

PUBLIC HEARING

Zoning Text Amendment

To amend Chapter 50 of the 2019 Detroit City Code to add smoking lounge, cigar; smoking lounge, other; and tobacco retail store as defined specific land uses permissible in certain zoning districts subject to spacing regulations, specific use standards, off-street parking regulations, and nonconforming use provisions.

Background

- Initiated by Council Member Scott Benson
- Zoning to identify hookah and vape shops or lounges as specific land uses for regulation
- **Specific concerns with hookah lounges** – characteristics, external effects, compliance
- Accounts of criminal activity related to hookah lounges in Detroit and elsewhere
- **CPC recommended approval last Sept.**
- Proposal does not impact marijuana uses

NEWS



Police step up patrols outside Detroit hookah cafe after multiple noise complaints, crimes reported



Detroit police are stepping u being broken at the business

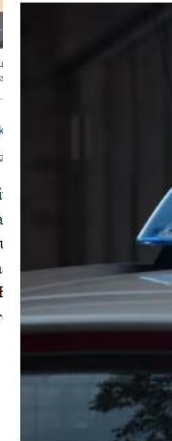
By: Simon Shayk

Posted at 5:27 PM, Oct 26, 2

(WXYZ) — Detroi Detroit hookah ca both inside and o months, they've h outside TakeOut I to making sure pr

8 stabbed and hospitalized after fight breaks out at Detroit hookah lounge

No fatal injuries reported



None of the injuries from the fig

DETROIT – Eight peopl hookah lounge and co

Police added that the l at around 4:41 a.m. or

None of the injuries w although no one invol

Man, woman hospitalized after shots fired outside Detroit hookah lounge, police say

27-year-old man, 21-year-old woman stable at hospital, officials say



The scene of an April 18, 2022, shooting on Strathmoor Street in Detroit. (WDIV)

DETROIT – A man and a woman were taken to the hospital overnight after someone fired shots at them from a car while they were leaving a hookah lounge in **Detroit**, police said.

The 27-year-old man and 21-year-old woman were leaving the hookah lounge around 2:50 a.m. Monday (April 18) in the 16800 block of Strathmoor Street on **Detroit's west side**, according to authorities.

MI's Smoke-Free Indoor Air Law

P.A. No. 188 of 2009

- **Where tobacco smoking remains legal:**
 1. Cigar Bars with a State exemption
 2. Tobacco Specialty Retail Stores (includes hookah) with a State exemption
 3. Gaming floors of 3 Detroit casinos
 4. Any tribal-owned establishment
 5. Personal residences (unless HUD/landlord prohibits)

- **Text amendment impacts only 1. and 2.**



MI's Smoke-Free Indoor Air Law

State of MI Smoking Ban Exemption Certificate Required

Refers to an est. that was in existence prior to the P.A. effective date of May 1, 2010

Cigar Bars

- MCL defines as “an est. or area within an est. that is open to the public and is designated for the smoking of cigars purchased on the premises or elsewhere”
- P.A. does not specifically prohibit from having a food, liquor, or restaurant license

Tobacco Specialty Retail Stores (Hookah)

- MCL defines as “an est. in which the primary purpose is the retail sale of tobacco products and smoking paraphernalia...”
- Food, liquor, and restaurant licenses are specifically prohibited
- To-go food from licensed food est. with a different address is permitted

Existing Detroit Est. – MDHHS

MDHHS Approval Status

- MDHHS list of Detroit est. that possess either a Cigar Bar or Tobacco Specialty Retail Store (hookah) exemption to P.A. 188
- MDHHS groups into 3 status categories:
 1. Approved for use in 2022
 2. In-process for potential approval (build-out/renewal)
 3. Not approved for use in 2022 (earliest could be approved is January 2023)

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

Existing Detroit Est. – CPC Staff Findings

MDHHS List Findings

- 10 hookah lounges listed: 5 are zoned B2, 4 are zoned B4, and 1 is zoned B5
- Only one hookah lounge in Detroit has an exemption approved for use in 2022 (B4)
- Cigar bar exemptions are indicated for 2 sites with residential zoning (Detroit Golf Club and Abick’s Bar), and 1 with M4 zoning (Bayview Yacht Club)
- Private (golf/yacht) clubs are required to obtain a State exemption

Est. Not Listed by MDHHS

- Google Maps indicates over 20 “hookah lounges” within Detroit, only 7 of which are included in the MDHHS list
- Some 13+ est. may not be included in the MDHHS list as they are strictly a retail store (no indoor smoking) but may refer to their business as a “hookah lounge/café”
- Other hookah lounges may be operating illegally with indoor smoking

Model Zoning Ordinances

Model Communities

- MDHHS has provided model smoking lounge ordinances from 9 communities
- Of the 9 Metro Detroit model smoking lounge ordinances provided by MDHHS, 5 municipalities specifically address in ZO's:
 1. Canton Township
 2. Dearborn
 3. Dearborn Heights
 4. West Bloomfield Township
 5. Ypsilanti Township

CPC Staff Findings

- Definition. “Smoking lounge” is the preferred term used for State approved lounges, which matches each municipalities “smoking lounge ordinance” for business licensing
- Districts Permitted. There is not consistency with what districts smoking lounges are permitted. 3 permit as Conditional in one intermediate zoning district (such as B3)
- Use Standards. There is consistency in that 4 municipalities require setbacks from certain low intensity uses and other lounges

Proposed Text Amendment – Definitions

Four definitions would be added to inform zoning administration:

1. Smoking lounge, cigar

“Cigar bar” as defined by the Michigan Smoke-Free Indoor Air Law (2009)

2. Smoking lounge, other (incl. hookah)

“Tobacco specialty retail store” as defined by the Michigan Smoke-Free Indoor Air Law (2009)

Designated for on-premises smoking, including use of hookah

3. Tobacco retail store (carry-out)

Retail sale of tobacco products and smoking paraphernalia

Not designated for on-premises smoking

4. Hookah (informs SL, other)

Type of water pipe with heated air passed through substances

Also referred to as water pipe, narghile, argileh, goza, hubble bubble

Proposed – Zoning Districts

Zoning district permissibility:

Recreation/entertainment, indoor

1. Smoking lounge, cigar

By-right: B2 – B6, PCA, MKT, SD1 – SD4

2. Smoking lounge, other (incl. hookah)

Conditional: B3 – B6, PCA, SD1 – SD4

Minimum spacing required

Specific use standards

Retail sales and service, sales-oriented

3. Tobacco retail store (carry-out)

Conditional: B3 and B4, PCA, SD1 – SD4

By-right: B5 and B6

Proposed Minimum Spacing

Smoking lounge, cigar

- 2,000 ft. from existing same use
- 1,000 ft. from “Advertisement-sensitive property”

Tobacco retail store

- 1,000 ft. from Advertisement-sensitive property

Advertisement-sensitive property

1. Child-care home and center
2. Child-caring institution
3. Juvenile detention or correctional facility (county facility/institution or a state institution/agency)
4. Public library
5. Park: city, county, or state
6. Playfield (major field sports) : city, county, or state
7. Playground (up to age 14): city, county, or state
8. Playlot (up to age 8): city, county, or state
9. Recreation Center: city, county, or state
10. School K-12: public, charter, parochial, or private
11. Youth activity center

Proposed Standards

Specific Use Standards

Smoking lounges, other and Tobacco stores:

1. Driveways determined by DPW
2. Outdoor activities prohibited
3. Proof of purchase/possession State smoking ban exemption
4. Required to obtain and maintain certificate
5. Required to be physically separated from non-smoking areas

Development Standards

- Smoking lounges, other permitted only as a principal use
- Smoking Lounge Required Parking:
 - 3 spaces + 1 per 100 sq. ft. for each 100 sq. ft. in excess of 1,000
- Nonconforming use change prohibition