



# BALTIMORE HOUSING

STEPHANIE RAWLINGS-BLAKE  
Mayor

PAUL T. GRAZIANO  
Executive Director, HABC  
Commissioner, HCD

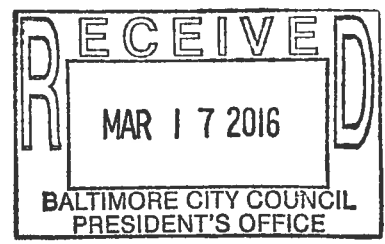
## MEMORANDUM

To: The Honorable President and Members of the Baltimore City Council  
c/o Natawna Austin, Executive Secretary

From: Paul T. Graziano, Commissioner

Date: March 14, 2016

Re: **City Council Bill #16-0616 – Hookah Lounges**



The Department of Housing and Community Development (HCD) has reviewed City Council Bill 16-0616 submitted for the purpose of authorizing hookah lounges as conditional uses 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.

If enacted, this bill would create a zoning use category to authorizing the Zoning Administrator to issue a use permit to operate a "hookah lounge" so long as the applicant met the requirements set forth in the bill. HCD has specific issues with the following components of the proposed legislation.

### After Hours Establishment

The bill seeks to exempt hookah lounges from requiring an after-hours approval by the BMZA. Banquet halls, dance halls, private clubs, lodges, or restaurants that provide live entertainment or dancing that stay open after 2:00 am are required to obtain after-hours approval. The operation of a hookah lounge is similar to that of a club or restaurant. Hookah lounges should not be exempt from this procedure and should be approved like any other late night "social" operation.

### Conditional Use by Ordinance

If the Council wishes to pass the legislation as a conditional use by ordinance, the legislation must clearly state that the Zoning Administrator has the authority to suspend or revoke any approved conditional use due to violations pursuant to the provision in the current Zoning Code found in Subtitle 5 of Chapter 14.

*opposes*



## Building, Fire and Life Safety Concerns

HCD understands that the operation of a hookah pipe involves the placement of a lit charcoal briquette on an electric burner to burn the tobacco like product. A lit charcoal briquette constitutes an “open burn” indoors which violates IFC 308.1.1 and 308.1.4. Specifically Section 308.1.4 requires a minimum distance of 10 feet between the “burn” and any combustible surface, i.e. wood, upholstery, fabric, etc. In addition, the burning of the charcoal briquettes coupled with the smoke from the tobacco/plant product emit byproduct carcinogens and high levels of carbon monoxide creating an extremely dangerous environment for the occupants and employees of the establishments. OSHA (29 CFR 1910) regulations require all employees wear a respirator where carbon monoxide levels reach 50 parts per million or above for a period of 8 hours. HCD Investigators observed, on average, levels of carbon monoxide at 32 parts per million, with the highest level observed at 128 parts per million.

If a zoning category is created to permit the operation of a hookah lounge, the operation must be able meet the minimum requirements of the Baltimore City Building Fire and Related Codes. Prior to the adoption of any legislation that legalizes the indoor use of a hookah pipe in a setting open to the public, operators must establish to the satisfaction of the Building Official how the operation would address the direct conflict with “open burn” code provision. No hookah lounge use permit could be approved by the Zoning Administrator until the specific life, health and safety requirements are met by each individual applicant.

We do not oppose the creation of a use category for Hookah Lounges with the understanding that a use permit would not be issued unless the use meets all other City codes and safety procedures are established governing the use of a hookah pipe in an indoor setting open to the public.

The Department of Housing and Community Development opposes the passage of City Council Bill 16-0616 as written, because of building fire and life safety concerns and our position that an approved hookah lounge should be required to obtain after-hours approval.

PTG:sd

cc: Ms. Angela Gibson, *Mayor's Office of Government Relations*  
Mr. Colin Tarbert, *Deputy Mayor*