

Lauren Hood, MCD
Chairperson
Donovan Smith
Vice Chair/Secretary

Marcell R. Todd, Jr.
Director

City of Detroit
CITY PLANNING COMMISSION
208 Coleman A. Young Municipal Center
Detroit, Michigan 48226
Phone: (313) 224-6225 Fax: (313) 224-4336
e-mail: cpc@detroitmi.gov

Kenneth R. Daniels
David Esparza, AIA, LEED
Ritchie Harrison
Gwen Lewis
Melanie Markowicz
Frederick E. Russell, Jr.
Rachel M. Udabe

May 12, 2023

HONORABLE CITY COUNCIL

RE: Zoning Ordinance text amendment, 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. **(RECOMMEND APPROVAL)**

BACKGROUND

Initial 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 prepare 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 including smoking lounges where tobacco products (includes hookah tobacco) may be consumed on-site or tobacco stores where products may be purchased for consumption elsewhere.

There is a general concern with hookah lounges that they function less as a casual smoking lounge for patrons, like a cigar bar/lounge, but have more intense characteristics and external effects of a night club or an unauthorized after-hours establishment, such as a “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. These issues are not unique to Detroit as other cities such as Farmington Hills and Cincinnati have dealt with similar criminal activity related to hookah lounges. Below are recent news reports of criminal activity and hookah lounges within Detroit.

- Wimbley, R. and Ainsworth, A. (2022, October 10). *2 Detroit business shut down after murder, non-fatal shooting leads to investigations*. FOX2. [link](#)
- Hutchinson, D. (2022, April 18). *Man, woman hospitalized after shots fired outside Detroit hookah lounge, police say*. WDIV. [link](#)
- Shaykhet, S. (2021, October 26). *Police step up patrols outside Detroit hookah café after multiple noise complaints, crimes reported*. WXYZ. [link](#)
- Dado, N. (2021, March 21). *8 stabbed and hospitalized after fight breaks out at Detroit hookah*

lounge. WDIV. [link](#)

Zoning Ordinance

Currently, the ZO does not specifically address tobacco-related uses such as hookah lounges or vape/tobacco stores as specific land uses. Based on a May 13, 2022, memo provided by the Law Department to City Council, it appears that the Buildings, Safety Engineering, and Environmental Department (BSEED) has administered 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 have problematic external effects, CPC staff and Commissioners agree that it would be appropriate to amend the ZO to address hookah lounges and vape/tobacco stores as specific land uses, instead of administering these uses under general retail.

Smoking Lounge Ordinance and Business Licensing – MDHHS

In staff’s research regarding the proposed 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, including Farmington Hills, that have had problems with hookah lounges have required through the adoption of smoking lounge ordinances. Therefore, in addition to the proposed amendment, CPC staff has been coordinating with the Law Department and Health Department towards drafting a smoking lounge ordinance and business license requirement for future consideration by City Council that would supplement this proposed zoning amendment.

SUMMARY OF RESEARCH

Census North American Industry Classification System

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 land 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 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:

2022 NAICS	
713990	All Other Amusement and Recreation Industries
link	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.
	Corresponding Index Entry
	Hookah lounges (except primarily selling food and beverages)
459991	Tobacco, Electronic Cigarette, and Other Smoking Supplies Retailers

<u>link</u>	This U.S. industry comprises establishments primarily engaged in retailing cigarettes, electronic cigarettes, cigars, tobacco, pipes, and other smokers' supplies.
	Corresponding Index Entries
	Vape shops, Cigar stores, Cigarette stands, Electronic cigarette stores, Smokers' supply stores, Tobacco stores

Cigar Bars vs. Tobacco Specialty Retail Stores (Hookah Lounges) – 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 is a limited number of establishments or locations where indoor 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 casino
4. Any tribal-owned establishment
5. Personal residences (unless HUD Housing or prohibited by landlord)

****Exemptions***

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, though that is extremely unlikely.

From the above list of five, only Cigar Bars and Tobacco Specialty Retail Stores (hookah lounges) would be subject to the proposed amendment given the concerns with hookah lounges. Under the Public Act, there are some key differences between Cigar Bars and Tobacco Specialty Retail Stores, especially when it comes to food, liquor, or restaurant licensing:

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.

Existing Detroit Establishments with Exemptions – 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 as of 2022. Staff is working to obtain information for 2023 that will be provided during presentation of this item. 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 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 did not had their state exemption approved for use in 2022 (2 and 3 above) were permitted to operate as a non-tobacco smoking cigar bar or tobacco specialty retail store with no tobacco smoking permitted until their exemption was approved for use.

Summary of MDHHS List of Existing Detroit Establishments				
	TSRS (Hookah)	Cigar Bar	Zoning District	Council District
Exemption Not Approved for 2022	7	3	B4 - 4 B2 - 3 B5 - 1 SD4 - 1 R1 - 1	D2 - 4 D6 - 2 D5 - 2 D4 - 1
Exemption Approved for 2022	1	3	B5 - 2 B4 - 1 R2 - 1	D5 - 3 D6 - 1
Application/Renewal In Process for 2022	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

Hookah Lounge Totals (Cigar Excl.)	10	N/A	B2 - 5 B4 - 4 B5 - 1	D2 - 5 D4 - 2 D7 - 1 D6 - 1 D5 - 1
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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 had an exemption approved for use in 2022 (B4).
- Cigar bar exemptions are indicated for two sites with residential zoning (Detroit Golf Club and Abick’s Bar, a nonconforming use) and one with M4 industrial zoning (Bayview Yacht Club). Private clubs must adhere to the tobacco-smoking prohibition of P.A. No. 188 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 (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 (14404 Gratiot Avenue- B4).
 - The proposed text amendment seeks to address this nuance that certain commercial establishments 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.

Model Metro Detroit Zoning 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 informed the structure of the proposed 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 both the zoning

code chapter and business license requirement code chapter assists in the administration of requirements as it should be clear that both sets of requirements 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 planning commission or other land use administrators.
- **Spacing and Parking.** There is consistency between four of the model 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 to try to mitigate potential impacts on adjacent neighborhoods.

Model Metro Detroit Business Licensing Requirements

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/codes. These regulations are contained in code chapters that are separate from each community's zoning code chapter. As previously stated, 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 or addresses 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 it may be

difficult or 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 can be reviewed for consistency with existing 2019 Detroit City Code penalties.

SUMMARY OF PROPOSED TEXT AMENDMENT

1. Proposed Zoning Definitions

As discussed during previous CPC meetings, there has been a clear desire to regulate cigar bars/lounges separately from hookah lounges given the noted external effects of hookah lounges. The first step in regulating any specific land use is to clearly define the use and related uses or terms to inform the administrative process. The proposed amendment defines cigar bars/lounges as “smoking lounge, cigar” and defines hookah lounges as “smoking lounge, other.” It is common in zoning for “other” to be added to a common land use term to capture uses that may be similar but are desired to be regulated differently when it comes to permissible zoning districts and use regulations. “Other” is also used in this instance to reflect that there are additional uses beyond hookah lounges that are regulated by the MDHHS under the Smoke-Free Indoor Air Law term of “Tobacco Specialty Retail Stores,” which includes but is not limited to hookah lounges.

The proposed amendment includes the following definitions that would be added to the ZO as specific land use terms, except for the proposed definition of “hookah” that is only provided to inform the definition of “smoking lounge, other”:

1. **Hookah.** A type of water pipe used to smoke tobacco or other legal non-tobacco smoking products or 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.
2. **Smoking lounge, cigar.** An establishment or area within an establishment that constitutes a “cigar bar” as defined by Section 12601 of the Michigan Smoke-Free Indoor Air Law, PA 188 of 2009, being MCL 333.12601. Smoking lounge, cigar, does not include smoking lounge, other, medical marijuana facilities, or adult-use marijuana establishments as defined by this article.
3. **Smoking lounge, other (hookah lounge).** A retail establishment that constitutes a “tobacco specialty retail store” as defined by Section 12601 of the Michigan Smoke-Free Indoor Air Law, PA 188 of 2009, being MCL 333.12601 and that is designated wholly or in part for the on-premises smoking of tobacco products or non-tobacco smoking products or substances, which may include the on-premise use of hookah as defined by this article. Smoking lounge, other, does not include tobacco retail store, smoking lounge, cigar, medical marijuana facilities, or adult-use marijuana establishments as defined by this article.
4. **Tobacco retail store (carry-out use).** A retail establishment in which the primary purpose is

the retail sale of “tobacco products” as defined by Section 12601 of the Michigan Smoke-Free Indoor Air Law, PA 188 of 2009, being MCL 333.12601, and that is not designated wholly or in part for the on-premises smoking of tobacco products or non-tobacco smoking products or substances. Tobacco retail store does not include smoking lounge, cigar, smoking lounge, other, medical marijuana facilities, or adult-use marijuana establishments, as defined by this article, a tobacco department or section of a larger commercial establishment, or any establishment with any type of liquor, food, or restaurant license.

2. Proposed Zoning District Permissibility

Highlighted below is a summary of where each of the three proposed specific land uses defined above would be permissible. Smoking lounge, other, (hookah lounges) would always be a conditional use in the districts indicated.

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	PCA	TMR	W1	MKT	S1		S2	S3	S4
Recreation/entertainment, indoor	Arcade								C	C	C	C		R	R	R	R	R		L		R	R	R				R		C		CU; P; SPC; Sections 50-12-213, 50-12-515
	Cabaret							C	C	C/R	C/R	C/R		C	C	C	C			L		C/R	C				C	C	C		RU; SPC; Section 50-12-218	
	Casinos and casino complexes																			L										R		
	Smoking lounge, cigar							R	R	R	R	R								L		R					R	R	R	R		
	Smoking lounge, other							C	C	C	C	C								L		C					C	C	C		SPC; Section 50-12-325	
	Firearms target practice range, indoor							C	C	C	C	C		C	C	C	C	C		L											P; Section 50-12-224	
	Pool hall							C	C	R	R	R		R	R	R	R	R		L		R	R				C	C			CU; P; SPC; Section 50-12-305	
	Recreation, indoor commercial and health club							R	R	R	R	R		R	R	R	R	R		L		R	R	R			C	R	R	R	Section 50-12-308	
Theater and concert café, excluding drive-in theaters							R	C	R				R	R	R	R			L		R	R				C	C/R	R		Section 50-12-317		

Tobacco Retail Stores

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	T	M	R		P	W	1	M	S	S	S	S	K	D
	Pawnshop									C			C	C	C	C			L							C										P; RU; SPC; GRT; Section 50-12-302		
	Pet shop							R	R	R	R	R	R	R	R	R			L							R				R	R					Section 50-12-303		
	Precious metal and gem dealers									C	C	C	R	R	R	R			L							C	C					C	C			SPC; Section 50-12-304		
	Produce or food markets, wholesale											R	R	R	R	R			L							R			R									
	Specially designated distributor's (SDD) or specially designated merchant's (SDM) establishment							C	C	C	C	C	C	C	C	C			L							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			L									R	/						Section 50-12-315			
	Tobacco retail store									C	C	R	R							L						C				C	C	C			SPC; Section 50-12-325			
	Trailer coaches or boat sale or rental, open air display									C		R	R	R	R	R			L							R									GRT			
	Trailers, utility—sales, rental, or service; moving truck/trailer rental lots									C		R	R	R	R	R			L							R												
	Used goods dealer									C	C	C	R	R	R	R			L							C	C			R	C	C			SPC; Section 50-12-320			
All other									C	C	C	C	C	C	C			L							C								C					

3. Proposed Use Regulations

Proposed regulations regarding spacing of retail, service, and commercial uses would be as follows (full list of use types not included). Smoking lounge, cigar, would not be subject to spacing requirements.

Use Type	Minimum Distance from Same Use Type (Existing or Approved)	Minimum Distance from Other Use Types (Existing or Approved)	Comment
Smoking lounge, other	2,000 feet	- Advertisement-sensitive property as defined in Section 4-1-1 of this Code: 1,000 feet;	Section 50-12-325
Tobacco retail store	N/A	- Advertisement-sensitive property as defined in Section 4-1-1 of this Code: 1,000 feet;	Section 50-12-325

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.

4. Proposed Specific Use Standards

Smoking lounge, other, (hookah lounges) and tobacco retail store would be regulated as follows. There would be no specific use standards for smoking lounge, cigar, given the noted difference in external effects. Items not addressed below, such as restrictions on hours of operations, minimum age requirements, and allowing take-out food are not included in this proposed zoning text amendment as these operational requirements are better suited within the smoking lounge ordinance/business license requirement that is recommended to immediately follow this proposed zoning text amendment. These standards apply in addition to district permissibility and spacing requirements and apply whether a use is permitted by-right or conditionally.

DIVISION 3. SPECIFIC USE STANDARDS

Subdivision E. Retail, Service, and Commercial Uses; Generally (Motor Vehicles—Youth Hostels/Hostels)

Sec. 50-12-325. Smoking lounges, other and tobacco retail stores.

Smoking lounges, other, and Tobacco retail stores shall be subject to the following:

- (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) Applicants for a zoning permit to establish a smoking lounge, other, shall provide proof of purchase, such as a purchase agreement or bill of sale, and possession of a State of Michigan smoking ban exemption prior to the issuance of such a permit by the Buildings, Safety Engineering, and Environmental Department.
- (4) Smoking lounges, other, shall obtain and maintain an approved notice of decision for a smoking ban exemption certificate as a condition of holding a zoning permit issued by the Buildings, Safety Engineering, and Environmental Department.
- (5) Smoking lounges, other, shall be physically separated from any areas of the same or adjacent establishments in which smoking is prohibited by State law, such that smoke cannot infiltrate into those nonsmoking areas. For purposes of his regulation, “physically separated” means an area that is enclosed on all sides by any combination of solid walls, windows, or doors that extend from the floor to the ceiling.

5. Proposed Development Standards

Off-street parking regulations (minimum parking requirements) would be as follows. No other new development standards are proposed.

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
	Smoking lounge, cigar or Smoking lounge, other	3 (minimum) + 1 per 100 square feet for each 100 square feet in excess of 1,000	100
	Firearms target practice range, indoor	1 per 2 employees + 1 per target lane	100
	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

SEPTEMBER 22 STAFF RECOMMENDATION TO CPC

If approved by City Council, the proposed amendments to the Zoning Ordinance would specifically regulate the three proposed specific land use terms, instead of continuing to administer these uses, specifically hookah (smoking) lounges as a general retail use. In addition to the proposed amendment, CPC staff and the Law Department will be providing future information on a potential smoking lounge ordinance and business license requirement that would supplement the proposed zoning text amendment, which would be considered at future meetings. Based on the above analysis and consistent with the approval criteria of Section 50-3-49 of the Zoning Ordinance, CPC staff recommends approval of the proposed text amendment

CPC RECOMMENDATION TO CITY COUNCIL

On September 22, 2022, the City Planning Commission voted to recommend approval of the proposed text amendment, as presented in the draft text amendment ordinance dated September 21, 2022. Additionally, on October 20, 2022, the City Planning Commission voted to add “smoking lounge, cigar” as a by-right use in the newly created MKT (Eastern Market) zoning district. The pending ordinance approved as to form will reflect both actions.

Respectfully submitted,
LAUREN HOOD, CHAIRPERSON



Marcell R. Todd, Jr., Director
Eric Fazzini, City Planner

Attachments: Ordinance Approved as to Form – TO BE PROVIDED
July 7 CPC Public Hearing Notice
Sept 22 CPC Text Amd Presentation

cc: Conrad L. Mallett, Corp. Counsel
Bruce Goldman, Law
Dan Arking, Law
Scott Withington, Health
David Bell, Director, BSEED
Raymond Scott, Deputy Director BSEED
Jayda Philson, BSEED
Antoine Bryant, Director, P&DD
Karen Gage, P&DD
Greg Moots, P&DD
James Ribbron, Director, BZA