

CITY OF BATAVIA

TO: Committee of the Whole (GS & CD)
FROM: Joel Strassman, Planning and Zoning Officer
DATE: October 9, 2019
SUBJECT: **Ordinance 19-69:** Amending Title 4 of the City Code Related to Body Art Establishments (GS)
City of Batavia, Applicant
Ordinance 19-70: Granting a Conditional Use Permit in the DMU Downtown Mixed Use District
For a Tattoo Parlor/Piercing Studio at 127 Main Street (CD)
Richard Nelson, Classic Tattoo, Applicant

Summary: Draft Ordinance 19-69 would amend the City Code to allow more than two (2) body art establishments (tattoo parlors/piercing studios) in the DMU Downtown Mixed Use where the current limit is two (2). Draft Ordinance 19-70 would grant a conditional use permit for a Tattoo Parlor/Piercing Studio in the DMU District at 127 State Street. For additional information, please see the [staff memorandum to the Plan Commission](#).

Background: Richard Nelson is seeking to open a Tattoo Parlor at 127 State Street. When staff informed him that he could not apply for a Conditional Use Permit due to the City Code limit of 2 such establishments in the DMU District and there being 2 in the DMU District currently (A Thin Line Tattoo and Urban Style Salon, both in the 0-100 block of East Wilson Street), Mr. Nelson inquired if the City Code may be amended to allow another tattoo parlor. In his attached letter, Mr. Nelson notes Saturday business hours to midnight. Staff informed him of the 10pm City Code time limit for his business to be open and the 11pm limit to complete a procedure that began before 10pm; Mr. Nelson stated that he understands and accepts these limitations.

The COW and Mayor have addressed the possibility of amending the City Code to allow additional tattoo parlors in the DMU District. There was consensus that the City Code may be amended to allow one or more such businesses in the DMU District. Draft Ordinance 19-69 proposes amending City Code Section 4-9-2-C to allow up to three (3) body art establishments in the DMU District.

On October 2nd, the Plan Commission held the public hearing for the requested Conditional Use Permit for Classic Tattoo at 127 State Street. Only Mr. Nelson spoke at the hearing and explained that he has been a tattoo artist for 27 years, with the last 7 being in Batavia. He informed the Commission of his local charity work.

The Plan Commission acknowledged the existing tattoo uses in downtown. The Commission noted that Batavia is recognized as a community for the arts and that tattoo art fits this recognition. The Commission arrived at positive findings as included in draft Ordinance 19-70 and by a vote of 7-0 recommended approval of the Conditional Use Permit subject to the conditions listed in Ordinance 19-70.

Alternatives: The City Council can approve or deny either Ordinance as presented, or amended (if desired), or take no action. If the Council does not approve Ordinance 19-69 to increase the number of body art establishments in the DMU District, the Council cannot act on Ordinance 19-70 and consequently there would be no Conditional Use Permit approval.

Impacts: There would be minimal impacts with approval of the Ordinances. The property at 127 State Street would again be active with a tenant open for business. It should be noted that as drafted, Ordinance 19-69 would not allow for additional body art establishments to be proposed in the DMU District beyond the one proposed with Ordinance 19-70. The City Code would need to be amended again to consider a future additional body art establishment in the DMU District.

Timeline for Actions: COW action will allow the Ordinances to be placed on the City Council agenda for final action on October 21.

Recommendations: Staff recommends City Council approve Ordinance 19-69 as presented to amend the Code to allow up to three (3) body art establishments in the DMU District. The Plan Commission does not make recommendations on City Code amendments other than those to the Zoning Code.

By a vote of 7-0, the Plan Commission recommended approval of a Conditional Use Permit for a Tattoo Parlor/Piercing Studio establishment at 127 State Street, subject to the conditions listed in the Ordinance. One of the conditions is City Council amending the City Code (i.e. approval of Ordinance 19-69) to allow one or more body art establishments in the DMU District. Staff recommends the City Council approve Ordinance 19-70 as presented.

Attachments

1. Ordinance 19-69
2. Ordinance 19-70
3. Letter from Richard Nelson

- c Mayor and City Council
 - Department Heads
 - Richard Nelson, applicant
 - Media

**CITY OF BATAVIA, ILLINOIS
ORDINANCE 19-69**

**AMENDING TITLE 4 OF THE BATAVIA MUNICIPAL CODE
RELATING TO BODY ART ESTABLISHMENTS**

**ADOPTED BY THE MAYOR AND
CITY COUNCIL THIS 21st DAY OF
OCTOBER, 2019**

Published in pamphlet form
by authority of the Mayor
and City Council of the City of Batavia,
Kane and DuPage Counties, Illinois,
This 22nd day of October, 2019

Prepared by:

City of Batavia
100 N. Island Ave.
Batavia, IL 60510

CITY OF BATAVIA, ILLINOIS
ORDINANCE 19-69

**AMENDING THE CITY OF BATAVIA MUNICIPAL CODE RELATING
TO ELECTRIC SERVICE RATES AND METERING**

WHEREAS, the City of Batavia has reviewed the existing provisions within Title 4, Chapter 9, Section 2-C, of the Batavia Municipal Code relating to the number of Body Art Establishments in the DMU Downtown Mixed Use zoning district; and

WHEREAS, the City Council of the City of Batavia has been determined that the existing maximum of two (2) Body Art Establishments in the DMU District should be increased to three (3).

NOW THEREFORE, be it hereby ordained by the Mayor and City Council of the City of Batavia, Kane and DuPage Counties, Illinois, as follows:

SECTION 1: That effective October 21, 2019, Title 4, Chapter 9, Section C, of the Batavia Municipal Code is hereby modified to as follows:

C. No more than three (3) body art establishments may be established at any time within the Downtown Mixed Use (DMU) zoning district.

SECTION 2: That this Ordinance 19-69 shall be in full force and effect upon its presentation, passage and publication according to the law.

CITY OF BATAVIA ORDINANCE 19-69

PRESENTED to the City Council of the City of Batavia, Illinois, this 21st day of October, 2019.

PASSED by the City Council of the City of Batavia, Illinois, this 21st day of October, 2019.

APPROVED by me as Mayor of said City of Batavia, Illinois, this 21st day of October, 2019

Jeffery D. Schielke, Mayor

Ward	Aldermen	Ayes	Nays	Absent	Abstain	Aldermen	Ayes	Nays	Absent	Abstain
1	O'Brien					Salvati				
2	Callahan					Wolff				
3	Meitzler					Chanzit				
4	Malay					Knopp				
5	Uher					Beck				
6	Cerone					Russotto				
7	McFadden					Miller				
Mayor Schielke										
VOTE:		Ayes	Nays	Absent	Abstentions					
Total holding office:		Mayor and 14 aldermen								

ATTEST:

Ellen Posledni, City Clerk

**CITY OF BATAVIA, ILLINOIS
ORDINANCE 19-70**

**CONDITIONAL USE PERMIT FOR A
TATTOO PARLOR/PIERCING ESTABLISHMENT IN THE
DMU DOWNTOWN MIXED USE DISTRICT**

**RICHARD NELSON, APPLICANT
(127 STATE STREET)**

**ADOPTED BY THE
MAYOR AND CITY COUNCIL
THIS 21st DAY OF OCTOBER, 2019**

Published in pamphlet form
by authority of the Mayor
and City Council of the City of Batavia,
Kane & DuPage Counties, Illinois,
This 22nd day of October, 2019

Prepared by:
City of Batavia
100 N. Island Ave.
Batavia, IL 60510

**CITY OF BATAVIA, ILLINOIS
ORDINANCE 19-70**

**CONDITIONAL USE PERMIT FOR A
TATTOO PARLOR/PIERCING ESTABLISHMENT IN THE
DMU DOWNTOWN MIXED USE DISTRICT**

Richard Nelson, Applicant
(127 State Street)

WHEREAS, Richard Nelson, leaseholder of property located at 127 State Street, submitted an application for a Conditional Use Permit, signed property owner by Ken Fitzpatrick, to the City of Batavia for a portion of the property legally described as:

LOT 6 IN BLOCK 6 OF THE ORIGINAL TOWN OF BATAVIA, ON THE EAST SIDE OF FOX RIVER, IN THE CITY OF BATAVIA, KANE COUNTY, ILLINOIS. COMMONLY KNOWN AS 103 AND 127 STATE STREET (PIN 12-22-233-014)

WHEREAS, said Applicant is requesting a Conditional Use Permit to allow operation of a Tattoo Parlor/Piercing Studio (Body Art Establishment per Title 4 of the City Code) at 127 State Street in the DMU Downtown Mixed Use; and

WHEREAS, notice was duly executed and the Batavia Plan Commission held a public hearing on October 2, 2019; and

WHEREAS, following said hearing, the Plan Commission made the following findings required for approval:

1. The proposed use will not be detrimental to health, safety, or general welfare of persons living or working in the vicinity, to adjacent property, to the neighborhood, or to the public in general.

FINDING: With Plan Commission recommendation of, and City Council approval of the operational restrictions contained in Section 1 of this Ordinance, the proposed tattoo parlor would not be detrimental to adjacent properties or the public in general.

2. The proposed use, as conditioned, conforms with the purposes, intent, and policies of the Comprehensive Plan and any applicable area, neighborhood, or other plan adopted by the City Council.

FINDING: Goal 1 of the Batavia Comprehensive Plan's Land Use Element stresses the need to balance land uses and maintain employment areas. The proposed use would provide an opportunity to add to the service-oriented character of downtown Batavia.

3. The proposed use conforms with the conditions, requirements, or standards required by the Zoning Code and any other applicable local, State, or Federal requirements.

FINDING: The proposed use would be located in an existing commercial space that can accommodate its needs. With said operational restrictions, the business would be operated by appropriately State registered and licensed personnel.

4. The proposed use, as conditioned, would conform generally to the Zoning Code and applicable government requirements.

FINDING: With said operational restrictions, the proposed use would not interfere with the enjoyment of nearby properties.

WHEREAS, after making its findings, the Plan Commission recommended to the City Council approval of a Conditional Use Permit being granted subject to the following conditions:

1. City Council amending City Code Title 4, Chapter 9 Section 2-C to allow more than two (2) Body Art Establishments in the DMU District.
2. The Conditional Use Permit be granted to Richard Nelson, dba Classic Tattoo, at 127 State Street and is not transferrable.
3. All tattoo artists and body piercers operating on the premises shall maintain a State of Illinois Body Art practitioner's license.
4. The business shall operate in conformance with Title 4, Chapter 9 of the City Code for Body Art Establishments, including but not limited to business operating hours.
5. Failure to comply with one or more of the requirements herein shall be grounds for revocation of the Conditional Use Permit.

WHEREAS, on October 15, the City Council's Committee of the Whole reviewed the application, the record of the public hearing, and the actions and findings of the Plan Commission and recommended approval of a Conditional Use Permit being granted to Richard Nelson, dba Classic Tattoo, at 127 State Street, subject to the conditions recommended by the Plan Commission; and

WHEREAS, the City Council of the City of Batavia has duly passed Ordinance 19-69 to amend Title 4 of the City Code to increase the number of allowed Body Art Establishments in the DMU District; and

WHEREAS, the City Council of the City of Batavia has considered the recommendations of both the Plan Commission and the Committee of the Whole.

NOW THEREFORE, BE IT ORDAINED, by the City Council of the City of Batavia, Kane and DuPage Counties, Illinois:

SECTION 1: The application for a Conditional Use Permit submitted by Richard Nelson to allow operation of a Tattoo Parlor/Piercing Studio at 127 State Street in the DMU Downtown Mixed Use District, per City Code Title 10, Chapter 5.4, is hereby approved with the following conditions:

1. The Conditional Use Permit be granted to Richard Nelson, dba Classic Tattoo, at 127 State Street and is not transferrable.

CITY OF BATAVIA, ILLINOIS ORDINANCE 19-70

2. All tattoo artists and body piercers operating on the premises shall maintain a State of Illinois Body Art practitioner’s license.
3. The business shall operate in conformance with Title 4, Chapter 9 of the City Code for Body Art Establishments, including but not limited to business operating hours.
4. Failure to comply with one or more of the requirements herein shall be grounds for revocation of the Conditional Use Permit.

SECTION 2: That this Ordinance 19-70 shall be in full force and effect upon its presentation, passage and publication according to the law.

PRESENTED to the City Council of the City of Batavia, Illinois, this 21st day of October, 2019.

PASSED by the City Council of the City of Batavia, Illinois, this 21st day of October, 2019.

APPROVED by me as Mayor of said City of Batavia, Illinois, this 21st day of October, 2019.

Jeffery D. Schielke, Mayor

Ward	Aldermen	Ayes	Nays	Absent	Abstain	Aldermen	Ayes	Nays	Absent	Abstain
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6	Cerone					Russotto				
7	McFadden					Miller				
Mayor Schielke										
VOTE:		Ayes	Nays	Absent	Abstention(s)					
Total holding office: Mayor and 14 aldermen										

ATTEST:

Ellen Posledni, City Clerk

To Batavia ,

My name is Richard Nelson . I have been a tattoo artist for 27 years , 6 of those years have been in Batavia. I am looking to open a Tattoo/Piercing shop at 127 State st. in the Downtown district area in Batavia. This will be a walk-in/custom shop open to anyone of age looking to get art on their body. I have always strived to be the cleanest artist and that will not change. Everything that will be used in this shop will be single use /disposable . I also do charitable work the entire month of December for Suicide Preventions . The shop will be open Monday-Thursday 12-10 , Friday-Saturday 12-12 and Sunday 12-7

Thank you

Richard Nelson

Classic Tattoo