



# City of Baltimore

City Council  
City Hall, Room 408  
100 North Holliday Street  
Baltimore, Maryland 21202

## Legislation Text

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**File #:** 16-0616, **Version:** 0

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

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INTRODUCTORY\*

CITY OF BALTIMORE  
COUNCIL BILL

Introduced by: Councilmember Welch

A BILL ENTITLED

AN ORDINANCE concerning

### **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.

BY repealing and reordaining, with amendments

Article - Zoning  
Sections 1-107  
Baltimore City Revised Code  
(Edition 2000)

BY adding

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

BY repealing and reordaining, without amendments

Article - Zoning  
Sections 6-309(1), 6-409(1), 6-509(1), 6-609(1), and 7-308  
Baltimore City Revised Code

(Edition 2000)

BY repealing and reordaining, with amendments

Article - Health

Section 12-107

Baltimore City Revised Code

(Edition 2000)

BY repealing and reordaining, with amendments

Article 15 - Licensing and Regulation

Section 9-4

Baltimore City Code

(Edition 2000)

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

Baltimore City Revised Code

Article ♦ Zoning

Title 1. Definitions; General Provisions

Subtitle 1. Definitions

♦♦1▲107. After▲hours establishment.

(A) IN GENERAL.

♦After▲hours establishment♦ means any of the following that remains open after 2 a.m. on any day:

- (1) a banquet hall, dance hall, private club or lodge, or similar place; or
- (2) a restaurant that provides live entertainment or dancing.

(B) EXCLUSIONS.

♦AFTER-HOURS ESTABLISHMENT♦ DOES NOT INCLUDE A HOOKAH LOUNGE.

♦ 1-150.1. HOOKAH LOUNGE.

♦HOOKAH LOUNGE♦ MEANS AN ESTABLISHMENT:

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

(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).

....

## 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;
- (6) USE OF AMPLIFICATION, NOISE LEVELS, AND NEED FOR NOISE PROOFING;
- (7) NUMBER OF SEATS PROPOSED FOR INDOOR AND OUTDOOR TABLE SERVICE;
- (8) EXTERIOR LIGHTING; AND
- (9) THE ESTABLISHMENT AND MAINTENANCE OF AN INDOOR AND OUTDOOR SECURITY 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.]

(B) QUALIFICATIONS ♦ RETAIL TOBACCO ESTABLISHMENTS.

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

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

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

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

(C) QUALIFICATIONS ♦ HOOKAH LOUNGES.

(1) ♦HOOKAH LOUNGE♦ DEFINED.

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

(2) REQUIRED QUALIFICATIONS.

A HOOKAH LOUNGE QUALIFIES UNDER THIS SECTION ONLY IF:

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

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

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

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

Baltimore City Code

Article 15. Licensing and Regulation

## Subtitle 9. Late-Night Commercial Operations

### ◆◆9▲4. Scope.

#### (a) In general.

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

#### (b) Exceptions.

This subtitle does not apply to:

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

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

SECTION 3. AND BE IT FURTHER ORDAINED, That this Ordinance takes effect on the 30th day after the date it is enacted.

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