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## 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:

<b>2022 NAICS</b>	
<b>713990</b>	<b>All Other Amusement and Recreation Industries</b>
<a href="#">link</a>	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.
	<b>Corresponding Index Entry</b>
	Hookah lounges (except primarily selling food and beverages)
<b>459991</b>	<b>Tobacco, Electronic Cigarette, and Other Smoking Supplies Retailers</b>

<u>link</u>	This U.S. industry comprises establishments primarily engaged in retailing cigarettes, electronic cigarettes, cigars, tobacco, pipes, and other smokers' supplies.
	<b>Corresponding Index Entries</b>
	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.

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

<b>Hookah Lounge Totals (Cigar Excl.)</b>	10	N/A	<b>B2 - 5</b> <b>B4 - 4</b> <b>B5 - 1</b>	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	S5										
Recreation/entertainment, indoor	Arcade								C	C	C	C		R	R	R	R	R		L						R	R	R	R						R								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								RU; SPC; Section 50-12-218			
	Casinos and casino complexes																																									R	
	Smoking lounge, cigar								R	R	R	R	R													L									R	R	R	R					
	Smoking lounge, other								C	C	C	C	C													L									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														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									C	R	R	R					Section 50-12-308
Theater and concert café, excluding drive-in theaters								R	C	R			R	R	R	R									L									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	P7	P8	P9		P10	P11	P12	P13	P14	P15	S1	S2	S3
	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	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			
	<b>Tobacco retail store</b>									C	C	R	R						L			C					C	C	C					<b>SPC; Section 50-12-325</b>			
	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		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
<u>Smoking lounge, other</u>	<u>2,000 feet</u>	<u>- Advertisement-sensitive property as defined in Section 4-1-1 of this Code: 1,000 feet;</u>	<u>Section 50-12-325</u>
<u>Tobacco retail store</u>	<u>N/A</u>	<u>- Advertisement-sensitive property as defined in Section 4-1-1 of this Code: 1,000 feet;</u>	<u>Section 50-12-325</u>

#### 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

# City of Detroit

Lauren Hood, MCD  
Chairperson  
Donovan Smith  
Vice Chair/Secretary

Marcell R. Todd, Jr.  
Director

**CITY PLANNING COMMISSION**  
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Brenda Goss Andrews  
Kenneth R. Daniels  
David Esparza, AIA, LEED  
Ritchie Harrison  
Gwen Lewis  
Melanie Markowicz  
Frederick E. Russell, Jr.

## NOTICE OF PUBLIC HEARING

A public hearing will be held by the Detroit City Planning Commission on a proposed amendment to the Detroit Zoning Ordinance in the Committee of the Whole Room, 13th Floor, Coleman A. Young Municipal Center, 2 Woodward Avenue, Detroit, Michigan 48226 at the date and time listed below. Virtual attendance is strongly encouraged as, pursuant to public health guidelines, the meeting room will be subject to space limitations and masks are required. To attend the meeting virtually, please use the link toward the end of this notice.

**THURSDAY, JULY 7, 2022 AT 5:10 PM**

The proposed text amendment would amend Chapter 50 of the 2019 Detroit City Code, *Zoning*, by adding Section 50-12-324 (Smoking lounges; tobacco retail stores; or tobacco specialty retail stores), and by amending Article IX (*Business Zoning Districts*), Division 4 (*B3 Shopping District*), Section 50-9-82 (*Conditional retail, service, and commercial uses*), Division 5 (*B4 General Business District*), Section 50-9-112 (*Conditional retail, service, and commercial uses*), Division 6 (*B5 Major Business District*), Section 50-9-136 (*By-right retail, service, and commercial uses*), Division 7 (*B6 General Services District*), Section 50-9-166 (*By-right retail, service, and commercial uses*), by amending Article XI (*Special Purpose Zoning Districts and Overlay Areas*), Division 5 (*PCA Public Center Adjacent District (Restricted Central Business District)*), Section 50-11-92 (*Conditional retail, service, and commercial uses*), Division 9 (*SD1-Special Development District, Small-Scale, Mixed-Use*), Section 50-11-212 (*Conditional retail, service, and commercial uses*), Division 10 (*SD2-Special Development District, Mixed-Use*), Section 50-11-242 (*Conditional retail, service, and commercial uses*), Division 12 (*SD4-Special Development District, Riverfront Mixed-Use*), Section 50-11-298 (*Conditional retail, service, and commercial uses*), by amending Article XII (*Use Regulations*), Division 1 (*Use Table*), Subdivision D (*Retail, Service and Commercial Uses*), Section 50-12-66 (*Recreation/entertainment, indoor.*), Section 50-12-69 (*Retail sales and service; sales-oriented*), Division 2 (*General Use Standards*), Section 50-12-131 (*Retail, service, and commercial uses-Spacing*), Division 3 (*Specific Use Standards*), Subdivision E (*Retail, Service and Commercial Uses; Generally*), Section 50-12-306 (Private clubs, lodges, or similar uses), Division 5 (*Accessory Uses and Structures*), Subdivision C (*Specific Accessory Use Standards*), Section 50-12-513 (*Golf course*), by amending Article XIV (*Development Standards*), Division 1 (*Off-Street Parking, Loading, and Access*), Subdivision B (*Off-Street Parking Schedule "A"*), Section 50-14-55 (*Recreation and entertainment, indoor*), Section 50-14-58 (*Retail sales and service (sales-oriented)*), by amending Article XV (*Nonconformities*), Division 2 (*Nonconforming Uses*), Section 50-15-30 (*Change of nonconforming use to other nonconforming use*), by amending Article XVI (*Rules of Construction and Definitions*), Division 2 (*Words and Terms Defined*), Subdivision O (*Letters "Q" Through "R"*), Section 50-16-361 (*Words and terms (Qa-Qz and Ra-Rec)*), Section 50-16-362 (*Words and terms (Red-Rm)*), Subdivision P (*Letter "S"*), Section 50-16-384 (*Words and terms (Sm-Ss)*), Subdivision Q (*Letter "T"*), Section 50-16-402 (*Words and terms (Tn-Tz)*),

and by amending Appendix A. (*Assignment of Specific Use Types to General Use Categories*), Division 19 (Letter “S”), Division 20 (Letter “T”) to add smoking lounge, tobacco retail store, and tobacco specialty retail store as a Conditional Use in the B3, B4, PCA, SD1, SD2, and SD4 districts, to add smoking lounge, tobacco retail store, and tobacco specialty retail store as a By-right use in the B5 and B6 districts, to add smoking lounge to the recreation/entertainment, indoor use category, to add tobacco retail store and tobacco specialty retail store to the retail sales and service, sales-oriented use category, to add retail, service, and commercial use-spacing regulations for smoking lounges, tobacco retail stores, and tobacco specialty retail stores, to add smoking lounges as a permitted accessory use to private clubs, lodges, or similar uses and golf courses, to add new specific use standards for smoking lounges, tobacco retail stores, and tobacco specialty retail stores, to add off-street parking requirements for smoking lounges, tobacco retail stores, and tobacco specialty retail stores, to exempt (prohibit) smoking lounges, tobacco retail stores, and tobacco specialty retail stores from change of nonconforming use to another, to amend the definition of recreation and entertainment, indoor use category to add smoking lounge, to amend the definition of retail sales and service, sales-oriented use category to add tobacco retail store and tobacco specialty retail store, to add definitions for smoking lounge, tobacco retail store, and tobacco specialty retail store, and to assign smoking lounge, tobacco retail store, and tobacco specialty retail store to general use categories.

This text amendment is being considered by the City Planning Commission in accordance with the provisions of Article III, Division 2 of the Detroit Zoning Ordinance. Zoning Ordinance text amendments require the approval of the City Council after a public hearing and after receipt of a report and recommendation by the City Planning Commission.

All interested persons are invited to be present and be heard as to their views. Persons making oral presentations are encouraged to submit written copies, for the record, to the City Planning Commission via U.S. Mail at the above address or e-mail at [cpc@detroitmi.gov](mailto:cpc@detroitmi.gov). Public comment/testimony may be given at the appropriate times when called for during the meeting. If you desire to speak and are attending the meeting online, press the “raise your hand” icon at the bottom of the screen or press ALT-Y for a PC or OPT-Y for a MAC to raise your hand virtually. If attending by phone press \*-9 to raise your hand.

If interpretation or translation services are needed, including for the hearing impaired, call the Department of Civil Rights, Inclusion & Opportunity at 313-224-4950. For further information on this proposal or the public hearing, please call (313) 224-6225.

To participate virtually in the CPC meeting, please use the following options.

Online:

<https://cityofdetroit.zoom.us/j/96355593579?pwd=TTloMzN5M3pmU1RKNXp1MjJlcZnN3UT09>

Or iPhone one-tap:

US: +12678310333,96355593579# or +13017158592,,96355593579#

Or by Telephone:

Dial (for higher quality, dial a number based on your current location):

US: +1 267 831 0333 or +1 301 715 8592 or +1 312 626 6799 or +1 213 338 8477 or +1 253 215 8782 or +1 346 248 7799 Webinar ID: 963 5559 3579

CPC Webpage: <https://detroitmi.gov/government/commissions/city-planning-commission>

# AGENDA IV.A.

# Unfinished Business

Consideration of the proposed text amendment amending Chapter 50 of the 2019 Detroit City Code, Zoning, Zoning Ordinance by add smoking lounges, including hookah lounges and cigar bars, and tobacco stores as specific land uses with spacing regulations, specific use standards, and off-street parking requirements



# July CPC Meetings

## July 7 Public Hearing

- Intro and Summary of Research
- 1<sup>st</sup> Version of Draft ZO Text Amendment

## Goals for 2<sup>nd</sup> Version

- Desire to separate Cigar Bars from Hookah Lounges (Smoking Lounges)
- Additional Spacing Regulations (Sec. 4-4-1)
- Consideration of Hookah Lounges as a Conditional Use in B5 and B6 (was By-right)
- Public comment: increase spacing to 2,000'
- Prohibit outdoor activities

## July 21 Meeting – 2<sup>nd</sup> Version

- Expanded proposed definitions and use terms: cigar, hookah, TRS, TSRS
- Separated permissibility of cigar vs. hookah
- Added “Advertisement-sensitive property” spacing requirements
- Discussed how the state regulates cigar bars and hookah lounges differently

# Introduction

## Background

- Initiated by Council Member Scott Benson
- To specifically identify hookah and vape shops/lounges as a specific land use
- For inclusion in the B3 district, or a more intense district, as a Conditional use
- The ZO does not currently specifically address smoking-related uses such as hookah lounges or vape/tobacco stores
- Concerns with hookah lounges: characteristics of a night club, unauthorized after-hours est., or “blind pig”; traffic, noise, loitering, and violence

NEWS



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



Detroit police are stepping up patrols outside a hookah lounge after multiple noise complaints and crimes reported.

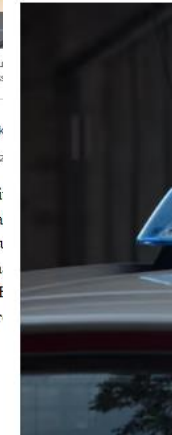
By: Simon Shayk

Posted at 5:27 PM, Oct 26, 2022

(WXYZ) — Detroit hookah cafes are stepping up patrols outside a hookah lounge after multiple noise complaints and crimes reported. Police added that the shooting occurred at around 4:41 a.m. or earlier. None of the injuries were reported, although no one involved in the shooting was identified.

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

No fatal injuries reported



None of the injuries from the fight were reported, although no one involved in the shooting was identified.

**DETROIT** — Eight people were hospitalized after a fight broke out outside a hookah lounge and coffee shop in Detroit on Monday.

Police added that the shooting occurred at around 4:41 a.m. or earlier. None of the injuries were reported, although no one involved in the shooting was identified.

None of the injuries were reported, although no one involved in the shooting was identified.

**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.

# Ordinances

## 1. Zoning Ordinance

- The ZO does not currently specifically address tobacco-related uses
- When a retail use is not specifically addressed, the ZO permits “stores of a generally recognized retail nature”
- By-right retail, service, and commercial use (when does not include drive-up/through): B2 – B6, M1 – M4, PCA, TM, SD1, SD2, SD4
- By amending the ZO, hookah lounges and tobacco stores would be new specific land uses, not general retail

## 2. Smoking Lounge Ordinance

- In our research, we’ve been made aware of concerns of the MDHHS that Detroit does not currently require a business license for hookah lounges
- This is something several Metro Detroit communities have required through smoking lounge ordinances
- In addition to a ZO text amendment, future information will be provided on a potential smoking lounge ordinance and business license requirement

# Summary of Research

## Resources

1. Census North American Industry Classification System
2. Cigar Bars vs. Tobacco Specialty Retail Stores – P.A. No. 188 of 2009
3. Existing Detroit Establishments – MDHHS
4. Model Metro Detroit Zoning Ordinance Requirements
5. Model Business License Ordinance Requirements – MDHHS

# 1. U.S. Census – Use Classifications

## N.A. Industry Classification System

- CPC staff could not identify any national or state zoning resources on best practices for regulating hookah and vape shops/lounges
- The U.S. Census Bureau provides a standardized resource for considering uses and how they may relate to local zoning
- The NAICS structure has been incorporated into the proposed use categories
- NAICS does not have an index entry for cigar bars/lounges

## Hookah Lounges & Vape Shops

<b>2022 NAICS</b>	
<b>713990</b>	<b>All Other Amusement and Recreation Industries</b>
<a href="#">link</a>	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.
	<b>Corresponding Index Entry</b>
	<b>Hookah lounges</b> (except primarily selling food and beverages)
<b>459991</b>	<b>Tobacco, Electronic Cigarette, and Other Smoking Supplies Retailers</b>
<a href="#">link</a>	This U.S. industry comprises establishments primarily engaged in retailing cigarettes, electronic cigarettes, cigars, tobacco, pipes, and other smokers' supplies.
	<b>Corresponding Index Entries</b>
	<b>Vape shops</b> , Cigar stores, Cigarette stands, Electronic cigarette stores, Smokers' supply stores, Tobacco stores

# 2. Michigan's Smoke-Free Indoor Air Law

## P.A. No. 188 of 2009

- Establishments or locations where tobacco smoking is 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)
  
- Only 1 and 2 would be subject to the proposed text amendment

## Cigar Bar & TSRS Exemptions

- Exemptions are not a newly created status
- Refers to an est. that was in existence prior to the P.A. effective date of May 1, 2010
- Max of 300 exemptions that will ever exist in the State of MI: 100 for Cigar, 200 for TSRS
- Exemptions may be purchased and located within any jurisdiction within the state
- Local restrictions can limit the potential number of exemptions within jurisdictions

# 3. 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)

## Maintaining Approval

- All est. must submit for exemption renewal on an annual basis no later than Feb. 21
- Est. that have not had their exemption approved for use in 2022 (2 and 3 to left) may operate without tobacco smoking permitted until exemption approved

# 3. Existing Detroit Est. – MDHHS

Summary of MDHHS List of Existing Detroit Establishments				
	TSRS (Hookah)	Cigar Bar	Zoning District	Council District
<b>Exemption Not Approved for 2022</b>	7	3	B4 - 4 B2 - 3 B5 - 1 SD4 - 1 R1 - 1	D2 - 4 D6 - 2 D5 - 2 D4 - 1
<b>Exemption Approved for 2022</b>	1	3	B5 - 2 B4 - 1 R2 - 1	D5 - 3 D6 - 1
<b>Application/Renewal In Process for 2022</b>	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
<b>Hookah Lounge Totals (Cigar Excl.)</b>	10	N/A	<b>B2 - 5</b> <b>B4 - 4</b> <b>B5 - 1</b>	D2 - 5 D4 - 2 D7 - 1 D6 - 1 D5 - 1



# 3. 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

# 4. 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

# 5. Model Business Licenses Ordinances

## Model Communities

- MDHHS has emphasized that communities that have had problems with hookah lounges have addressed them through a business license requirement

## Unique Requirements

- 3 of the 5 municipalities provide a maximum number of licenses that may be issued (Dearborn flexible max at 15)
- Dearborn also permits take-out food within smoking lounges

## Common Requirements

- Hours of operation restrictions
- Mechanical ventilation; prohibition of recirculation and natural ventilation
- Signage specifying prohibited activities
- Constant visual or video monitoring
- Lighting and parking
- Outdoor activity prohibitions/restrictions
- Violation: misdemeanor with maximum \$500 fine and/or maximum 90 days in jail

# Summary of Amendments

Parts Affected – In order of ZO

- 1. Zoning Districts**
- 2. Use Regulations**
- 3. Development Standards**
4. Nonconformities (prevents change from-to)
- 5. Definitions**
6. Appendix A (to match body of ZO)

# Draft Definitions 1-3 (Indoor Smoking)

- **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 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.

## Use Category: Recreation and entertainment, indoor

- **Smoking lounge, cigar.** An establishment or area within an establishment that has a corresponding State issued smoking ban exemption certificate and is designated for the smoking of cigars as defined by the Tobacco Products Tax Act, MCL 205.422, on premises. Smoking lounge, cigar, does not include smoking lounge, other, as defined by this article, or medical marijuana facilities or adult-use marijuana establishments as defined by this chapter.
- **Smoking lounge, other (*hookah*).** A retail establishment that has a State issued smoking ban exemption certificate in which the primary purpose is the retail sale of tobacco products as defined by the Tobacco Products Tax Act, MCL 205.422; non-tobacco smoking products or substances as defined in Chapter TBD of this Code, Smoking Lounges; smoking paraphernalia; and is designated wholly or in part for the smoking of tobacco products or non-tobacco smoking products or substances on premises, which may include the on-premise use of hookah as defined by this article. Smoking lounge, other, does not include tobacco retail store as defined by this article, smoking lounge, cigar, as defined by this article, medical marijuana facilities or adult-use marijuana establishments as defined by this chapter, a tobacco department or section of a larger commercial establishment, or any establishment with any type of liquor, food, or restaurant license.

# Draft Definition 4 (No Indoor Smoking)

Use Category: Retail sales and service, sales-oriented

- **Tobacco retail store (carry-out use).** A retail establishment that **does not have a State issued smoking ban exemption certificate** in which the primary purpose is the retail sale of tobacco products as defined by the Tobacco Products Tax Act, MCL 205.422; non-tobacco smoking products or substances as defined in Chapter TBD of this Code, Smoking Lounges; smoking paraphernalia, and **is not designated for the smoking of tobacco products or non-tobacco smoking products or substances on premises**. Tobacco retail store does not include smoking lounge, cigar, as defined by this article, smoking lounge, other, as defined by this article, medical marijuana facilities or adult-use marijuana establishments as defined by this chapter, a tobacco department or section of a larger commercial establishment, or any establishment with any type of liquor, food, or restaurant license.

# Zoning Districts – Smoking Lounges

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	PCA	T	PR	W1	SD1	SD2	SD3		SD4	SD5	
Recreation/entertainment, indoor	Arcade									C	C	C	C	R	R	R	R	R	L		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	C	L		C/R	C						C	C		RU; SPC; Section 50-12-218		
	Casinos and casino complexes																												R			
	<u>Smoking lounge, cigar</u>							<u>R</u>	<u>R</u>	<u>R</u>	<u>R</u>	<u>R</u>						<u>L</u>		<u>R</u>					<u>R</u>	<u>R</u>		<u>R</u>				
	<u>Smoking lounge, other</u>							<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>						<u>L</u>		<u>C</u>					<u>C</u>	<u>C</u>		<u>C</u>		SPC; Section 50-12-324		
	Firearms target practice range, indoor									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	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			R	R		R		Section 50-12-308		
	Theater and concert café, excluding drive-in theaters								R	C	R		R	R	R	R	R	L		R	R				C/R		R			Section 50-12-317		

# Zoning Districts – Stores (No Indoor Smoking)

Use Category	Specific Land Use	Residential						Business						Industrial					Special and Overlay										Standards General (Art. XII, Div. 2) Specific (Art. XII, Div. 3)							
		R 1	R 2	R 3	R 4	R 5	R 6	B 1	B 2	B 3	B 4	B 5	B 6	M 1	M 2	M 3	M 4	M 5	P D	P 1	P C	P C A	T M	P R	W 1	S D 1	S D 2	S D 3		S D 4	S D 5					
	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	R						L				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		CU; P; SPC; Section 50-12- 314
<b>Retail sales and service; sales-oriented (cont'd)</b>	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											Section 50-12- 315	
	<u>Tobacco retail store</u>									C	C	R	R											L			C			C	C		C		SPC; Section 50-12-324	
	Trailer coaches or boat sale or rental, open air display									C		R		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	R						L				R								
	Used goods dealer									C	C	C		R	R	R	R							L			C	C			C	C			SPC; Section 50-12-320	
	All other									C	C	C		C	C	C	C							L				C					C			



# Draft Required Spacing

Use Type	Minimum Distance from Same Use Type (Existing or Approved)	Minimum Distance from Other Use Types (Existing or Approved)	Comment
<u>Smoking lounge, other</u>	<u>2,000 feet</u>	<u>- Advertisement-sensitive property as defined in Section 4-1-1 of this Code: 1,000 feet;</u>	<u>Section 50-12-324</u>
<u>Tobacco retail store</u>	<u>N/A</u>	<u>- Advertisement-sensitive property as defined in Section 4-1-1 of this Code: 1,000 feet;</u>	<u>Section 50-12-324</u>

# Draft Required Spacing

## Section 4-1-1 Definitions

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

Use Type	Minimum Distance from Same Use Type (Existing or Approved)	Minimum Distance from Other Use Types (Existing or Approved)	Comment
<u>Smoking lounge, other</u>	<u>2,000 feet</u>	- <u>Advertisement-sensitive property as defined in Section 4-1-1 of this Code: 1,000 feet;</u>	<u>Section 50-12-324</u>
<u>Tobacco retail store</u>	<u>N/A</u>	- <u>Advertisement-sensitive property as defined in Section 4-1-1 of this Code: 1,000 feet;</u>	<u>Section 50-12-324</u>

# Draft Specific Use Standards

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

- (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) Smoking lounges, other, shall require a smoking ban exemption certificate issued by the State of Michigan and shall also be licensed by the City of Detroit in accordance with Chapter TBD of this Code, *Smoking Lounges*. Proof of such certificate and licensing is required prior to opening for business and as a condition for the continued operation of any smoking lounge, other.
- (4) 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 does not infiltrate into those nonsmoking areas. “Physically separated” shall mean 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) Smoking lounges, other, are not permitted as an accessory use and must not include an accessory use.

# Draft Parking Requirements

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
	<u>Smoking lounge, cigar/Smoking lounge, other</u>	<u>3 (minimum) + 1 per 100 square feet for each 100 square feet in excess of 1,000</u>	<u>100</u>
	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 <u>where</u> 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

# Conclusion

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 ZO text amendment, CPC staff and the Law Department will also be providing future information on a potential smoking lounge ordinance and business license requirement that would supplement the proposed ZO 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.