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**TO:** City Planning Commission

**FROM:** Eric Fazzini, Staff

**RE:** Proposed text amendment to amend Chapter 50 of the 2019 Detroit City Code, Zoning, Zoning Ordinance by adding smoking lounges, including hookah lounges and cigar bars, and tobacco stores as specific land uses with spacing regulations, specific use standards, and off-street parking requirements. **(STATUS REPORT)**

**DATE:** July 20, 2022

On July 7, 2022, the City Planning Commission (CPC) held an initial public hearing on the subject text amendment request. Please see item 3. in this report for a summary of revisions to the proposed text amendment that have been made based on feedback from the July 7 public hearing.

**1. BACKGROUND (from July 7 CPC Report)**

***Council Member Scott Benson Request***

Upon receiving numerous complaints from residents and inquiries from members of the substance abuse prevention community, Council Member Scott Benson requested that CPC staff begin the process of preparing a Zoning Ordinance (ZO) text amendment that specifically identifies hookah and vape shops/lounges as a use. It was initially requested that this use be studied for inclusion in the B3 district, or a more intense district, as a conditional use as the ZO does not currently specifically address smoking-related uses such as hookah lounges or vape/tobacco stores. There is a general concern with hookah lounges that they function less as a smoking lounge for patrons, like a cigar bar functions, and have more characteristics of a night club or an unauthorized after-hours establishment or “blind pig” where illegal alcohol consumption and other activities occur. Additionally, an increase in traffic, noise, loitering, and violence have been expressed as general concerns.

***Zoning Ordinance***

Currently, the ZO does not specifically address tobacco-related uses such as hookah lounges or vape/tobacco stores as a specific land use. Based on a May 13 memo provided by the Law Department to City Council, it appears that the Buildings, Safety Engineering, and Environmental Department (BSEED) has been administering hookah lounges under the existing specific land use of “stores of a generally recognized retail nature,” which are permitted as a by-right retail, service, and commercial use in the following zoning districts when the use does not include a drive-up or drive-through facility: B2 through B6, M1 through M4, PCA, TM, SD1, SD2, and SD4. Given the

specificity in the way the ZO treats many other uses (there are approximately 300 specific land uses

in the ZO), especially those that may be problematic, CPC staff believes it would be appropriate to amend the ZO to address hookah lounges or vape/tobacco stores as a specific land use, instead of continuing to administer these uses under general retail.

***Smoking Lounge Ordinance and Business Licensing – MDHHS***

In our research regarding the proposed ZO text amendment, we have been made aware of concerns of the Michigan Department of Health and Human Services (MDHHS) that the City of Detroit does not currently require a business license for hookah lounges. This is something that several Metro Detroit communities that have had problems with hookah lounges have required through the adoption of smoking lounge ordinances. Therefore, in addition to the proposed ZO text amendment, CPC staff will also be providing future information on a potential smoking lounge ordinance and business license requirement that would supplement the proposed ZO text amendment.

**2. SUMMARY OF RESEARCH (from July 7 CPC Report)**

***Census North American Industry Classification System***

Unfortunately, CPC staff could not locate any national or state resources on zoning best practices for regulating hookah and vape shops/lounges that we could consider or model. This may be due to the relatively small-scale or newness of these uses. However, the U.S. Census Bureau provides a North American Industry Classification System (NAICS) that is a valuable standardized resource for considering uses and how they may relate to local zoning controls. The NAICS structure indicated in the below tables has been incorporated into the proposed ZO text amendment, specifically for use categories; we note that the NAICS does not have any index entry for cigar bars/lounges. The NAICS classifies hookah lounges and vape shops as two separate uses:

<b>2022 NAICS</b>	
<b>713990</b>	<b>All Other Amusement and Recreation Industries</b>
<a href="#"><u>link</u></a>	This industry comprises establishments (except amusement parks and arcades; gambling industries; golf courses and country clubs; skiing facilities; marinas; fitness and recreational sports centers; and bowling centers) primarily engaged in providing recreational and amusement services.
	<b>Corresponding Index Entry</b>
	Hookah lounges (except primarily selling food and beverages)

<b>459991</b>	<b>Tobacco, Electronic Cigarette, and Other Smoking Supplies Retailers</b>
<a href="#"><u>link</u></a>	This U.S. industry comprises establishments primarily engaged in retailing cigarettes, electronic cigarettes, cigars, tobacco, pipes, and other smokers’ supplies.
	<b>Corresponding Index Entries</b>
	Vape shops, Cigar stores, Cigarette stands, Electronic cigarette stores, Smokers’ supply stores, Tobacco stores

***Cigar Bars vs. Tobacco Specialty Retail Stores – P.A. No. 188 of 2009***

In Michigan under Public Act No. 188 of 2009, known as Michigan’s Smoke-Free Indoor Air Law, there are only a few types of establishments or locations where tobacco smoking is legal:

1. Cigar Bars that have a State approved exemption\*
2. Tobacco Specialty Retail Stores (hookah lounges) that have a State approved exemption\*
3. The gaming floors only of the three Detroit casinos

4. Any tribal-owned establishment
5. Personal residences (unless HUD Housing or prohibited by landlord)

\*It is important to note that “exemption” is not a newly created status for establishments or applicants but refers to an establishment that was in existence prior to the Public Act No. 188 of 2009 effective date of May 1, 2010. Per the MDHHS, there is a maximum number of 300 exemptions that will ever occur within the State of Michigan: 100 for Cigar Bars and 200 for Tobacco Specialty Retail Stores. These exemptions may be purchased and located within any jurisdiction within the state. This maximum number of 200 Tobacco Specialty Retail Stores is important to note as without local restrictions, there is the potential from the state’s perspective for up to 200 Tobacco Specialty Retail Stores to be located within any jurisdiction, including Detroit.

From the above list of five, only Cigar Bars and Tobacco Specialty Retail Stores would be subject to the proposed text amendment given the concerns with hookah lounges. Under the Public Act, there are some key differences between Cigar Bars and Tobacco Specialty Retail Stores:

#### Cigar Bars

- Public Act No. 188 of 2009 does not require that an exempt Cigar Bar have either a food, liquor, or restaurant license. Rather, there is no specific mention in P.A. 188 that an exempt Cigar Bar cannot have a food, liquor, or restaurant license.
- MCL 333.12601 (1)(d) defines Cigar Bar as “an establishment or area within an establishment that is open to the public and is designated for the smoking of cigars, purchased on the premises or elsewhere.” Unlike exempt Tobacco Specialty Retail Stores, P.A. 188 does not specifically prohibit an exempt Cigar Bar from having a food, liquor, or restaurant license.

#### Tobacco Specialty Retail Stores (Includes Hookah)

- MCL 333.12601 (1)(u) defines Tobacco Specialty Retail Store as “an establishment in which the primary purpose is the retail sale of tobacco products and smoking paraphernalia, and in which the sale of other products is incidental. Tobacco Specialty Retail Store does not include a tobacco department or section of a larger commercial establishment or any establishment with any type of liquor, food, or restaurant license.” Food, liquor, and restaurant licenses are specifically prohibited.
- The owner of a Tobacco Specialty Retail Store may allow customers to bring prepacked or single-service style to-go food into the Tobacco Specialty Retail Store. Specifically, patrons are allowed to personally purchase food at a licensed food establishment that has a different address than the Tobacco Specialty Retail Store for personal consumption at the Tobacco Specialty Retail Store.

### ***Research Item 1. Existing Detroit Establishments – MDHHS***

The MDHHS has provided a list of establishments in Detroit that possess either a Cigar Bar or Tobacco Specialty Retail Store (hookah lounge) exemption to Public Act No. 188 of 2009. Cigar Bars and Tobacco Specialty Retail Stores provided in the MDHHS list of existing Detroit establishments are grouped by the MDHHS into three categories based on their annual exemption status:

1. Establishments that have had their State exemption approved for use in 2022 (Green)
2. Establishments that have not had their State exemption approved for use in 2022 and are in the process of completing build-outs for potential MDHHS approval, or the MDHHS has yet to review the establishment’s renewal affidavit (Yellow)

3. Establishments that have not had their State exemption approved for use in 2022 and the earliest they could possibly be approved is January 2023 (Red)

All establishments must submit for their exemption renewal on an annual basis no later than February 21 of each year. Establishments that have not had their State exemption approved for use in 2022 (2 and 3 above) are permitted to operate as a non-tobacco smoking cigar bar or tobacco specialty retail store with no tobacco smoking permitted until their exemption is approved for use.

<b>Summary of MDHHS List of Existing Detroit Establishments</b>				
	<b>TSRS (Hookah)</b>	<b>Cigar Bar</b>	<b>Zoning District</b>	<b>Council District</b>
<b>Exemption Not Approved for 2022</b>	7	3	B4 - 4 B2 - 3 B5 - 1 SD4 - 1 R1 - 1	D2 - 4 D6 - 2 D5 - 2 D4 - 1
<b>Exemption Approved for 2022</b>	1	3	B5 - 2 B4 - 1 R2 - 1	D5 - 3 D6 - 1
<b>Application/Renewal In Process for 2022</b>	3	11	B4 - 4 B2 - 3 B5 - 2 B3 - 2 B6 - 1 M4 - 1	D2 - 5 D6 - 3 D5 - 2 D4 - 2 D7 - 1 D3 - 1
<b>Hookah Lounge Totals (Cigar Excl.)</b>	10	N/A	<b>B2 - 5</b> <b>B4 - 4</b> <b>B5 - 1</b>	D2 - 5 D4 - 2 D7 - 1 D6 - 1 D5 - 1

CPC staff findings:

- Exemption Not Approved for 2022: Of these establishments, seven are hookah lounges (TSRS). All seven hookah lounges are zoned either B2, B4, or B5.
- Exemption Approved for 2022: Of these establishments, one is a hookah lounge zoned B4.
- Application/Renewal In Process for 2022: Of these establishments, three are hookah lounges zoned either B2 or B4.
- Hookah Lounge Totals: Of the 10 hookah lounges, five are zoned B2, four are zoned B4, and one is zoned B5. Only one of these lounges has an exemption approved for use in 2022 (B4).
- As indicated in Attachment 1, cigar bar exemptions are indicated for two sites with residential zoning (Detroit Golf Club and Abick’s Bar) and one with M4 industrial zoning (Bayview Yacht Club). Private clubs must adhere to the tobacco-smoking prohibition of P.A. No. 188 of 2009, or receive a State exemption.
- Establishments Not Listed.
  - Google Maps indicates over 20 “hookah lounges” within Detroit. Seven of the establishments indicated on Google Maps are included in the MDHHS’s list, with only one establishment having an exemption approved for 2022 (Take Out Hookah Lounge, 1400 Gratiot Avenue- B4).
  - Other establishments may not be included in MDHHS’s list as they are strictly a retail store that does not actually offer indoor smoking but may still loosely refer to

their business as a “hookah lounge”, and therefore would not be required to have an approved exemption. Or they may be operating illegally as a hookah lounge with indoor smoking without a State approved exemption to our knowledge (Lounge 31, 14404 Gratiot Avenue- B4).

- The proposed text amendment seeks to address this nuance that certain retail stores may loosely refer to their business as a “hookah lounge” without actually containing an MDHHS-regulated indoor smoking lounge through the proposed addition of multiple specific land uses that could be administered to address this nuance.

### ***Research Item 2. Model Metro Detroit Zoning Ordinance Requirements***

The MDHHS has also provided CPC staff with smoking lounge ordinances from nine Metro Detroit communities that they believe could be used as a model for Detroit. Of the nine Metro Detroit model smoking lounge ordinances provided by the MDHHS for guidance, five municipalities, Canton Township, Dearborn, Dearborn Heights, West Bloomfield Township, and Ypsilanti Township specifically address smoking lounges in their zoning ordinances. Below are CPC staff’s findings related to the five zoning ordinances reviewed for this use. These findings directly inform the structure of the proposed Detroit ZO text amendment.

CPC staff findings:

- **Definitions.** “Smoking Lounge” is the preferred term used for State approved smoking lounges (cigar bars or hookah lounges), this term also matches each community’s “smoking lounge ordinance” business license requirement. Using the same term between the ZO code chapter and business license requirement code chapter assists in administration of both requirements as it should be clear that both chapters apply to smoking lounges.
- **Districts Permitted.** There is not consistency between how and where the five model municipalities permit smoking lounges. Canton Township and Dearborn Heights permit smoking lounges as a by-right or conditional use in multiple zoning districts, while Dearborn, West Bloomfield Township, and Ypsilanti Township only permit smoking lounges as a conditional use in one intermediate zoning district (B-3 General Business/B-B Community).
- **Use Standards.** There is some consistency between how four of the five model municipalities permit smoking lounges as a conditional use. While Dearborn may appear to have the most comprehensive set of use standards, many of the requirements included in their ZO would likely be better suited in the business license requirement chapter as they are operational requirements that should be tied to the license, rather than a one-time review requirement that would be of interest to the CPC or other land use administrators.
- **Lastly,** there is consistency between the four municipalities in that setbacks are required for smoking lounges from certain low intensity uses and other smoking lounges, and affirmation that minimum parking is required in order to try to mitigate potential impacts on adjacent neighborhoods.

### ***Research Item 3. Model Business License Ordinance Requirements – MDHHS***

Below are CPC staff’s findings related to smoking lounge ordinances adopted by the same five municipalities that specifically address smoking lounges in their zoning ordinances. These regulations are contained in code chapters that are separate from each community’s zoning ordinance code chapter. CPC staff will be providing future information on a draft text amendment to the 2019 Detroit City Code that would constitute a new smoking lounge ordinance and business requirement for Detroit that would work alongside this proposed ZO text amendment, which, again, is something the MDHHS is strongly encouraging for permitting and enforcement purposes.

#### CPC staff findings:

- Three of the five municipalities provide a maximum number of smoking lounge licenses that may be issued. Dearborn's maximum is flexible at 15 total with additional permitted by City Council. A cap on the maximum number of smoking lounge licenses is something that could be considered for Detroit, though this has not been expressed as a desire to-date.
- All municipalities provide some restriction on hours of operation, generally being closed to the public between 1am/2am and 8am/10am daily. Employees are permitted on the site during non-public hours.
- Dearborn permits take-out only food to be brought into smoking lounges. This is the only municipality that specifically permits this in their smoking lounge ordinance.
- Four of the five municipalities have a similar mechanical ventilation requirement, which refers to ventilation being supplied and exhausted per the Michigan Mechanical Code, and prohibits recirculation and natural ventilation.
- Additional operational regulations are consistently required for signage that prohibits loitering, minors on the premises, and other functions. These functions are also consistently addressed as prohibited activities: minors, alcoholic liquor, nudity, and controlled substances.
- Constant visual or video monitoring is something that is consistently required.
- Provisions for exterior lighting and ensuring patrons do not park in adjacent or neighboring parking lots or residential areas is also something that could be considered, though this may be impossible to determine and enforce if vehicles parked in certain off-site areas are patrons of a smoking lounge, or not.
- Outdoor activities are consistently restricted in the five municipalities. Three of the five prohibit any outdoor activities and require all doors and windows to remain closed. Dearborn and Dearborn Heights permit some outdoor activities, such as smoking in outdoor patio areas. In any case, outdoor activities within any parking areas are prohibited.
- Penalties and enforcement are consistent as a misdemeanor with a maximum \$500 fine and/or maximum 90 days in jail. Model ordinance penalties will be reviewed for consistency with existing 2019 Detroit City Code penalties.

### **3. SUMMARY OF ORDINANCE REVISIONS FROM JULY 7 PUBLIC HEARING**

At the July 7 public hearing, Commissioners discussed several items related to the proposed text amendment. Additionally, two comments were received from public speakers. The following is a general summary of revisions that have occurred to the proposed text amendment based on CPC staff's presentation and discussion, Commissioner discussion, and public comment received:

#### ***Proposed Definitions***

As discussed during the July 7 meeting, there is the desire to regulate cigar bars/lounges separately from hookah lounges, which were previously grouped together under the term "smoking lounge," which was due to how model Metro Detroit communities regulate these uses. The revised proposed text amendment would provide the following definitions that would also be added to the ZO as specific land use terms, with the exception of the proposed definition of hookah that is only provided in order to inform the definition of hookah lounge:

1. **Cigar lounge:** An establishment or area within an establishment that has a State issued smoking ban exemption certificate, that is open to the public, and that allows smoking on the premises of cigars purchased on the premises or elsewhere.
2. **Hookah:** A type of water pipe used to smoke tobacco or other legal non-tobacco

substances, in which air is heated by charcoal or burning embers and passed through the tobacco or other substance to form smoke, and the smoke then passes through a water-filled chamber where it is filtered and cooled, and then inhaled through a tube and mouthpiece by one or more users during a smoking session. At the end of the end of a smoking session, the dirty water is discarded and the water chamber is refilled for the next session. The term “hookah” may also be referred to as a water pipe, narghile, argileh, goza, or hubble bubble.

3. **Hookah lounge:** An establishment that has a State issued smoking ban exemption certificate and that allows the on-premises use of Hookah as defined by this section. Hookah lounge includes but is not limited to establishments variously known as hookah bars, hookah parlors, and hookah cafes. Hookah lounge does not include any establishment with any type of liquor, food, or restaurant license.
4. **Tobacco retail store:** A retail establishment that does not have a State issued smoking ban exemption certificate and the primary purpose is the retail sale of tobacco products as defined by the Tobacco Products Tax Act, MCL 205.422; nontobacco smoking products as defined in Section TBD of the 2019 Detroit City Code; and smoking paraphernalia. Tobacco retail store does not include a larger commercial establishment that contains a tobacco department or section, or any establishment with any type of liquor, food, or restaurant license.
5. **Tobacco specialty retail store:** An establishment that has a State issued smoking ban exemption certificate and the primary purpose is the retail sale of tobacco products as defined by the Tobacco Products Tax Act, MCL 205.422; non-tobacco smoking products as defined in Section TBD of the 2019 Detroit City Code; and smoking paraphernalia, and that allows incidental smoking on the premises of tobacco and non-tobacco products, which may include the on-premises use of Hookah as defined by this article. Tobacco specialty retail store does not include a tobacco department or section of a larger commercial establishment or any establishment with any type of liquor, food, or restaurant license.

### Zoning Districts

Highlighted below is a summary of where each of the now four proposed specific land uses defined above would be permissible. Text indicated in red is a revision based on the July 7 meeting.

Use Category	Specific Land Use	Residential						Business						Industrial						Special and Overlay										Standards General (Art. XII, Div. 2) Specific (Art. XII, Div. 3)													
		R1	R2	R3	R4	R5	R6	B1	B2	B3	B4	B5	B6	M1	M2	M3	M4	M5	P1	P2	P3	P4	P5	PC	CA	PM	TR	W1	W2		SD1	SD2	SD3	SD4	SD5								
Recreation/entertainment, indoor	Arcade							C	C	C	C			R	R	R	R				L						R	R	R								C					CU; P; SPC; Sections 50-12-213, 50-12-515	
	Cabaret								C	C/R	C/R	C/R			C	C	C	C				L							C/R	C								C	C				RU; SPC; Section 50-12-218
	Casinos and casino complexes																						L														R						
	Cigar lounge									R	R	R	R	R										L							R	R	R										
	Firearms target practice range, indoor									C	C	C	C			C	C	C	C	C					L														P; Section 50-12-224				
	Hookah lounge									C	C	C	C												L						C	C	C					SPC; Section 50-12-324					
	Pool hall									C	C	R	R			R	R	R	R				L									C	C					CU; P; SPC; Section 50-12-305					
	Recreation, indoor commercial and health club									R	R	R	R	R		R	R	R	R				L									R	R	R				Section 50-12-308					
Theater and concert café, excluding drive-in theaters									R	C	R				R	R	R	R				L								C/R	R					Section 50-12-317							



Use Category	Specific Land Use	Residential						Business					Industrial					Special and Overlay										Standards General (Art. XII, Div. 2) Specific (Art. XII, Div. 3)												
		R1	R2	R3	R4	R5	R6	B1	B2	B3	B4	B5	B6	M1	M2	M3	M4	M5	P1	P2	P3	P4	P5	P6	P7	P8	P9		P10	P11	P12	P13	P14	P15	P16	P17	P18	P19	P20	
	Pawnshop											C				C	C	C	C																					P; RU; SPC; GRT; Section 50-12-302
	Pet shop										R	R	R	R	R	R	R	R	R	R																				Section 50-12-303
	Precious metal and gem dealers												C	C	C	R	R	R	R																				SPC; Section 50-12-304	
	Produce or food markets, wholesale															R	R	R	R	R																				
	Specially designated distributor's (SDD) or specially designated merchant's (SDM) establishment												C	C	C	C	C	C	C	C																			CU; P; SPC; Section 50-12-314	
Retail sales and service; sales-oriented (cont'd)	Storage or killing of poultry or small game for direct, retail sale on the premises or for wholesale trade															R			R	R	R	R	R	L														Section 50-12-315		
	<b>Tobacco Retail Store</b>																																							<b>SPC; Section 50-12-324</b>
	<b>Tobacco Specialty Retail Store</b>																																							<b>SPC; Section 50-12-324</b>
	Trailer coaches or boat sale or rental, open air display															C			R	R	R	R	R	L															GRT	
	Trailers, utility—sales, rental, or service; moving truck/trailer rental lots																		C			R	R	R	R	R	L													
	Used goods dealer																		C	C	C	R	R	R	R	L													SPC; Section 50-12-320	
	All other																																							

**Use Regulations – Required Spacing**

Revised proposed regulations regarding spacing of retail, service, and commercial uses would be as follows (full list of use types not included). Cigar lounges would not be subject to spacing requirements. Text indicated in red is a revision based on the July 7 meeting.

Use Type	Minimum Distance from Same Use Type (Existing or Approved)	Minimum Distance from Other Use Types (Existing or Approved)	Comment
<u>Hookah lounge</u>	<u>2,000 feet</u>	- Advertisement-sensitive property as defined in Section 4-1-1 of this Code: 1,000 feet;	Section 50-12-324
<u>Tobacco retail store</u>	<u>1,000 feet</u>	- Advertisement-sensitive property as defined in Section 4-1-1 of this Code: 1,000 feet;	Section 50-12-324
<u>Tobacco specialty retail store</u>	<u>2,000 feet</u>	- Advertisement-sensitive property as defined in Section 4-1-1 of this Code: 1,000 feet;	Section 50-12-324

Section 4-1-1. Definitions cited in the above table

Advertisement-sensitive property means a premises that is occupied by or used as any of the following:

1. A child-care home and center, which has the meaning as likewise defined in Section 50-16-152 of this Code;
2. A child-caring institution, which has the meaning as likewise defined in Section 50-16-152

of this Code;

3. A juvenile detention or correctional facility, which means a county facility or institution operated as an agency of the county or the juvenile division of the probate court, or a state institution or agency described in the Michigan Youth Rehabilitation Services Act, being MCL 803.301 et seq., to which a minor has been committed or in which a minor is detained;
4. A library, which means any designated public depository of books, periodicals, public and/or historical records, or other reference materials within the City that is created pursuant to Article VIII, Section 9, of the 1963 Michigan Constitution, and is operated pursuant to Section 12 of the Michigan District Library Establishment Act, being MCL 397.182;
5. A park, which means land that is improved or intended to be improved for active or passive recreational uses, or is preserved as open space, and is under the jurisdiction and control of the City, Wayne County, or the State of Michigan;
6. A playfield, which means land that is designed for major field sports, such as baseball, football, soccer, tennis, or softball, and which requires more area than is available on a playground, is so designated, and is under the jurisdiction and control of the City, Wayne County, or the State of Michigan;
7. A playground, which means land that is designed and maintained primarily for the recreational use of children aged up to 14 years, and is under the jurisdiction and control of the City, Wayne County, or the State of Michigan;
8. A playlot, which means land that is designed and maintained primarily for the recreational use of small children aged up to eight years and is under the jurisdiction and control of the City, Wayne County, or the State of Michigan;
9. A recreation center, which means a facility that is created primarily to benefit minors through the use of organized educational, social, or recreational activities and is under the jurisdiction and control of the City, Wayne County, or the State of Michigan;
10. A school, which means the buildings, grounds, and other facilities of any public, charter, parochial, or private educational institution that has as its primary purpose the education and instruction of children at the elementary, middle, junior, and senior high school levels; and
11. A youth activity center, which has the meaning as likewise defined in Section 50-16-462 of this Code.

### ***Specific Use Standards***

Hookah lounges and both types of retail stores would be regulated as follows. There would be no specific use standards for cigar lounges. Text indicated in red is a revision based on the July 7 meeting. Items not addressed below, such as restrictions on hours of operations, minimum age requirements, and allowing take-out food within hookah lounges are not included below as these operational requirements are better suited within the smoking lounge ordinance/business license requirement that will coincide with this ZO text amendment.

Sec. 50-12-324. - Hookah lounges; tobacco retail stores; or tobacco specialty retail stores.

Hookah lounges, tobacco retail stores, and tobacco specialty retail stores shall be subject to the spacing provisions of Section 50-12-131 of this Code and to the following requirements:

1. Points of vehicular ingress and egress shall be determined by the Department of Public Works Traffic Engineering Division;
2. Outdoor activities shall be prohibited;
3. Hookah lounges and tobacco specialty retail stores shall be licensed in accordance with Chapter TBD of this Code, *Smoking Lounges*;
4. Hookah lounges and tobacco specialty retail stores shall be physically separated from any areas of the same or adjacent establishments in which smoking is prohibited by state law

and where smoke does not infiltrate into those nonsmoking areas. “Physically separated” shall mean an area that is enclosed on all sides by any combination of solid windows, walls, or doors that extend from the floor to the ceiling;

**Development Standards – Cigar Lounges**

Off-street parking regulations (minimum parking requirements) would be as follows (retail stores not included as previously discussed):

Use Category	Specific Land Use	Off-Street Parking Spaces Required, Minimum. (References are to square feet of gross floor area unless otherwise indicated.)	Maximum Distance (feet)
Recreation and entertainment, indoor	Arcade	1 per 100 square feet	100
	Cabaret	3 (minimum) + 1 per 100 square feet for each 100 square feet in excess of 1,000	100
	Casino or casino complex	See provisions for SD5 District in Section 50-11-337	300
	<u>Cigar lounge</u>	<u>3 (minimum) + 1 per 100 square feet for each 100 square feet in excess of 1,000</u>	<u>100</u>
	Firearms target practice range, indoor	1 per 2 employees + 1 per target lane	100
	<u>Hookah lounge</u>	<u>1 per 100 square feet</u>	<u>100</u>
	Pool hall	1 per 250 square feet or 1 per pool table, whichever is greater	100
	Recreation, indoor commercial and health club	Schedule C, where 1 space per 200 square feet of gross floor area is deemed by the Planning and Development Department to be inappropriate	Where Schedule C does not apply, 100; except where developed under the "school building adaptive reuses" provision as defined in Section 50-16-381; same lot
	Theater and concert café	1 per 4 seats	500
	All other	1 per 100 square feet	100

**4. PRELIMINARY CONCLUSION/ADDITIONAL SECTIONS TO AMEND**

Given the specificity in the way the ZO treats many uses, especially those that may be problematic, CPC staff believes it would be appropriate to amend the ZO to address hookah lounges as a specific land use, instead of continuing to administer as general retail. Staff will provide a recommendation incorporating the results of the public hearing at a future meeting. In addition to the proposed ZO text amendment, CPC or city staff will also be providing future information on a potential smoking lounge ordinance and business license requirement that would supplement the proposed ZO text amendment. This can also be considered at a future CPC and/or Council meeting/public hearing.

Prior to CPC taking action on the proposed text amendment, CPC staff respectfully requests additional time to circulate the revised ordinance with other city departments, including Law and BSEED, as well as the MDHHS in order to allow time for any additional revisions or tweaks that should be made prior to CPC taking action on the proposed text amendment. We hope to complete this circulation with other departments within the next two weeks in order for the proposed text amendment to be ready for action no later than early September if desired.

Attachments: Draft Hookah Text Amendment  
Ordinance 07/18/2022 (Revised)

cc: Antoine Bryant, Director, PDD  
Karen Gage, PDD  
Greg Moots, PDD  
Scott Withington, Health Dept.  
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