

## **Bill 1266 - Hours of Operation for Hookah Lounges**

### **What is hookah?**

This legislation defines hookah as “a type of waterpipe, used to smoke shisha or other tobacco products, with a long flexible tube for drawing aerosol through water.”

### **What does this legislation do?**

- Prohibits smoking between the hours of midnight to 7 am on the premise and on the public right-of-way (including sidewalks, tree lawns, and alleys) adjacent to the business
- Creates a pathway for responsible owners to continue operating hookah lounges while eliminating the outcrowd issues that allow bad operators to create dangerous and nuisance conditions in communities
- Cleans up and clarifies language in the Denver code. The General Assembly passed the Colorado Clean Indoor Air Act in 2006, which prohibits smoking in public areas throughout the state. While Denver has been amended the section of our code that controls smoking restrictions since the passage of the Clean Indoor Air Act, like in 2016 when City Council voted to prohibit smoking on the 16<sup>th</sup> Street Mall, this section of the code has never been updated to align with the Colorado Clean Indoor Air Act and much of the language was preempted by that act. This proposed legislation cleans up and aligns that entire section of the code.

### **Who does this legislation impact?**

It will only pertain to hookah lounges and does not impact cigar-tobacco bars, private residences, or other establishments that have legacy protections in the exemptions of the Clean Indoor Air Act. Alcohol and marijuana consumption sites are regulated in different ordinances. There is currently no regulation anywhere for hookah lounges.

### **Why is this legislation necessary?**

Currently there are no regulations of hours of operation on hookah lounges. They are allowed to operate at all hours (many close as late as 4-5 am). The problems arise when the bars close. Intoxicated patrons who wish to continue their night festivities go to hookah lounges. They continue to drink alcohol in their vehicles or outside the establishment. Unlike alcohol and marijuana consumption sites, the bad behavior of patrons cannot easily be tied back to the owners and are incredibly difficult to control.

Multiple neighborhoods have been extremely impacted by the outcrowd issues at hookah lounges because of this lack of regulation on hours of operation. Gun violence, public intoxication, fighting, urination, parking issues such as peeling out or blocking streets, bottle throwing, etc. are just some of the issues neighborhoods experience that have ultimately led to several hookah lounges being permanently closed through the nuisance abatement process.

- Habibi Hookah Lounge, 2021 – currently going through nuisance abatement
- Marrakesh Hookah Lounge, 2018 – closed because of shooting inside the store
- Golden Pyramid - multiple shootings around establishment

- Between January - July 2021 - 63 calls to 911 for hookah lounges across the city. (26) 311 complaints between 2019 and present at Habibi Hookah Lounge. Data from DPD 911 calls:

Calls for Service at Selected Denver Hookah/Marijuana/Cigar Smoking Establishments, January 1st, 2021 to July 26th, 2021				
Address	Call Problem	Call Class/Type	Number of Calls	Call Month
1715 E Evans Ave	911 Hang Up	Citizen-Initiated Call	1	June
1715 E Evans Ave	Alarm Silent	Citizen-Initiated Call	1	June
1800 S Broadway St	Disturbance	Citizen-Initiated Call	1	January
1800 S Broadway St	Noise Complaint	Citizen-Initiated Call	4	January
1800 S Broadway St	Reckless Driver	Citizen-Initiated Call	1	January
1800 S Broadway St	Self Initiated Action	Officer-Initiated Call	2	January
1800 S Broadway St	Noise Complaint	Citizen-Initiated Call	2	February
1800 S Broadway St	Safety Order	Citizen-Initiated Call	2	February
1800 S Broadway St	Disturbance	Citizen-Initiated Call	1	March
1800 S Broadway St	Follow Up	Officer-Initiated Call	2	March
1800 S Broadway St	Noise Complaint	Citizen-Initiated Call	7	March
1800 S Broadway St	Reckless Driver	Citizen-Initiated Call	1	March
1800 S Broadway St	Self Initiated Action	Officer-Initiated Call	6	March
1800 S Broadway St	Accident No Injury	Officer-Initiated Call	1	April
1800 S Broadway St	Directed Follow Up	Officer-Initiated Call	2	April
1800 S Broadway St	Disturbance	Citizen-Initiated Call	4	April
1800 S Broadway St	Disturbance	Officer-Initiated Call	1	April
1800 S Broadway St	Follow Up	Officer-Initiated Call	2	April
1800 S Broadway St	Intoxicated Person	Officer-Initiated Call	1	April
1800 S Broadway St	Noise Complaint	Citizen-Initiated Call	10	April
1800 S Broadway St	Noise Complaint	Officer-Initiated Call	1	April
1800 S Broadway St	Self Initiated Action	Officer-Initiated Call	12	April
1800 S Broadway St	Disturbance	Citizen-Initiated Call	1	May
1800 S Broadway St	Follow Up	Officer-Initiated Call	1	May
1800 S Broadway St	Information Call	Citizen-Initiated Call	1	May
1800 S Broadway St	Noise Complaint	Citizen-Initiated Call	9	May
1800 S Broadway St	Self Initiated Action	Officer-Initiated Call	11	May
1800 S Broadway St	Shots Heard / Fired	Citizen-Initiated Call	1	May
1800 S Broadway St	Shots Heard / Fired	Officer-Initiated Call	1	May
1800 S Broadway St	Subject Stop	Officer-Initiated Call	2	May
1800 S Broadway St	Welfare Check	Citizen-Initiated Call	1	May
1800 S Broadway St	Criminal Mischief IP-JO	Citizen-Initiated Call	1	June
1800 S Broadway St	Disturbance	Citizen-Initiated Call	1	June
1800 S Broadway St	Noise Complaint	Citizen-Initiated Call	9	June
1800 S Broadway St	Self Initiated Action	Officer-Initiated Call	16	June
1800 S Broadway St	Shots Heard / Fired	Citizen-Initiated Call	2	June
2160 S Holly St	Auto Theft	Citizen-Initiated Call	2	May
2201 W 32nd Ave	Threats	Citizen-Initiated Call	1	January
2201 W 32nd Ave	Parking Complaint / Aband Veh	Citizen-Initiated Call	1	May
2246 S Colorado Blvd	Disturbance	Citizen-Initiated Call	1	January
2246 S Colorado Blvd	Safety Order	Citizen-Initiated Call	1	February
2500 S Broadway St	Burglary	Citizen-Initiated Call	1	January
2500 S Broadway St	Fight	Citizen-Initiated Call	1	January
2500 S Broadway St	Fight	Officer-Initiated Call	1	January
2500 S Broadway St	Follow Up	Officer-Initiated Call	1	January
2500 S Broadway St	Auto Theft	Citizen-Initiated Call	1	February
2500 S Broadway St	Follow Up	Officer-Initiated Call	1	February
2500 S Broadway St	Self Initiated Action	Officer-Initiated Call	1	February
2500 S Broadway St	Suspicious Occurrence	Citizen-Initiated Call	1	February
2500 S Broadway St	Suspicious Occurrence	Officer-Initiated Call	1	February
2500 S Broadway St	Self Initiated Action	Officer-Initiated Call	1	March
2500 S Broadway St	Suspicious Occurrence	Citizen-Initiated Call	1	April
2500 S Broadway St	Disturbance	Citizen-Initiated Call	1	May
2500 S Broadway St	Follow Up	Citizen-Initiated Call	1	May

### **Who supports this legislation?**

- The National Hookah Community Association and Local Hookah Owners support responsible regulation of hookah lounges so that responsible operators can continue to operate and irresponsible businesses can be controlled. A letter of support is attached.

### **Agencies who participated in the drafting/review of this ordinance**

- City Attorney's Office - Has worked on several difficult nuisance abatement cases, and was included in the drafting of this legislation.
- Denver Fire Department - Late night/early morning hookah lounges often operate without the proper licenses and outside of fire code compliance, but are hard for DFD to regulate at those hours.
- Denver Police Department - Late night calls for service stress resources and pull officers away from other calls
- Excise and Licenses - Consulted and shared difficulty with licenses, enforcement, and small number of hookah lounges in Denver.
- Neighborhood Inspections
- Right of Way Enforcement

### **Who opposes this legislation?**

- No opposition at this time, however several local hookah lounge operators and the National Hookah Community Association have asked for a 2 am closing time instead of the proposed midnight closing time to align with liquor and marijuana social consumption hours.

### **How does this relate to the proposed flavored tobacco ban**

- The FDA and CDC reports do not show that hookah is a significant contributor to the youth smoking epidemic.
  - Hookahs are not being confiscated in schools. Hookahs are 3 feet tall and cannot be easily concealed in your pocket or backpack like vape, take 25 – 30 minutes to set up and need hot coals, and costs over \$200 for all the parts and accessories, making it out of reach for most kids.
- Hookah is not vape. Hookah has been practiced for over a thousand years by Persians, Arabs, Armenians, Turks, Indians, and other minority groups many of which have immigrated to America and still practice their cultural traditions. Hookah is the centerpiece of social gatherings and is often offered to guests as a sign of hospitality and respect.
- The proposed tobacco flavor ban would be a ban on all hookah because hookah only comes in flavors (such as molasses and honey) therefore, an amendment allowing adults 21+ to use hookah tobacco in a regulated environment is required, or all hookah lounges would be forced to close.

## Flavor Bans and Hookah in other Cities

- The Los Angeles City Council is considering a proposal to ban the sale of flavored tobacco products, making an exception for some sales of hookah tobacco. The ban would include menthol cigarettes, but creates an exception for existing, legally operated smokers' lounges that sell hookah tobacco. The council members voted in favor to ask the city attorney to start drafting the measure.  
<https://www.latimes.com/california/story/2021-06-16/flavored-tobacco-hookah-menthol-cigarettes-la-city-council>
- Massachusetts' new law on flavored tobacco ban specifically restricts the sale of the products to licensed smoking bars such as cigar bars and hookah lounges, where they'll only be allowed to be consumed on-site.  
<https://apnews.com/article/e6dd6eb0b45f4ac103638ea5b27313ff>

## Hookah regulation in other cities

- Many cities have closed hookah lounges due to anti-smoking laws.
- Seattle Mayor proposed an across-the-board crackdown on all of Seattle's hookah lounges due to violence in and around the establishments:  
<https://www.seattlemet.com/news-and-city-life/2015/08/city-to-shut-down-seattle-s-hookah-lounges>.
- Somali community advocated for earlier closing times of hookah lounges in Columbus due to addiction and violence concern in the immigrant community:  
<https://www.dispatch.com/news/20180418/columbus-considering-hookah-lounge-regulations-including-earlier-closings-and-no-tobacco-sales-to-teens>
- The Hillsborough County Board of County Commissioners (Tampa, FL) passed an ordinance that will require hookah lounges to close from 3 a.m. to 7 a.m. daily in the interest of public safety.  
<https://www.wtsp.com/article/news/local/ordinance-hillsborough-county-hookah-lounges-closed-3-am-to-7-am/67-34a01d15-e4f2-45f5-aeae-bbffa4ff1e60>
- Philadelphia City Council passed a bill that restricts most smoking lounges to only the most permissive zoning districts, severely limiting where hookah bars can be located, and requiring a variance.  
<https://why.org/articles/puff-puff-pass-philly-council-to-debate-banning-hookah-bars-in-most-of-the-city/>
- Baltimore County Council passed a bill that mandates hookah lounges be closed between midnight and 6 a.m.  
[https://digitaledition.baltimoresun.com/tribune/article\\_popover.aspx?guid=dd53a7d7-264e-4be5-a3ab-d379c033a6d2](https://digitaledition.baltimoresun.com/tribune/article_popover.aspx?guid=dd53a7d7-264e-4be5-a3ab-d379c033a6d2)