

**CITY OF BALTIMORE  
COUNCIL BILL 16-0616  
(First Reader)**

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Introduced by: Councilmember Welch

Introduced and read first time: January 11, 2016

Assigned to: Land Use and Transportation Committee

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REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Board of Municipal and Zoning Appeals, Department of Housing and Community Development, Health Department, Planning Commission, Baltimore Development Corporation, Department of Finance

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A BILL ENTITLED

1 AN ORDINANCE concerning

2 **Hookah Lounges**

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

11 BY repealing and reordaining, with amendments

12 Article - Zoning  
13 Sections 1-107  
14 Baltimore City Revised Code  
15 (Edition 2000)

16 BY adding

17 Article - Zoning  
18 Sections 1-150.1, 6-209(1a), 7-408(2a), and 14-350  
19 Baltimore City Revised Code  
20 (Edition 2000)

21 BY repealing and reordaining, without amendments

22 Article - Zoning  
23 Sections 6-309(1), 6-409(1), 6-509(1), 6-609(1), and 7-308  
24 Baltimore City Revised Code  
25 (Edition 2000)

EXPLANATION: CAPITALS indicate matter added to existing law.  
[Brackets] indicate matter deleted from existing law.

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1 BY repealing and reordaining, with amendments

2 Article - Health  
3 Section 12-107  
4 Baltimore City Revised Code  
5 (Edition 2000)

6 BY repealing and reordaining, with amendments

7 Article 15 - Licensing and Regulation  
8 Section 9-4  
9 Baltimore City Code  
10 (Edition 2000)

11 **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE,** That the  
12 Laws of Baltimore City read as follows:

13 **Baltimore City Revised Code**

14 **Article – Zoning**

15 **Title 1. Definitions; General Provisions**

16 ***Subtitle 1. Definitions***

17 **§ 1-107. After-hours establishment.**

18 (A) *IN GENERAL.*

19 “After-hours establishment” means any of the following that remains open after 2 a.m. on  
20 any day:

21 (1) a banquet hall, dance hall, private club or lodge, or similar place; or

22 (2) a restaurant that provides live entertainment or dancing.

23 (B) *EXCLUSIONS.*

24 “AFTER-HOURS ESTABLISHMENT” DOES NOT INCLUDE A HOOKAH LOUNGE.

25 **§ 1-150.1. HOOKAH LOUNGE.**

26 “HOOKAH LOUNGE” MEANS AN ESTABLISHMENT:

27 (1) THE BUSINESS OF WHICH IS PRIMARILY DEVOTED TO THE SERVING OF HOOKAH (WATER  
28 PIPE) PRODUCTS FOR CONSUMPTION ON PREMISES, DURING DAY, EVENING, AND LATE-  
29 NIGHT HOURS TILL 4 A.M.; AND

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(2) IN WHICH:

(I) AT LEAST 60% OF ITS AGGREGATE REVENUES, MEASURED BY AVERAGE DAILY RECEIPTS, IS DERIVED FROM THE SALE OR USE OF NON-CIGARETTE SMOKING PRODUCTS AND ACCESSORIES;

(II) THE SALE OR USE OF ALL OTHER PRODUCTS IS INCIDENTAL;

(III) THE VENTILATION SYSTEM PREVENTS SMOKE FROM INFILTRATING INTO ANY AREA IN WHICH SMOKING IS PROHIBITED; AND

(IV) THE PRESENCE OF MINORS IS PROHIBITED AT ALL TIMES.

**Title 6. Business Districts**

**§ 6-209. Conditional uses – Ordinance required.**

In a B-1 District, conditional uses that require approval by ordinance are as follows:

- ...
- (1A) HOOKAH LOUNGES.
- ....

**§ 6-309. Conditional uses – Ordinance required.**

In a B-2 District, conditional uses that require approval by ordinance are as follows:

- (1) As in a B-1 District (unless it is a permitted use under § 6-306).
- ....

**§ 6-409. Conditional uses – Ordinance required.**

In a B-3 District, conditional uses that require approval by ordinance are as follows:

- (1) As in a B-2 District (unless it is a permitted use under § 6-406).
- ....

**§ 6-509. Conditional uses – Ordinance required.**

In a B-4 District, conditional uses that require approval by ordinance are as follows:

- (1) As in a B-1 District (unless it is a permitted use under § 6-506).
- ....

**§ 6-609. Conditional uses – Ordinance required.**

In a B-5 District, conditional uses that require approval by ordinance are as follows:

- (1) As in a B-4 District (unless it is a permitted use under § 6-606).
- ....

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**Title 7. Industrial Districts**

**§ 7-308. Conditional uses – Ordinance required.**

In an M-2 District, conditional uses that require approval by ordinance are as follows:

- (1) As in an M-1 District (unless it is a permitted use under § 7-306), except that they need not comply with the performance standards in Title 12 {“Performance Standards”} of this article.
- (2) HOOKAH LOUNGES.
- (3) [(1a)] Liquefied petroleum gas (butane or propane): distribution or storage of 30,000 gallons or more.
- (4) [(2)] Penal and correctional institutions.
- (5) [(3)] Service and housing centers.

**§ 7-408. Conditional uses – Ordinance required.**

In an M-3 District, conditional uses that require approval by ordinance are as follows:

- ...
- (2A) HOOKAH LOUNGES.
- ....

**Title 14. Conditional Uses**

***Subtitle 3. Additional Considerations for Certain Uses***

***Part II. For Ordinance***

**§ 14-350. HOOKAH LOUNGES.**

FOR A HOOKAH LOUNGE, THE COUNCIL MUST CONSIDER IMPOSING CONDITIONS, AS APPROPRIATE, CONCERNING:

- (1) TYPE OF HOOKAH DEVICES AND ACCESSORIES TO BE USED;
- (2) OPERATION, CARE, MAINTENANCE, AND STORAGE OF HOOKAH DEVICES;
- (3) NUMBER AND ADEQUACY OF CARBON MONOXIDE DETECTORS AND FIRE EXTINGUISHERS;
- (4) ADEQUACY OF VENTILATION TO PREVENT SMOKE FROM INFILTRATING INTO ANY AREA IN WHICH SMOKING IS PROHIBITED;
- (5) THE SIZE, LOCATION, OR CONFIGURATION OF ANY ENTERTAINMENT VENUE WITHIN THE ESTABLISHMENT;

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- 1 (6) USE OF AMPLIFICATION, NOISE LEVELS, AND NEED FOR NOISE PROOFING;
- 2 (7) NUMBER OF SEATS PROPOSED FOR INDOOR AND OUTDOOR TABLE SERVICE;
- 3 (8) EXTERIOR LIGHTING; AND
- 4 (9) THE ESTABLISHMENT AND MAINTENANCE OF AN INDOOR AND OUTDOOR SECURITY
- 5 PLAN ADEQUATE FOR ALL HOURS OF OPERATION, INCLUDING LATE-NIGHT HOURS.

**Article – Health**

**Title 12. Tobacco Products and Smoking Devices**

***Subtitle 1. Indoor Smoking***

**§ 12-107. Exceptions – [Private clubs, smoking bars, tobacconists] RETAIL TOBACCO ESTABLISHMENTS; HOOKAH LOUNGES.**

(a) *In general.*

This subtitle does not apply to a [private club or lodge, a smoking bar, or] a retail tobacco establishment OR A HOOKAH LOUNGE that qualifies [for an exemption] under this section.

[(b) *Qualifications.*]

[(1) A private club or lodge qualifies under this section only if it:

- (i) has a limited membership elected pursuant to its charter or bylaws;
- (ii) excludes the general public from its premises or place of meeting;
- (iii) is organized with officers and directors;
- (iv) holds all property for the common benefit of its members; and
- (v) does not permit nonmembers to pay a temporary fee to use its premises or attend its meetings.]

[(2) A smoking bar qualifies under this section only if it:

- (i) is licensed under State Code Article 2B to serve alcoholic beverages;
- (ii) derives at least 50% of its revenues, measured by average daily receipts, from the sale of non-cigarette tobacco products;
- (iii) has a ventilation system that prevents smoke from infiltrating into any area where smoking is prohibited under this subtitle; and
- (iv) prohibits the entry of minors at all times.]

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1 (B) *QUALIFICATIONS – RETAIL TOBACCO ESTABLISHMENTS.*

2 [(3)] A retail tobacco establishment qualifies under this section only if [it]:

3 (1) [(i)] IT derives at least [75%] 60% of its revenues, measured by average daily  
4 receipts, from the sale of non-cigarette tobacco products AND ACCESSORIES;

5 (2) [(ii)] IT has a ventilation system that prevents smoke from infiltrating into any  
6 area where smoking is prohibited under this subtitle; and

7 (3) [(iii)] IT prohibits the [entry] PRESENCE of minors at all times.

8 (C) *QUALIFICATIONS – HOOKAH LOUNGES.*

9 (1) *“HOOKAH LOUNGE” DEFINED.*

10 IN THIS SUBSECTION, “HOOKAH LOUNGE” MEANS AN ESTABLISHMENT THAT IS  
11 PRIMARILY DEVOTED TO THE SERVING OF HOOKAH (WATER PIPE) PRODUCTS FOR  
12 CONSUMPTION ON PREMISES.

13 (2) *REQUIRED QUALIFICATIONS.*

14 A HOOKAH LOUNGE QUALIFIES UNDER THIS SECTION ONLY IF:

15 (I) IT DERIVES AT LEAST 60% OF ITS REVENUES, MEASURED BY AVERAGE DAILY  
16 RECEIPTS, FROM THE SALE OR USE OF NON-CIGARETTE SMOKING PRODUCTS  
17 AND ACCESSORIES;

18 (II) THE SALE OR USE OF ALL OTHER PRODUCTS IS INCIDENTAL;

19 (III) IT HAS A VENTILATION SYSTEM THAT PREVENTS SMOKE FROM INFILTRATING  
20 INTO ANY AREA WHERE SMOKING IS PROHIBITED UNDER THIS SUBTITLE; AND

21 (IV) IT PROHIBITS THE PRESENCE OF MINORS AT ALL TIMES.

22 **Baltimore City Code**

23 **Article 15. Licensing and Regulation**

24 **Subtitle 9. Late-Night Commercial Operations**

25 **§ 9-4. Scope.**

26 (a) *In general.*

27 Except as specified in subsection (b) of this section, this subtitle applies to all businesses  
28 that are located in any Residence Zoning District, Office-Residence Zoning District, or  
29 B-1 or B-2 Business Zoning District.

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1 (b) *Exceptions.*

2 This subtitle does not apply to:

- 3 (1) a hotel or motel;
- 4 (2) a restaurant or tavern operating during hours authorized by its alcoholic beverage  
5 license;
- 6 (3) the sale of motor vehicle fuels;
- 7 (4) the provision of emergency medical or veterinary care;
- 8 (5) a video lottery facility operating during hours authorized by its State Video  
9 Lottery Operating license;
- 10 (6) A HOOKAH LOUNGE, AS DEFINED IN AND ALLOWED BY THE BALTIMORE CITY  
11 ZONING CODE; or
- 12 (7) [(6)] drive-through food-service windows, if:
  - 13 (i) all indoor sales and dining areas are closed to the public during late-night  
14 hours; and
  - 15 (ii) no pedestrians are served at these windows during late-night hours.

16 **SECTION 2. AND BE IT FURTHER ORDAINED,** That the catchlines contained in this Ordinance  
17 are not law and may not be considered to have been enacted as a part of this or any prior  
18 Ordinance.

19 **SECTION 3. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on the 30<sup>th</sup> day  
20 after the date it is enacted.