

August 7, 2014



A recommendation to the Bryan City Council regarding amendments to the text of Bryan Code of Ordinances Chapter 130, Zoning, concerning hookah lounges

BACKGROUND:

Hookah lounges are café like businesses that offer the rental of hookahs pipes for on-site use to smoke a flavored tobacco product called shisha. These cafes usually offer some food options (coffee, tea, soft drinks and snack foods) and may or may not offer alcoholic beverages. Hookah lounges are used in some cultures as social gathering places. They are becoming more popular in the United States.

Chapter 50, Health and Sanitation, of the City of Bryan Code of Ordinance currently prohibits the smoking of tobacco products in all public places, but provides a list of exceptions where smoking is allowed. This list includes bars, tobacco specialty shops, bingo halls (with certain specifications) and bowling alleys (again, with certain specifications). That ordinance does not currently make exceptions for hookah lounges, which are therefore not permitted to locate anywhere in Bryan. Currently, the only way for a business to the rental of hookah pipes for on-site use to smoke flavored tobacco products would be in a nightclub/bar, where the principal business is the sale of alcoholic beverages. The Zoning Ordinance allows nightclubs in C-3 (Commercial) Districts, the SC-B (South College – Business) District, DT-N (Downtown North – 5000sf or less), DT-S (Downtown South – 5000sf or less), and in Industrial Districts (I) by right. Nightclubs are also potentially allowed in Retail (C-2) Districts, Downtown North District (DT-N, over 5000sf), and Downtown South District (DT-S, over 5000sf) but only with prior approval of a Conditional Use Permit from the Planning and Zoning Commission.

The Bryan City Council has been receiving legal advice on the issue of hookah lounges/bars in executive session for several months. While allowing hookah lounges will require changes to Chapter 50 of the Bryan Code of Ordinances, the City Council is looking for a recommendation from the Planning and Zoning Commission as to how hookah lounges should be addressed in the context of Bryan's Zoning Ordinance (Chapter 130 of the Bryan Code of Ordinances). In other words, the Commission has been asked to weigh in on the issue as to where hookah lounge establishments should be allowed to locate.

OPTIONS:

Staff has identified at least the following options for the Commission to consider and recommend to the City Council:

Option A: Take no action to amend the Zoning Ordinance regarding hookah lounges.

- This option would allow the smoking of hookahs only in a nightclub.
- This option would prohibit hookah lounges as a separate, standalone use.
- This option would not require any changes to the City's smoking ordinance (Bryan Code of Ordinances Chapter 50).

Option B: Define hookah lounges as a separate use, and allow the use where restaurants are currently permitted or potentially permitted with Conditional Use Permit approval.

- The use could be defined as follows:

Hookah lounge shall mean an establishment in which the on-site sales or rentals of hookah tobacco products and smoking accessories for consumption or use on the premises exceeds thirty (30) percent of gross revenues and the sale of alcoholic beverages for on-site consumption does not exceed more than thirty (30) percent of gross revenues.

- The inclusion of a restriction of the sale of alcohol to no more than 30 percent of gross revenues is intended to help assure that hookah lounges will maintain the café/coffeehouse atmosphere and clientele and not operate as a bar or nightclub.
- This option would allow hookah lounges by right in the following zoning districts:
 1. C-2 (Retail) District
 2. C-3 (Commercial) District
 3. SC-B (South College – Business) District
 4. DT-N (Downtown North) District
 5. DT-C (Downtown Civic) District
 6. DT-S (Downtown South) District
 7. I (Industrial) District
- This option would allow lease spaces in shopping centers or freestanding commercial buildings in the above mentioned zoning districts to be utilized for hookah lounge uses.
- This option would allow hookah lounges with prior approval of a Conditional Use Permit in the following zoning districts:
 1. C-1 (Office) District
 2. MU-2 (Mixed Use) District
- This option would allow the Planning and Zoning Commission the ability to impose restrictions or conditions to the use if proposed in C-1 or MU-2 District, in order to mitigate or eliminate any adverse impacts that this use may have on surrounding properties.

Option C: Define hookah lounges as a separate use, and allow the use with Conditional Use Permit approval in all non-residential zoning districts.

- The use could be defined as follows:

Hookah lounge shall mean an establishment in which the on-site sales or rentals of hookah tobacco products and smoking accessories for consumption or use on the premises exceeds thirty (30) percent of gross revenues and the sale of alcoholic beverages for on-site consumption does not exceed more than thirty (30) percent of gross revenues.
- The inclusion of a restriction of the sale of alcohol to no more than 30 percent of gross revenues is intended to help assure that hookah lounges will maintain the café/coffeehouse atmosphere and clientele and not operate as a bar or nightclub.
- This option would allow hookah lounges with prior Conditional Use Permit approval in the following zoning districts:
 1. C-1 (Office) District
 2. C-2 (Retail) District
 3. C-3 (Commercial) District
 4. SC-B (South College – Business) District
 5. DT-N (Downtown North) District

6. DT-C (Downtown Civic) District
7. DT-S (Downtown South) District
8. MU-2 (Mixed Use) District
9. I (Industrial) District

This option would allow the Planning and Zoning Commission the ability to impose restrictions or conditions to the use, in order to mitigate or eliminate any adverse impacts that this use may have on surrounding properties.

Option D: Include hookah lounges in the definition of a nightclub.

- This option would allow hookah lounges in the same zoning districts where nightclubs are allowed:
 1. C-3 (Commercial) District
 2. SC-B (South College – Business) District
 3. DT-N (Downtown North) District (if less than 5,000sf)
 4. DT-S (Downtown South) District (if less than 5,000sf)
 5. Industrial Districts (I)
- This option would allow hookah lounges with prior approval of a Conditional Use Permit in the following zoning districts:
 1. C-2 (Retail) District
 2. DT-N (Downtown North) District (if more than 5,000sf)
 3. DT-S (Downtown South) District (if more than 5,000sf)

Any additional options for consideration would likely be a combination of features of the options listed above.

RECOMMENDATION:

Staff believes that the characteristics of hookah lounge establishments are very similar, if not identical, to that of any other café or restaurant in terms of site area, building and site arrangement, floor space, customer type, number of employees, hours of operation, the relative number of vehicle trips generated. As mentioned above, hookahs are already allowed in nightclubs where the principal business is the sale of alcoholic beverages. Staff believes that hookah lounges should be considered a less intense use than a nightclub when taking the aforementioned characteristics into consideration.

If the Commission is inclined to recommend allowing hookah lounges as standalone land uses, staff recommends above-described **Option B.** Hookah lounge uses can reasonably be expected to be compatible to existing uses and uses permitted in most of Bryan's non-residential zoning districts. . The only difference between a hookah lounge and a café or coffeeshouse would be that the smoking of tobacco in hookah pipes would be allowed.