in which personal services, including beauty salons, are a permitted use (C-2 and C-3 Zoning Districts); and

**WHEREAS**, Section 27-226(i)(2)(f) establishes microblading and permanent cosmetics as a permitted use within the Commercial-2 (C-2) zoning district; and

**WHEREAS**, Section 27-226(j)(2)(e) establishes microblading and permanent cosmetics as a permitted use within the Commercial-3 (C-3) zoning district; and

**WHEREAS**, the City Council for the City of Neptune Beach, Florida finds and declares that this ordinance is in the best interest of the public health, safety and welfare of the citizens and residents of the City, that it advances a significant and important governmental interest, and that it furthers the City's performance of municipal functions and rendering of municipal services.

**NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF NEPTUNE BEACH, FLORIDA, THAT:**

**Section 1.** Sections 27-226(i)(2)(f) and 27-226(j)(2)(e) Permitted Uses shall be amended per Appendix A: Section 27-226(i)(2)(f) and 27-226(j)(2)(e) Permitted Uses within the Commercial-2 (C-2) and Commercial-3 (C-3) Zoning Districts, respectively.

**Section 2.** Section 27-15 Definitions shall be amended per Appendix B: Section 27-15 Definition of "Microblading and Permanent Cosmetics."

The Ordinance shall become effective on or after passage by the City Council.

**VOTE RESULTS OF FIRST READING:**

Mayor Elaine Brown	YES
Vice Mayor Fred Jones	YES
Councilor Kerry Chin	YES
Councilor Josh Messinger	YES
Councilor Scott Wiley	YES

Passed on First Reading this 2<sup>nd</sup> day of November, 2020.


**VOTE RESULTS OF SECOND AND FINAL READING:**

Mayor Elaine Brown	YES
Vice Mayor Fred Jones	YES
Councilor Kerry Chin	YES
Councilor Lauren Key	YES
Councilor Josh Messinger	YES

Passed on Second and Final Reading this 7<sup>th</sup> day of December, 2020.

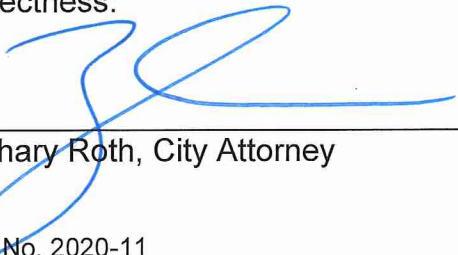
  
Elaine Brown, Mayor

ATTEST:

  
Catherine Ponson, CMC, City Clerk



Approved as to form and correctness:

  
Zachary Roth, City Attorney

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Sec. 27-226. - Allowable uses within zoning districts.

- (a) All uses shall conform to the standards for each zoning district as provided below. However, because the list of permissible uses is not exclusive, those uses not listed, and which may not be interpreted by the city manager or designee to be similar to any other listed use, shall be prohibited.
- (b) *Conservation (CON)*:
  - (1) *Intent*. The CON zoning district is intended to provide for protection for environmentally sensitive lands.
  - (2) *Permitted uses*. The uses permitted within the CON zoning district shall be:
    - a. Single-family residence by special exception;
    - b. Docks;
    - c. Retaining walls.
- (c) *Residential-1 (R-1)*:
  - (1) *Intent*. The R-1 zoning districts are intended to provide for single-family residences. This district corresponds to the residential low-density designation on the adopted future land use map.
  - (2) *Permitted uses*. The uses permitted within the R-1 zoning district shall be:
    - a. Single-family residence;
    - b. Public park/recreation area;
    - c. Family day care home, as defined by F.S. §§ 402.26—402.319;
    - d. Accessory structures and uses as defined by article V.
  - (3) *Uses by special exception*. The uses permitted by special exception within the R-1 zoning district shall be:
    - a. Government uses, buildings and utilities;
    - b. Elementary, junior and high schools;
    - c. Worship facility and child care associated with facility.
- (d) *Residential-2 (R-2)*:
  - (1) *Intent*. The R-2 zoning districts are intended to provide for single-family residences. This district corresponds to the residential low-density designation on the adopted future land use map.
  - (2) *Permitted uses*. The use permitted within the R-2 zoning district shall be:
    - a. Single-family residence;
    - b. Public park/recreation area;
    - c. Family day care home, as defined by F.S. §§ 402.26—402.319;
    - d. Accessory structures and uses as defined by article V.



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- (3) *Uses by special exception.* The uses permitted by special exception within the R-2 zoning district shall be:
- a. Government uses, buildings and utilities;
  - b. Elementary, junior and high schools;
  - c. Worship facility and child care associated with facility.
- (e) *Residential-3 (R-3):*
- (1) *Intent.* The R-3 zoning districts are intended to provide for single-family residences. This district corresponds to the residential low-density designation on the adopted future land use map.
- (2) *Permitted uses.* The use permitted within the R-3 zoning district shall be:
- a. Single-family residence;
  - b. Public park/recreation area;
  - c. Family day care home, as defined by F.S. §§ 402.26—402.319;
  - d. Accessory structures and uses as defined by article V.
- (3) *Uses by special exception.* The uses permitted by special exception within the R-3 zoning district shall be:
- a. Government uses, buildings and utilities;
  - b. Elementary, junior and high schools;
  - c. Worship facility and child care associated with facility.
- (f) *Residential-4 (R-4):*
- (1) *Intent.* The R-4 zoning districts are intended to provide for single-family and two-family residences with densities not to exceed ten (10) dwelling units per acre. This district corresponds to the residential medium-density designation on the adopted future land use map.
- (2) *Permitted uses.* The uses permitted within the R-4 zoning district shall be:
- a. Single-family residence;
  - b. Two-family residence (minimum lot size eight thousand seven hundred twelve (8,712) square feet);
  - c. Public park/recreation area;
  - d. Family day care home, as defined by F.S. §§ 402.26—402.319;
  - e. Accessory structures and uses as defined by article V.
- (3) *Uses by special exception.* The uses permitted by special exception within the R-4 zoning district shall be:
- a. Government uses, buildings and utilities;
  - b. Elementary, junior and high schools;

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- c. Worship facility and child care associated with facility.
- (g) *Residential-5 (R-5)*:
  - (1) *Intent*. The R-5 zoning districts are intended to provide for single-family residences, two-family residences and multifamily residences with densities not to exceed seventeen (17) dwelling units per acre. This district corresponds to the residential high density on the adopted future land use map.
  - (2) *Permitted uses*. The uses permitted within the R-5 zoning district shall be:
    - a. Single-family residence;
    - b. Two-family residence;
    - c. Multifamily residence;
    - d. Public park/recreation area;
    - e. Family day care home, as defined by F.S. §§ 402.26—402.319;
    - f. Accessory structures and uses as defined by article V.
  - (3) *Uses by special exception*. The uses permitted by special exception within the R-5 zoning district shall be:
    - a. Government uses, buildings and utilities;
    - b. Elementary, junior and high schools;
    - c. Worship facility and child care associated with facility;
    - d. Adult day care;
    - e. Child day care;
    - f. Nursing home;
    - g. Adult congregate living facility.
- (h) *Commercial-1 (C-1)*:
  - (1) *Intent*. The C-1 zoning districts are intended to provide for office and professional services. This district corresponds to the commercial low designation on the adopted future land use map.
  - (2) *Permitted uses*. The uses permitted within the C-1 zoning district shall be:
    - a. Business and professional offices including, architects, accountants, doctors, dentists, miscellaneous health offices and clinics, veterinary clinic, and legal services;
    - b. Financial institution, insurance and real estate offices;
    - c. Travel agencies;
    - d. Photographic studios;
    - e. Public park/recreation area;
    - f. Accessory structures and uses as defined by article V.

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(3) *Uses by special exception.* The uses permitted by special exception within the C-1 zoning district shall be:

- a. Day spa;
- b. Parking lot (not associated with any business);
- c. Government uses, buildings and utilities;
- d. Elementary, junior and high schools;
- e. Dance, art, dramatic, gymnastics and music studio;
- f. Worship facility and child care associated with facility;
- g. Social, fraternal club, lodge and union hall;
- h. Library, museum and art gallery.

(i) *Commercial-2 (C-2):*

(1) *Intent.* The C-2 zoning districts are intended to provide for retail sales and service for one (1) or more neighborhoods. This district corresponds to the commercial medium designation on the adopted future land use map.

(2) *Permitted uses.* The uses permitted within the C-2 zoning district shall be:

- a. Interior service restaurant, carry-out and delivery restaurant;
- b. Business and professional offices as follows: Building contractors and subcontractors (no outdoor storage of vehicles, materials, equipment or supplies), architects, accountants, doctors, dentists, miscellaneous health offices and clinics, veterinary clinic, and legal services;
- c. Financial institution, insurance and real estate offices;
- d. Travel agencies;
- e. Retail sales, shopping center, wholesale sales (no on-site storage of stock), furniture and appliance sales, package liquor store and pharmacy;
- f. Personal service establishments as follows: Laundry, cleaning and garment services; photographic studios; beauty and barber shops, day spa, nail and waxing salon; shoe repair and miscellaneous personal services including microblading and permanent cosmetics as a specific form of allowable tattoo artistry (not including tattoo establishments); cleaning and janitorial services (no outdoor storage of vehicles, materials, equipment or supplies);
- g. Dance, art, dramatic, gymnastics and music studio;
- h. Library, museum and art gallery;
- i. Public park/recreation area;
- j. Recreation, amusement and entertainment (including, bowling alley, skating rink, billiard and pool hall, arcade, miniature golf, indoor athletic and exercise facilities, tennis, handball or racquetball facility);
- k. Radio and television broadcasting studio;



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- l. Accessory structures and uses as defined by article V;
  - m. Nursing home;
  - n. Adult congregate living facilities;
  - o. Funeral establishment;
  - p. Medical marijuana treatment center.
- (3) *Uses by special exception.* The uses permitted by special exception within the C-2 zoning district shall be:
- a. Planned unit development (PUD);
  - b. Outdoor seating/dining for restaurant, fast-food restaurant, drive-thru service window for a restaurant;
  - c. Retail sales with drive-thru service window;
  - d. Motor vehicle service;
  - e. Parking lot (not associated with any business);
  - f. Moving business (no mini-warehouses);
  - g. Government uses, buildings and utilities;
  - h. Recycling collection center;
  - i. Elementary, junior and high school, trade business or vocational school, college, community college or university;
  - j. Worship facility and child care associated with facility;
  - k. Social, fraternal club, lodge and union hall;
  - l. Recreation, amusement and entertainment (including, theater, night club, private club and bar/tavern);
  - m. Light manufacturing;
  - n. Day care facilities.
- (j) *Commercial-3 (C-3):*
- (1) *Intent.* The C-3 zoning districts are intended to provide for retail sales and service that serve the overall community. This district corresponds to the commercial high designation on the adopted future land use map.
- (2) *Permitted uses.* The uses permitted within the C-3 zoning district shall be:
- a. Hospital;
  - b. Hotel/motel;
  - c. Interior service restaurant, carry-out and delivery restaurant;
  - d. Business and professional offices as follows: Building contractors and subcontractors (no outdoor storage of vehicles, materials, equipment or

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supplies), architects, accountants, doctors, dentists, miscellaneous health offices and clinics, veterinary clinic, and legal services;

- e. Personal service establishments as follows: Laundry, cleaning and garment services; photographic studios; beauty and barber shops, day spa, nail and waxing salon; shoe repair and miscellaneous personal services including microblading and permanent cosmetics as a specific form of allowable tattoo artistry (not including tattoo establishments); cleaning and janitorial services (no outdoor storage of vehicles, materials, equipment or supplies);
  - f. Retail sales, shopping center wholesale sales (no on-site storage of stock), furniture and appliance sales, package liquor store, pharmacy;
  - g. Parking lot (not associated with any business);
  - h. Trade business or vocational school, college, community college or university;
  - i. Dance, art, dramatic, gymnastics and music studio;
  - j. Library, museum and art gallery;
  - k. Public park/recreation area;
  - l. Recreation, amusement and entertainment (including, bowling alley, skating rink, billiard and pool hall, arcade, miniature golf, indoor athletic and exercise facilities, tennis, handball or racquetball facility, theater, night club, private club and bar/tavern);
  - m. Radio and television broadcasting studio;
  - n. Accessory structures and uses as defined by article V;
  - o. Nursing home;
  - p. Adult congregate living facility;
  - q. Funeral establishment;
  - r. Medical marijuana treatment center.
- (3) *Uses by special exception.* The uses permitted by special exception within the C-3 zoning district shall be:
- a. Planned unit development (PUD);
  - b. Outdoor seating/dining for restaurant, fast-food restaurant, drive-thru service window for a restaurant;
  - c. Wholesale sales (on-site storage of stock);
  - d. Adult entertainment and service;
  - e. Retail sales with drive-thru service window;
  - f. Bus or other transportation terminal;
  - g. Motor vehicle services;



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- h. Moving business (no mini-warehouses);
- i. Government uses, buildings and utilities;
- j. Recycling collection center;
- k. Worship facility and child care associated with facility;
- l. Social, fraternal club, lodge and union hall;
- m. Light manufacturing;
- n. Day care facilities.

(k) *Central business district (CBD):*

(1) *Intent.* The CBD zoning district is intended to allow a mix of commercial uses and compatible residential uses that will encourage an urban intensive, pedestrian oriented, neighborhood ambiance. The CBD is further established to encourage the continuation of the present unique Central Business District of Neptune Beach, as well as, the continuation of its present aesthetically pleasing environment, to provide areas for the concentration of compatible land uses, to provide sufficient space for appropriate commercial, miscellaneous service activities and residences which will strengthen the city's economic base, and to prevent the intrusion of objectionable land uses.

(2) *Permitted uses.* The uses permitted within the CBD zoning district shall be:

- a. Hotel/motel;
- b. Bed and breakfast;
- c. Interior service restaurant;
- d. Professional offices (including, architects, accountants, doctors, dentists, home health care services, legal services, realtors, veterinary clinic);
- e. Retail sales, wholesale sales (including on-site storage of stock), package liquor store, and pharmacy;
- f. Dry cleaner;
- g. Government uses, buildings and utilities;
- h. Dance, art, dramatic, gymnastics and music studio;
- i. Library, museum and art gallery;
- j. Public park/recreation area;
- k. Recreation, amusement and entertainment (including, billiard and pool hall, arcade, miniature golf, theater, night club, private club and bar/tavern);
- l. Accessory structures and uses as defined by article V.

(3) *Uses by special exception.* The uses permitted by special exception within the CBD zoning district shall be:

- a. Single-family, two-family and multifamily residences;

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- b. Child day care;
- c. Outdoor seating/dining for restaurant, fast-food restaurant, drive-thru service window for a restaurant;
- d. Day spa;
- e. Retail furniture and/or applicant;
- f. Retail sales with drive-thru service window;
- g. Parking lot (not associated with any business);
- h. College, community college or university;
- i. Worship facility and child care associated with facility;
- j. Social, fraternal club, lodge and union hall;
- k. Indoor athletic and exercise facility.

(Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2004-18, 12-6-2004; Ord. No. 2011-13, § 1, 9-12-11; Ord. No. 2016-07 , § 3, 7-6-16; Ord. No. 2017-32 , § 3, 1-8-18; Ord. No. 2018-04 , § 1, 6-4-18)

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**Section 27-15. Definitions.**

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*Medical/dental clinic* means any establishment where patients, who are not lodged overnight, are admitted for examination and treatment by a person or persons affiliated with a group practicing various specialties of the healing arts, whether the persons are medical doctors, chiropractors, osteopaths, chiropodists, naturopaths, optometrists, dentists, or any such profession, the practice of which is regulated by the state.

*Medical marijuana treatment center* means an establishment as defined and further set forth in F.S. § 381.986(8), that operates for the purpose of dispensing medical marijuana, as defined and further set forth in F.S. § 381.986.

*Microblading and Permanent Cosmetics* means the practice of placing ink or other pigment into the skin or mucosa by the aid of needles or any other instrument used to puncture a person's skin for the purpose of permanent cosmetic restoration or enhancement of the epidermis for re-pigmentation. This category of services does not include other forms of body art such as body piercing or the adornment of the body with letters, images, drawings, or other illustrations. The use is also commonly known as dermal implantation, microstroking, eyebrow embroidery, and long-term/long lasting makeup.

*Mini-warehouse* means any personal storage building which is subdivided by permanent partitions into spaces with an exterior independent entrance under the exclusive control of the tenant thereof.

*Minor arterial (section 27-475)* means a roadway that connects and supports the principal arterial road system. Although its main function is still traffic movement, it performs this function at a lower level and places more emphasis on property access than does the principal arterial.

*Minor deviation* means a deviation from a final development plan that is necessary in light of technical or engineering considerations first discovered during actual development and not reasonably anticipated during the initial approval process, including the following:

- (1) Alteration of the location of any road, walkway, landscaping or structure by not more than five (5) feet.
- (2) Reduction of the total amount of open space by not more than five (5) percent, or reduction of the yard area or open space associated with any single structure by not more than five (5) percent; provided that such reduction does not permit the required yard area or open space to be less than that required by this Code.

*Minor replat* means the subdivision of a single lot or parcel of land into two (2) lots or parcels, or the subdivision of a parcel into two (2) or more lots solely for the purpose of increasing the area of two (2) or more adjacent lots or parcels of land, where there are no roadway, drainage or other required improvements, and where the resultant lots comply with the standards of this Code.

*Modular home* means a dwelling unit constructed in accordance with applicable building codes and that is substantially constructed in a manufacturing plant and transported to the building site for assembly on a permanent foundation.

*Motor vehicle service* means a building or lot where battery, tires and other repair services except body work or painting are rendered.

*Moving and storage facility* means any establishment that stores material not owned by the operator of the establishment to include mini-warehouses.

*Multifamily* means any building containing three (3) or more dwelling units.

*Multiple occupancy complex* means any commercial use consisting of a parcel of property, or parcel of contiguous properties, existing as a unified or coordinated project, with a building or buildings housing more than one (1) occupant.

(Ord. No. 2004-10, § 1, 10-4-04; Ord. No. 2004-18, § 1, 12-6-04; Ord. No. 2005-03, § 1, 3-7-05; Ord. No. 2006-03, § 1, 3-6-06; Ord. No. 2006-06, § 1, 5-1-06; Ord. No. 2007-07, § 1, 6-4-07; Ord. No. 2008-10, § 1, 9-8-08; Ord. No. 2010-10, § 1, 7-12-10; Ord. No. 2010-14, § 3, 9-7-10; Ord. No. 2011-03, § 1, 2-17-11; Ord. No. 2011-09, § 1, 6-6-11; Ord. No. 2011-25, § 2, 12-5-11; Ord. No. 2012-11, § 2, 12-4-12; Ord. No. 2013-01, § 2, 5-6-13; Ord. No. 2015-14, § 1, 10-5-15; Ord. No. 2016-07, § 1, 7-6-16; Ord. No. 2017-16, § 1, 6-5-17; Ord. No. 2017-10, § 1, 7-5-17; Ord. No. 2017-32, § 2, 1-8-18; Ord. No. 2018-02, § 1, 4-2-18)