

# Watsonville stuck in '62 in regard to tattoos

City extends ban on body art shops

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WATSONVILLE — A Santa Cruz civil rights attorney said she will file a federal lawsuit against the city of Watsonville challenging the constitutionality of an ordinance that essentially bans tattoo parlors.

Kate Wells said the City Council's decision Tuesday to continue its 1962 ordinance that only allows tattoos in the presence of a physician violates the First Amendment.

"Some people are confused about the issue about whether the right to have a tattoo or receive a tattoo also includes the right to give a tattoo. Freedom of speech wouldn't be such if we didn't have the right to listen," Wells said Wednesday.

But the city's attorney, Alan Smith, said a city moratorium on tattoo parlors precludes the lawsuit until it expires in February 2008.

Wells disagrees.

After a failed attempt to include more limits in a proposed ordinance that would have allowed tattoo parlors in some circumstances, the City Council instead voted 4-3 Tuesday to continue its 45-year-old ban. Councilmen Edward Din, Greg Caput, Antonio

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## Tattoos

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Rivas and Dale Skillicorn voted for the ban.

The debate began nine months ago and has centered around concerns that tattoo shops would attract gang activity and cause public health risks. Wells and her son, Jeff, who wants to open a tattoo shop here, have been working with the city for months hoping to reach a compromise. Jeff Wells, a 31-year-old Santa Cruz motorcycle designer, wants to open his shop on the 400 block of Airport Boulevard and open a motorcycle repair shop in the back. But the site is not among those allowed in the failed ordinance. Most of the allowed sites were along Freedom and Airport boulevards.

Mayor Manuel Bersamin said Wednesday "I am hopeful toward compromise."

Bersamin, who voted against

retaining the old ordinance, thinks there are differences between the perception of tattoos in North and South County.

"There is a negative connotation with young people who use it to identify themselves with two very violent gangs," Bersamin said referring to the tattoos of gang members.

"In a university town, body art is very common and piercing is very common."

Whatever the perception, there is no clear legal precedent.

Attorney Smith said there are two state Supreme Court cases dealing with tattoo shops — one in Minnesota and one in South Carolina, both decided against the tattoo shops. Neither deals specifically with the issue facing Watsonville.

"There's no California case on point or U.S. Supreme Court case on point so it's what either seven justices in California or nine justices in Washington decide is valid," Smith said.

City Manager Carlos Palacios expects the council to take up the matter next month and said city staff can provide the council with other alternatives. A lawsuit could be costly. Wells said it could run into six figures.

Jeff Wells told the city it is better served having a licensed, regulated tattoo artist than what it has now.

"Tattoos are being done right here in Watsonville," he said. "If you think I'm wrong, take a look. I've had them done here. ... If you're looking out for the safety of people here, you're not doing it."

Councilwoman Kimberly Petersen, who voted against going back to the original ban, said the proposed ordinance was "quite strict." It calls for disposing of anything that comes in contact with a person's skin, frequently washing hands, vaccinations for Hepatitis B, documentation for vaccinations and county monitoring of the operating rules. She

cited distance requirements from schools, limits on the number of shops and even who can work in them.

"It gives the impression it's a bad business or it's a bad thing and people shouldn't patronize that kind of business. ... It's a form of art ... not only something utilized by gang members for affiliations," Petersen said.

Even though the vote was against changing the ordinance, council members did leave the door open. Skillicorn said he was open to revising "the ordinance as it's been proposed, adjusting for what we've talked about tonight."

Din said his opposition to the proposed ordinance lies in the lack of available sites. He wants to see the zoning issues addressed.

"I'm not opposed to body art per se, I'm opposed to location," Din said.

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## Watsonville's proposed body art ordinance

The ordinance, which failed to be approved Tuesday, included:

- Banning registered sex offenders from obtaining a permit.
- Requiring facilities to be 300 feet from a liquor store or bar and 500 feet from a school, park, playground or other tattoo shop and banning them from high crime areas, including downtown.
- Obtaining a special-use permit approved by the city.
- Attending blood-borne pathogen exposure control training, providing Hepatitis B vaccination documentation and obtaining a body artist permit from the Watsonville Police Department prior to approval as well as pass a background check and fingerprinting.
- Undergoing annual inspection by county health department.

Neither the state nor the county has adopted operational standards for body art facilities. But the county has said it will be drafting a countywide ordinance and operational standards similar to Watsonville and expects those to be reviewed by the Board of Supervisors in September.

Santa Cruz allows tattoo shops in commercial zoning districts with an over-the-counter administrative permit. Capitola has prohibited them since 1962. The county requires a minimum of a public notice and at most a public hearing and approval by the Planning Department.

SOURCE: City of Watsonville