



Stephanie Rawlings-Blake
Mayor

PLANNING COMMISSION

Wilbur E. "Bill" Cunningham, Chairman

STAFF REPORT



Thomas J. Stosur
Director

March 10, 2016

REQUEST: City Council Bill #16-0616/ Hookah Lounges

For the purpose of authorizing hookah lounges as conditional uses (ordinance required) in certain zoning districts; defining certain terms; specifying certain considerations for these uses; excepting hookah lounges from the definition of an after-hours establishment; excepting hookah lounges from the City's indoor smoking restrictions, subject to certain conditions; repealing two other, preempted and no longer valid, exceptions to the City's indoor smoking restrictions; excepting properly zoned hookah lounges from having to obtain a late-night operations license; and generally relating to the zoning and operation of hookah lounges.

RECOMMENDATION: Disapproval

STAFF: Eric Tiso

PETITIONER: Councilman Welch

OWNER: Various hookah lounge and other business owners across Baltimore City

HISTORY

There are no previous legislative or Planning Commission actions regarding this category of land use.

ANALYSIS

This bill will create a new land use category of hookah lounges, which does not currently exist in the Zoning Code, or elsewhere in City Code. The effects of the bill include the following:

Zoning Code Amendments:

- A new definition for hookah lounges is added as a new §1-150.1, which allows them to remain open until 4 am. The definition requires at least 60% of sales to come from non-cigarette smoking products, that the sale of other products is incidental, that there is a ventilation system, and that minors may not be present.
- §1-107 *After-hours establishment* is amended to exclude hookah lounges from being considered an after-hours establishment, which are generally those establishments open after 2 am, with limited exceptions such as restaurants, banquet halls, dance halls, private clubs or similar places. This would mean that hookah lounges would be the only category of land use to be given this privilege explicitly in its definition. After-hours establishments require a

conditional use approval from the Board of Municipal and Zoning Appeals (BMZA), under which specific conditions may be applied.

- The newly defined hookah lounges is added as a conditional use by Ordinance in the B-1 commercial district, which cascades down through all of the other commercial districts from B-1 to B-5. Hookah lounges are likewise added as a conditional use by Ordinance in the M-1 industrial district, which cascades down from M-1 to M-3.
- A new §14-350 is added to provide specific additional concerns that the Council must consider when hookah lounges are proposed and reviewed.
- While a new land use is created as part of this bill, no specific parking requirements are imposed. That would mean that the parking required in the catch-all category of §10-405.17.ii “Other business and commercial establishments — not otherwise provided for in this section” would apply.

City Code Amendments:

- Under the Health Code, Article 12, Subtitle 1 *Indoor Smoking*, an existing exception for “Private clubs, smoking bars, tobacconists” is amended for clarity, and adds hookah lounges as an exception to the general prohibition on indoor smoking. Among the amendments to the existing code includes a reduction in the amount of revenue required to be from non-cigarette tobacco products from 75% down to 60%.
- Under Baltimore City Code’s Article 15 *Licensing and Regulation*, Subtitle 9 *Late-Night Commercial Operations*, licensing is required for affected businesses in residential, office-residential, and B-1 or B-2 commercial districts. An exception is added for hookah lounges as defined in the Zoning Code (*i.e.* to 4 am) so that they will not need an after-hours establishment license.

Impacts: Planning staff recognizes that the proposed use category is one that is not adequately covered under another existing use within the Zoning Code. However, it is our understanding that the potential impacts to health and life safety that currently exist in those few places where hookah products are consumed present a considerable danger to the public. The burning elements in hookah pipes that are charcoal based have created unacceptably high levels of carbon monoxide that can affect nearby areas, in addition to an increased risk of fire. Carbon monoxide (CO) has been called a “silent killer” due to its being colorless and odorless, which requires a mechanical detector for safety. Considering that these establishments can exist immediately adjacent to dwelling units, either in the same building, or in an adjacent building, this creates a potentially unsafe condition.

Under CCB #16-0616, hookah lounges will be created with the additional benefit of not requiring licensure as an after-hours establishment, which provides for public input at the time of license renewal for poor performance. Considering that this form of business has the potential to impact surrounding residential areas in ways similar to a tavern (which are not allowed in B-1 neighborhood commercial districts as hookah lounges would be), this bill would allow for an incompatible use that doesn’t have the additional protections for the public afforded by the after-hours establishment license process. In terms of risk of fire and damage to personal health, allowing the establishment of hookah lounges, without additional safeguards, poses unacceptable dangers to nearby residential areas and commercial establishments.

In addition, this bill also proposes a reduction in the requirement of non-cigarette tobacco products related products from 75% down to 60%. This will apply not only to the proposed hookah lounges, but also to all retail tobacco establishments that are exempted from the indoor smoking ban.

For all of the reasons listed above, Planning staff recommends disapproval of this bill, and encourages further discussion and study by the Housing, Health and Fire Departments.

Community Notification: This hearing was advertised by the GovDelivery e-mail service, to over 500 subscribers interested in items of potential City-wide impact.



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