



**TO:** Members of Troy City Council  
**FROM:** Lori Grigg Bluhm, City Attorney *LGB*  
Susan M. Lancaster, Assistant City Attorney *SML*  
**DATE:** April 12, 2013  
**SUBJECT:** Proposed Changes to Hookah License Ordinance

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Subsequent to the initial passage of Chapter 77, the Smoking Lounge Ordinance, there have been concerns raised about licensed hookah establishments. City Administration has reviewed the ordinance, and recommends revisions to the Ordinance. As with other substantive proposed ordinance revisions, City Administration is submitting this item as an informational item on the agenda. City Council then has the opportunity to raise questions, request additional information, or provide direction to City Administration concerning the proposed ordinance revision. Assuming that there is no contrary direction from City Council, the proposed ordinance revision then appears as an action item on the next regular City Council agenda, which is May 13, 2013. At that time, City Administration can provide additional documentation to support the request for the revisions, as well as make any requested revisions.

Please feel free to ask any questions about these proposed revisions to the Smoking Lounge License ordinance, which is the product of discussions between the Police Department, Fire Department, Code Enforcement, City Clerk's Office, City Manager's Office, and City Attorney's Office.

CITY OF TROY  
AN ORDINANCE TO AMEND  
CHAPTER 77 OF THE CODE OF THE CITY OF TROY

THE CITY OF TROY ORDAINS:

Section 1. Short Title: This Ordinance shall be known and may be cited as an amendment to Chapter 77 – Smoking Lounges of the Code of the City of Troy.

Section 2. Amendment.

Chapter 77 of the Troy Code of Ordinances is hereby amended to add the following language and to complete any renumbering necessitated by the additions:

Chapter 77 – Smoking Lounges

9. No Transferability; Change of Ownership

- a. Licenses issued under this Chapter shall not be transferable except as provided herein. There shall be no transfer of any State of Michigan Exemption Permit under the Dr. Ron Davis Act of 2009 (MCL 333.12601, et. seq., as amended) from another jurisdiction into the City of Troy. Existing Exemption Permits that have already been issued for businesses in the City of Troy can be transferred only upon the City Clerk's approval of a smoker's lounge license application for the prospective transferee. This approval or denial shall be based on the same procedure and terms as set forth in this Chapter.
- b. Each license issued under this Chapter is separate and distinct, and no person shall exercise any of the privileges granted under any license other than that which he/she holds. A separate license shall be issued for each specific smoking lounge business within the City of Troy.

10. Manager; Change of Manager

At least one registered manager who has been identified on the application for a Smoker's Lounge License shall be on the premises at all times that the business is open. It shall be unlawful for any person not identified on the Smoker's Lounge License application to work as a manager of a smoking lounge business unless the proposed manager or operator has submitted a registration form with the individual's legal name and any aliases, home address, telephone numbers, date of birth, and driver's license number, and is determined qualified to serve as a manager by the Troy City Clerk, using the criteria as set forth in this Ordinance. All managers must be over the age of twenty-one (21) years old. The licensee shall be responsible for notifying the City of any proposed change in management and insuring that the proposed

new manager has obtained the required approval before working or serving as a manager of the licensed establishment.

11. Hours of Operation

It shall be unlawful for a smoking lounge business to be open for business or for the licensee, manager or any employee of a licensee to allow patrons to enter into the licensed premises between midnight (12:00 am) of each day until eight am (8:00am) the next day. All individuals except employees of the smoking lounge business shall be required to leave or be removed from the building by (12:30 a.m.). Only a maximum of three (3) employees shall remain on the premises after 12:30 am and each shall carry proof of employment at the licensed establishment, such as an identification badge. The manager and/or employees shall provide proof of such employment when requested to do so by a member of the Troy Police Department or Troy Fire Department.

12. Age Restrictions

No one shall be allowed on the premises of a smoking lounge business unless the individual is the age of eighteen (18) years of age or older. The manager and/or employees shall ensure that identifications of individuals on the premises have been checked to determine that every individual is over the age of eighteen (18) years of age or older before entry into the premises. The manager and/or employees shall secure exit doors to ensure that no one has or is attempting to gain secret entry into the premises.

13. Parking Restrictions

The manager and/or employees shall require patrons to leave the parking lot of the smoking lounge business by 12:30 a.m. The manager and/or employees shall insure that patrons of the smoking lounge business are not parking in adjacent or neighboring parking lots or in residential areas that are not part of the parking area provided to the licensed premises.

14. Standard of Conduct.

- a. The following standards of conduct shall be adhered to by managers and employees of any smoker's lounge business:
  - i. Alcohol and Liquor: No manager, employee, volunteer, or representative of the licensee shall serve or engage in the sale of alcoholic beverages on the premises, including, but not limited to: any spirituous, vinous, malt or fermented liquor, beverages, liquids and compounds.

- ii. Consumption of alcohol: It shall be unlawful to permit the consumption of alcoholic beverages in any smoking lounge business. The licensee's manager and/or employees shall immediately remove any person who opens or consumes alcoholic beverages on the premises.
- iii. Controlled Substances: It shall be unlawful to permit the use, sale or presence of controlled substances (as defined under MCL 333.7212, et. seq, of the Public Health Code as amended, or a rule promulgated under that Act or Code), on the licensed premises. The manager and/or employees shall immediately remove any person possessing, distributing, selling, consuming and/or using controlled substances on the licensed premises.
- iv. There shall be no live entertainment in a licensed establishment.
- v. It is the duty of the licensee to ensure that at least one manager is on duty and on the premises at all times that persons are on the licensed premises, and that the manager is visible to any patron who is present on the premises.
- iv. It is the duty of the licensee and managers of the premises to ensure that any doors to public areas on the premises remain unlocked during business hours.

#### 14. Compliance with Laws

The business licensee, the manager and employees shall comply with all federal and state laws and the City of Troy Code of Ordinances, including, but not limited to, building and fire codes.

#### 15. Right of Entry.

The filing of an application for a smoker's lounge license shall constitute consent of the applicant and licensee and his/her or its agents, managers and/or employees to permit the City's Police Department, Building Department, Planning Department or any other department or agent of the city to conduct routine inspections of any licensed smoker's lounge business during the hours the establishment is conducting business and during any time that employees or managers are on the premises. The Troy Police Department and the Troy Fire Department shall be allowed unannounced access to the smoking lounge premises to inspect for violation of this Chapter.

#### Section 3. Repeal

All ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent necessary to give this ordinance full force and effect.

**Section 4. Savings**

All proceedings pending, and all rights and liabilities existing, acquired or incurred, at the time this Ordinance takes effect, are hereby saved. Such proceedings may be consummated under and according to the ordinance in force at the time such proceedings were commenced. This ordinance shall not be construed to alter, affect, or abate any pending prosecution, or prevent prosecution hereafter instituted under any ordinance specifically or impliedly repealed or amended by this ordinance adopting this penal regulation, for offenses committed prior to the effective date of this ordinance; and new prosecutions may be instituted and all prosecutions pending at the effective date of this ordinance may be continued, for offenses committed prior to the effective date of this ordinance, under and in accordance with the provisions of any ordinance in force at the time of the commission of such offense.

**Section 5. Severability Clause**

Should any word, phrase, sentence, paragraph or section of this Ordinance be held invalid or unconstitutional, the remaining provision of this ordinance shall remain in full force and effect.

**Section 6. Effective Date**

This Ordinance shall become effective ten (10) days from the date hereof or upon publication, whichever shall later occur.

This Ordinance is enacted by the Council of the City of Troy, Oakland County, Michigan, at a regular meeting of the City Council held at City Hall, 500 W. Big Beaver, Troy, MI, on Monday, \_\_\_\_\_, 2013.

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Dane Slater, Mayor

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M. Aileen Bittner, City Clerk