

ORDINANCE NO. 2025-07

AN ORDINANCE AMENDING SECTION 12.12.040 (DEFINITIONS) OF THE CENTERVILLE ZONING CODE TO ADD A NEW DEFINITION FOR BODY ART FACILITY, AMENDING THE DEFINITIONS FOR PERMANENT COSMETICS AND PERSONAL CARE SERVICES, ELIMINATING THE DEFINITION OF TATTOO ESTABLISHMENT, AMENDING SECTION 12.36.040 REGARDING TABLE OF USES FOR COMMERCIAL USES, AND ENACTING SECTION 12.55.260 REGARDING BODY ART FACILITIES AND RELATED FACILITIES

WHEREAS, the City Council directed Staff to prepare Zoning Code Amendments to define body art facilities and to allow such uses in various zones of the City; and

WHEREAS, City Council has determined that the proposed amendments to the Zoning Code regarding body art facilities are in the best interest of the City and the public to allow such uses within the City, as more particularly provided herein; and

WHEREAS, the proposed amendments to the Zoning Code as set forth herein have been reviewed by the Planning Commission and the City Council and all appropriate public notices have been provided and appropriate public hearings have been held in accordance with Utah law to obtain public input regarding the proposed revisions to the Zoning Code.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF CENTERVILLE CITY, STATE OF UTAH, AS FOLLOWS:

Section 1. Amendment. Section 12.12.040 of the Centerville Zoning Code regarding Definitions is hereby amended as follows:

12.12.040 Definitions

* * *

Body Art Facility: "Body art facility" means a facility where an individual practices or instructs: (a) body piercing; or (b) tattooing. This term excludes Permanent Cosmetics (as defined herein) and Ear Piercing (as defined in Utah Code § 26B-7-401). Body Art Facility shall not include any of the following activities which are expressly prohibited: branding, scarification, or any practices that are considered medical procedures by a State medical board.

* * *

Permanent Cosmetics: A permanent or semi-permanent cosmetic treatment involving the controlled insertion of pigments into and under the skin as a means of producing designs that resemble makeup for areas of the body such as the eyebrows, eyelids, lips, and/or other parts of the body for beauty marks, hair imitation, lash enhancement, scar camouflage, or for other medical or cosmetic purposes. The cosmetic implantation technique deposits pigment in between the epidermis and dermis. Permanent cosmetics include permanent makeup, micro-pigmentation, micro-pigment implantation, micro-blading, and dermagraphics. Permanent cosmetics does not include any medical

~~procedure performed by an individual licensed under the Utah Medical Practices Act as set forth in Title 58, Chapter 67 of the Utah Code, or licensed under the Utah Osteopathic Medical Practices Act as set forth in Title 58, Chapter 8 of the Utah Code. A cosmetic treatment involving the controlled insertion of pigment into the skin as a means of producing designs that resemble makeup such as eyebrows and eye lining and other natural enhancing colors to the face, lips, and eyelids and hairline. Permanent cosmetic is solely for enhancing facial features that are already present or to provide artificial eyebrows for those who have lost them as a consequence of old age disease, chemotherapy, genetic disturbance and to disguise scars and skin conditions. It may be referred to as "Semi-Permanent" because occasional touch ups are required.~~

* * *

Personal Care Service: An establishment primarily engaged in the provision of frequently or recurrently needed services of a personal nature. Typical uses include, beauty and barber shops, ~~permanent cosmetics~~, custom tailoring and seamstress shops, electrolysis studios, portrait studios, shoe repair shops, tailors, tanning and nail salons, and weight loss centers. The term excludes Permanent Cosmetics and Body Art Facility.
~~Tattoo Establishment.~~

* * *

~~**Tattoo Establishment:** Any location, place, area, structure, or business used for the practice of affixing a permanent mark or design on or under the skin by a process of cutting for the purpose of scarring or pricking or ingraining an indelible pigment, dye, or ink in the skin, or instruction for such a practice. The term excludes Permanent Cosmetics.~~

* * *

Section 2. Amendment. Section 12.36.040 of the Centerville Zoning Code regarding Table of Uses for Commercial Uses is hereby amended to read in its entirety as more particularly set forth in **Exhibit A**, attached and incorporated herein by reference.

Section 3. Enactment. Section 12.55.260 of the Centerville Zoning Code regarding Body Art Facilities and Related Facilities is hereby enacted to read in its entirety as follows.

12.55.260 Body Art Facilities and Related Facilities.

Body Art Facilities and Permanent Cosmetics, as defined in CZC 12.12.040, are regulated activities governed by County and State laws, ordinances, and regulations, including, but not limited to, Utah Code § 26B-7-402 authorizing the State Department of Health and Human Services to promulgate minimum rules of sanitation for body art facilities, and the Davis County Body Art Regulations adopted by the Davis County Board of Health regulating body art and body art facilities within Davis County. Any such facilities permitted herein shall be subject to City, County, and State standards, regulations, and permitting requirements.

Section 4. Amendment. Section 12.62.040 of the Centerville Zoning Code regarding Permitted Uses for Home Occupations is hereby amended to read in its entirety as set forth as follows.

12.62.040 Permitted Use

(a) Permitted Use. Permitted home occupation uses listed in Subsection (b) may be established as a home occupation in an agricultural or residential zone as a permitted use subject to the development standards of CZC 12.62.050.

(b) Permitted Uses. The uses set forth below shall be allowed as permitted home occupation uses in agricultural or residential zone:

- (1) Family child care facility;
- (2) Medical service;
- (3) Personal care service;
- (4) Personal instruction service; and
- (5) Office, general.

(c) Prohibited Uses. The uses set forth below shall be prohibited as home occupation uses:

- (1) Kennel; ~~and~~
- (2) Stable;
- (3) Permanent Cosmetics; and
- (2)(4) Body Art Facility.

Section 5. Amendment. Section 12.62.060 of the Centerville Zoning Code regarding Conditional Use Permits for Home Occupations is hereby amended to read as follows.

12.62.060 Conditional Use Permit Required

A use not listed in CZC 12.62.040 may be established as a home occupation in an agricultural or residential zone subject to the issuance of a conditional use permit pursuant to the requirements of CZC 12.21.100 and the development standards of CZC 12.62.070, excluding prohibited uses set forth in CZC 12.62.040.

Section 6. Findings. This Zoning Code Text Amendment is based on the findings set forth in **Exhibit B**, attached and incorporated herein by reference.

Section 7. Severability. If any section, part, or provision of this Ordinance is held invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability shall not affect any other portion of this Ordinance, and all sections, parts and provisions of this Ordinance shall be severable.

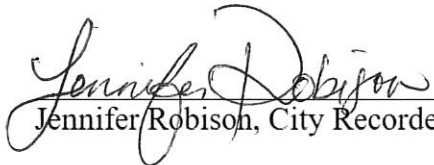
Section 8. Omission Not a Waiver. The omission to specify or enumerate in this ordinance those provisions of general law applicable to all cities shall not be construed as a waiver of the benefits of any such provisions.

Section 9. Effective Date. This Ordinance shall become effective immediately upon publication or posting, or thirty (30) days after passage, whichever occurs first.

PASSED AND ADOPTED BY THE CITY COUNCIL OF CENTERVILLE CITY, STATE OF UTAH, ON THIS 19th DAY OF AUGUST, 2025.

ATTEST:

CENTERVILLE CITY


Jennifer Robison, City Recorder

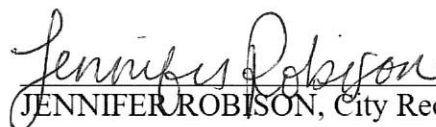
By: 
Mayor Clark A. Wilkinson

Voting by the City Council:

	"AYE"	"NAY"	"ABSENT"
Councilmember Hayman	_____	<input checked="" type="checkbox"/>	_____
Councilmember Hirst	<input checked="" type="checkbox"/>	_____	_____
Councilmember Mecham	<input checked="" type="checkbox"/>	_____	_____
Councilmember Plummer	<input checked="" type="checkbox"/>	_____	_____
Councilmember Summerhays	_____	<input checked="" type="checkbox"/>	_____

CERTIFICATE OF PASSAGE AND PUBLICATION OR POSTING

According to the provisions of the Utah Code § 10-3-713, as amended, I, the municipal recorder of Centerville City, hereby certify that foregoing Ordinance was duly passed by the City Council and published or posted as required by law.


JENNIFER ROBISON, City Recorder

DATE: 8/21/2025

RECORDED this 21st day of August, 2025.

PUBLISHED OR POSTED this 21st of August, 2025.



Exhibit A

CZC 12.36.040 (Table of Uses for Commercial Uses)

12.36.040 Table Of Uses For Commercial Uses

Legend: "P" - permitted use, "C" - conditional use, "N" - not permitted

Commercial Uses	Zones														
	A-L	A-M	R-L	R-M	R-H	PF-L	PF-M	PF-H	PFVH	C-M	C-H	C-VH	I-M	I-H	I-VH
<u>Body Art Facility</u>	N	N	N	N	N	N	N	N	N	N	P	P	P	P	P
<u>Permanent Cosmetics</u>	N	N	N	N	N	N	N	N	N	P	P	P	P	P	P
Personal Care Service	N	N	N	N	N	N	N	N	N	P	P	P	N	N	N
<u>Tattoo Establishment</u>	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N

Exhibit B

Findings for Decision

COUNCIL APPROVAL OF ZONING CODE TEXT AMENDMENTS REGARDING BODY ART FACILITIES – AUGUST 19, 2025

Based on the information provided by the Community Development Department and the Planning Commission, and public comments received by the Council during the public hearings regarding this matter, the City Council hereby approves the Zoning Code Text Amendments amending Centerville Zoning Code 12.12.040 regarding “Definitions,” amending Centerville Zoning Code 12.36.040 regarding “Table of Uses for Commercial Uses,” adding a new section to the Centerville Zoning Code as 12.55.260 regarding “Body Art Facilities and Permanent Cosmetics,” and other associated amendments as located in Centerville Zoning Code 12.62.040 and 12.62.060, based on the following reasons for action (findings):

- (1) (Legislative Decision) The decision to amend the Centerville Zoning Code is a legislative decision made by the City Council as the governing body of the City. See, CZC 12.21.080 (regarding zoning code amendments) and Utah Code § 10-9a-503 (regarding land use ordinances).
- (2) (Reasonably Debatable Standard) The general standard of review for a legislative decision regarding zoning code amendments is the “reasonably debatable” standard in which the City Council is to determine what action, in its judgment, will reasonably promote the public interest, conserve the values of other properties, avoid incompatible development, encourage appropriate use and development, and promote the general welfare. See, CZC 12.21.060 (regarding decision-making standards).
- (3) (Court Review) Any district court reviewing a legislative decision of the City Council regarding zoning code amendments shall presume the land use regulation is properly enacted under authority of the Land Use Development and Management Act (LUDMA). In addition, the district court shall determine only whether the land use regulation is expressly preempted by, or enacted contrary to, state or federal law, and whether it is reasonably debatable that the land use regulation is consistent with LUDMA. See, Utah Code § 10-9a-801 (regarding standards for court review).
- (4) (City Initiated Amendments) The proposed amendments to the Centerville Zoning Code were initiated by the City Council on February 18, 2025, as direction to Staff, to address legal issues and concerns with the City’s current zoning regulations that define “tattoo establishment” but do not list “tattoo establishment” as a permitted or conditional use within the City. See, CZC 12.21.040(b) (regarding City initiated applications), CZC 12.12.040 (regarding definition of tattoo establishment), and CZC 12.36.040 (regarding table of uses for commercial uses).
- (5) (Prior Applicant Initiated Amendments) The status of the Zoning Code regarding tattoo establishments was brought to the City’s attention as part of a prior applicant initiated Zoning Code Text Amendment. The applicant’s specific application and proposed amendments to the Zoning Code were denied by the City Council on February 18, 2025. See, Minutes from City Council meeting held on February 18, 2025. Nevertheless, at that same meeting, the City Council initiated the appropriate review and consideration that resulted in these amendments which more closely align with the City Council’s judgment regarding promotion of the public

- interest, conservation of property values, avoidance of incompatible development, encouragement of appropriate use and development, and promotion of the general welfare.
- (6) (Planning Commission Review) At the City Council's direction, staff prepared, and the Planning Commission reviewed, the current City initiated Zoning Code Text Amendments regarding body art facilities at five different meetings held on March 12, 2025, April 9, 2025, April 23, 2025, May 14, 2025, and May 28, 2025. The Planning Commission held a public hearing on the proposed amendments on May 28, 2025. See, CZC 12.21.080 (regarding Planning Commission review of zoning code amendments) and Utah Code § 10-9a-502 (regarding planning commission review of zoning code amendments).
 - (7) (Recommended Approval) The Planning Commission recommended approval of the proposed Zoning Code Text Amendments on May 28, 2025, with certain amendments to the previous Staff recommended version, as more particularly described in the Transmittal Staff Report to the City Council dated July 1, 2025.
 - (8) (Required Notice) The City provided appropriate and required notice of all public hearings and meetings regarding this matter in accordance with City Ordinances and State law. See, CZC 12.21.050 (regarding notice requirements) and Utah Code § 10-9a-205 (regarding notice requirements for land use regulations).
 - (9) (Tattoos Are Protected by the First Amendment) The City Council acknowledges that tattoos and the art of tattooing are afforded some protection under the First Amendment.
 - (10) (Relevant Court Decisions) Although some state and federal district courts have held that tattooing, as distinguished from the tattoo itself, is not protected speech, (*see, Hold Fast Tattoo, LLC v. City of N. Chicago*, 580 F. Supp. 2d 656, 660 (N.D. Ill. 2008); *Yurkew v. Sinclair*, 495 F. Supp. 1248, 1255 (D. Minn. 1980); *Blue Horseshoe Tattoo, V, Ltd. v. City of Norfolk*, 72 Va. Cir. 388 (Va. 2007); *State v. White*, 560 S.E.2d 420, 423 (2002)), the City Council finds the decisions in the Ninth Circuit and Eleventh Circuit on the topic are more persuasive in holding that both tattoos and the art of tattooing are protected speech under the First Amendment, (*see, Buehrle v. City of Key W.*, 813 F.3d 973, 978 (11th Cir. 2015); *Anderson v. City of Hermosa Beach*, 621 F.3d 1051, 1064 (9th Cir. 2010)).
 - (11) (First Amendment Criteria) Regulation of protected speech such as tattooing may be appropriate if the regulation is a reasonable time, place, and manner restriction on the speech. This means that the regulation or restriction must: (A) be justified without reference to the content of the regulated speech; (B) be narrowly tailored to serve a legitimate governmental interest; and (C) leave open ample alternative channels for communication of information.
 - (12) (Commercial and Industrial Zones) The City has three designated commercial zones, consisting of Commercial-Medium (C-M), Commercial-High (C-H), and Commercial-Very High (C-VH), and three designated industrial zones, consisting of Industrial-Medium (I-M), Industrial-High (I-H), and Industrial-Very High (I-VH). See, CZC 12.30.010 (regarding zones established).
 - (13) (Small Zone) The C-M Zone is a small area consisting of less than 3,000 feet (0.57 miles) of frontage along Main Street from approximately Parrish Lane to Porter Lane, the core of which is just over 2,000 feet (0.38 miles) from 100 North to Porter Lane. The SMSC Overlay Zone is also a relatively small overlay zone covering about 5,500 feet (1 mile) of frontage along Main Street from approximately Parrish Lane to Pages Lane. See, Centerville Zoning Map.
 - (14) (Ample Alternative Channels) The proposed Zoning Code Text Amendments allow body art facilities in all commercial and industrial zones within the City other than the Commercial-Medium (C-M) and the South Main Street Corridor (SMSC) Overlay Zones located along Main Street. See, Centerville City Zoning Map.

- (15) (Ample Alternative Channels) The zones in which a body art facility is permitted provide ample alternative channels for persons or businesses to operate a body art facility within the City.
- (16) (Not Content Based) Based on the City's definition of body art facility, the regulation of speech is made without reference to the content of the speech.
- (17) (Commercial-Medium Purpose) The purpose of the C-M Zone is to provide areas for commercial activities and professional offices which have less than 10,000 square feet of floor area, and which meet the day-to-day needs of nearby residents and are compatible in character and scale with adjacent development. See, CZC 12.30.020 (regarding purpose of zone).
- (18) (Limited Uses) The list of permitted and conditional uses in the C-M Zone are fairly limited. See, CZC 12.36.040 (regarding table of commercial uses) and CZC 12.36.030 (regarding table of public and civic uses).
- (19) (Permitted Uses) Permitted uses in the C-M Zone are limited to: child care center, convalescent care facility, limited laundry or dry cleaning, media service, medical or dental laboratory, medical service, general office, personal care service, personal instruction service, limited printing and copying, general retail, specialty retail, club or service organization, and government service. See, CZC 12.36.040 (regarding table of commercial uses) and CZC 12.36.030 (regarding table of public and civic uses).
- (20) (Conditional Uses) Conditional uses in the C-M Zone are limited to: church, bank, bed and breakfast, limited catering, convenience store, garden center, outdoor nursery, produce stand, repair service, cultural service, public utility station, and minor utility. See, CZC 12.36.040 (regarding table of commercial uses) and CZC 12.36.030 (regarding table of public and civic uses).
- (21) (Not Compatible) The use of body art facility is not compatible in character with adjacent uses and development, including adjacent residential uses, and other uses in the C-M Zone. See, CZC 12.30.020 (regarding purpose of zone).
- (22) (Location of Commercial-Medium) Most, if not all, of the City's C-M zoning is located along Main Street between approximately Parrish Lane and Porter Lane. See, Centerville Zoning Map.
- (23) (South Main Street Overlay Zone) The C-M Zone along Main Street is located in the South Main Street Corridor (SMSC) Overlay Zone. See, CZC 12.48.040 (regarding location of SMSC Overlay Zone).
- (24) (Historic Character Purpose) A stated purpose of the SMSC Overlay Zone is to preserve the historic character of Centerville's South Main Street and to encourage development that is sensitive to the City's heritage. See, CZC 12.48.010 (regarding purpose of zone).
- (25) (Character/Fabric as Governmental Interest) The City finds it is a legitimate governmental interest to protect and preserve the historic character and fabric of the SMSC Overlay Zone. See, *Buehrle v. City of Key W.*, 813 F.3d 973, 978 (11th Cir. 2015).
- (26) (Body Art Facility) The City finds the location of a body art facility in the C-M Zone along the City's historic Main Street and within the SMSC Overlay Zone does not preserve or protect the historic character or fabric of Main Street and is not a use that is sensitive to the City's heritage. See, CZC 12.48.010 (regarding purpose of zone).
- (27) (Gathering/Small Town) A stated purpose of the SMSC Overlay Zone is to provide a gathering space and cultural heart for the community by fostering a small town atmosphere. See, CZC 12.48.010 (regarding purpose of zone).

- (28) (Character/Small Town as Governmental Interest) The City finds it is a legitimate governmental interest to protect and preserve the small town character or fabric of the SMSC Overlay Zone as a gathering space and cultural heart for the community. See, *Buehrle v. City of Key W.*, 813 F.3d 973, 978 (11th Cir. 2015).
- (29) (Body Art Facility) The City finds the location of a body art facility in the C-M Zone along the City's historic Main Street and within the SMSC Overlay Zone does not preserve or protect the small town atmosphere or character of Main Street or the SMSC Overlay Zone as a gathering space or cultural heart of the community. See, CZC 12.48.010 (regarding purpose of zone).
- (30) (Deuel Creek Historic District Zone) The east side of the C-M Zone along Main Street is located in the Deuel Creek Historic District. See, Centerville Zoning Map.
- (31) (Historic Character Purpose) A stated purpose of the Deuel Creek Historic District is to preserve the integrity and characteristics of the original townsite as well as to educate the community concerning Centerville's past. See, CZC 12.49.010 (regarding purpose of Deuel Creek Historic District).
- (32) (Historic Character) Based on the stated purposes of the C-M Zone, the SMSC Overlay Zone, and the Deuel Creek Historic District, the City finds the intent of these zones is to preserve and protect the historic characteristics and small town atmosphere of the City's Main Street and the list of commercial uses within the C-M and SMSC Overlay Zones are consistent with these goals.
- (33) (Protection of Minors as Governmental Interest) The City finds it is a legitimate governmental interest to protect minors and school-aged children. See, *Garcia v. City of Torrance*, No. 215CV03810SVWAWJW, 2016 WL 11760241 (C.D. Cal. June 6, 2016).
- (34) (Regulation of Tattoos for Minors) State law protects minors from the negative impacts of tattoos and tattooing by making it unlawful for any person to perform or offer to perform the tattooing of a minor under the age of 18 without receiving the consent of the minor's parent or legal guardian. Utah Code § 76-9-2001.
- (35) (Near Schools) The C-M Zone on Main Street is located near the Centerville Junior High School located at 625 S Main Street and a portion of the C-M Zone on Main Street is designated as "Safe School Route" for children walking to and from school under the Safe Routes Utah Program.
- (36) (Narrowly Tailored) The City finds that restrictions on body art facilities in the C-M and SMSC Overlay Zones for the protection of minors and school-aged children walking to and from the nearby junior high school is a legitimate governmental interest and is narrowly tailored to achieve that goal, because the restriction is limited to this specific area of the City near the junior high school.
- (37) (General Plan) The proposed Zoning Code Text Amendments are consistent with the goals and objectives of the General Plan as discussed in the Staff Report to the Planning Commission dated May 28, 2025. See, CZC 12.21.080 (regarding zoning code amendments).
- (38) (General Plan) Relevant portions of the General Plan that support the proposed amendments and the decision not to allow a body art facility on Main Street within the C-M and SMSC Overlay Zones include:
- Section 12-430-1 (regarding the need for Commercial and Industrial Development)
 - Section 12-430-2 (regarding Commercial Development Policies and describing Main Street as the traditional commercial center of Centerville)
 - Section 12-460-3 (regarding Schools and referencing schools as a focal point of activity in a neighborhood and community)

- Section 12-480-2 (regarding Residential and Commercial Policies for Neighborhood 1, Southeast Centerville, and noting that Main Street is the traditional commercial center of the City)
 - Section 12-480-7 (regarding the South Main Street Corridor Plan)
 - Section 12-480-8 (regarding the City's Historic Preservation Plan)
- (39) (SMSC Plan) The C-M Zone along Main Street is located within the South Main Street Corridor (SMSC) Plan of the Centerville General Plan as set forth in Section 12-480-7.
- (40) (SMSC Plan) Relevant portions of the SMSC Plan that support the proposed amendments and the decision not to allow a body art facility on Main Street within the C-M and SMSC Overlay Zones include:
- Section 12-480-7(A)(1) (recognizing the existence of historic and charming residential buildings that remain as a reminder of the once residential nature of Main Street)
 - Section 12-480-7(A)(3) (identifying Main Street as a “major entrance” to Centerville City and that such an entrance is important to the overall appearance and atmosphere of the City)
 - Section 12-480-7(C)(1) (encouraging the enhancement and promotion of SMSC as the setting for attractive, convenient, active, safe, and as an enjoyable destination and place of residence)
 - Section 12-480-7(C)(3) (noting that the SMSC should be promoted as the cultural, civic, and community heart of the City)
- (41) (Narrowly Tailored) The City's zoning decisions regarding body art facilities are narrowly tailored to serve the City's stated governmental interests by restricting body art facilities from a limited area of the City while leaving open ample alternative channels for body art facilities in nearby commercial and industrial zones.
- (42) (Reasonable Basis) The City's reasonable basis for restricting body art facilities on Main Street in furtherance of its stated governmental interests is that such restriction limits uses on Main Street to uses that are inclusive of visitors and members of the community of all ages (not just adults), and preserves the historic and small town community atmosphere in these zones intended by the City's zoning regulations.
- (43) (Least Restrictive Standard) The City's regulation of or restriction on protected speech need not be the least restrictive or least intrusive means of serving the City's governmental interests, but the restrictions may not burden substantially more speech than is necessary to further the City's governmental interest. See, *Ward v. Rock Against Racism*, 491 U.S. 781 (1989).
- (44) (Burden Substantially) Permitting body art facilities in all other commercial and industrial zones in the City while preserving and protecting the historic nature and fabric of Main Street does not burden substantially more speech than is necessary to further the City's stated legitimate governmental interests regarding Main Street and the SMSC Overlay Zone.
- (45) (Permitted Use) Despite the recommendation from the Planning Commission to list body art facility as a conditional use in certain zones, the City Council finds that such use should be listed as a permitted use in applicable zones to avoid any issues with such additional regulation.