



Legislation Details (With Text)

File #: Int 0139-2014 **Version:** C **Name:** Regulation of non-tobacco smoking products, and to amend the fire code of NYC, and the NYC mechanical code, in relation to the operation of non-tobacco hookah establishments.

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Title: A Local Law to amend the administrative code of the city of New York, in relation to the regulation of non-tobacco smoking products, and to amend the fire code of the city of New York, and the New York city mechanical code, in relation to the operation of non-tobacco hookah establishments

Sponsors: Vincent J. Gentile, Peter A. Koo, James Vacca, Fernando Cabrera, Corey D. Johnson, Ritchie J. Torres, Ydanis A. Rodriguez, Andy L. King, Daniel Dromm, Annabel Palma, Donovan J. Richards, Mark Treyger, David G. Greenfield, Rosie Mendez, Mathieu Eugene, Inez D. Barron, Alan N. Maisel, Rafael Salamanca, Jr., Brad S. Lander, Darlene Mealy, Andrew Cohen, Helen K. Rosenthal, I. Daneek Miller, Deborah L. Rose, Laurie A. Cumbo, Karen Koslowitz, Paul A. Vallone, Carlos Menchaca, Eric A. Ulrich

Indexes: Agency Rule-making Required

Attachments: 1. Legislative History Report, 2. Summary of Int. No. 139-C, 3. Summary of Int. No. 139-B, 4. Summary of Int. No. 139-A, 5. Int. No. 139 - 3/12/14, 6. Committee Report 2/25/16, 7. Hearing Testimony 2/25/16, 8. Hearing Transcript 2/25/16, 9. Proposed Int. No. 139-A - 1/3/17, 10. Proposed Int. No. 139-B - 4/19/17, 11. Committee Report 4/27/17, 12. Hearing Testimony 4/27/17, 13. Hearing Transcript 4/27/17, 14. Proposed Int. No. 139-C - 9/25/17, 15. Committee Report 9/26/17, 16. Hearing Transcript 9/26/17, 17. Fiscal Impact Statement, 18. September 27, 2017 - Stated Meeting Agenda with Links to Files, 19. Committee Report - Stated Meeting, 20. Int. No. 139-C (FINAL), 21. Hearing Transcript - Stated Meeting 9-27-17, 22. Mayor's Letter, 23. Local Law 187, 24. Minutes of the Stated Meeting - September 27, 2017

Date	Ver.	Action By	Action	Result
3/12/2014	*	City Council	Introduced by Council	
3/12/2014	*	City Council	Referred to Comm by Council	
2/25/2016	*	Committee on Health	Hearing Held by Committee	
2/25/2016	*	Committee on Health	Amendment Proposed by Comm	
2/25/2016	*	Committee on Health	Laid Over by Committee	
4/27/2017	*	Committee on Health	Hearing Held by Committee	
4/27/2017	*	Committee on Health	Amendment Proposed by Comm	
4/27/2017	*	Committee on Health	Laid Over by Committee	
9/26/2017	*	Committee on Health	Hearing Held by Committee	
9/26/2017	*	Committee on Health	Amendment Proposed by Comm	
9/26/2017	*	Committee on Health	Amended by Committee	
9/26/2017	C	Committee on Health	Approved by Committee	Pass
9/27/2017	C	City Council	Approved by Council	Pass

9/27/2017	C	City Council	Sent to Mayor by Council
10/16/2017	C	Mayor	Hearing Held by Mayor
10/16/2017	C	Mayor	Signed Into Law by Mayor
10/17/2017	C	City Council	Recved from Mayor by Council

Int. No. 139-C

By Council Members Gentile, Koo, Vacca, Cabrera, Johnson, Torres, Rodriguez, King, Dromm, Palma, Richards, Treyger, Greenfield, Mendez, Eugene, Barron, Maisel, Salamanca, Lander, Mealy, Cohen, Rosenthal, Miller, Rose, Cumbo, Koslowitz, Vallone, Menchaca and Ulrich

A Local Law to amend the administrative code of the city of New York, in relation to the regulation of non-tobacco smoking products, and to amend the fire code of the city of New York, and the New York city mechanical code, in relation to the operation of non-tobacco hookah establishments

Be it enacted by the Council as follows:

Section 1. Legislative findings. The Council finds that smoking is a leading cause of preventable premature death in New York City, killing thousands of New Yorkers every year and increasing the risks of lung cancer, heart disease, and many other health hazards. The City responded to this threat by enacting the Smoke-Free Air Act in 1988, amending it in 2002 to restrict tobacco smoking in various indoor and outdoor public places, and strengthening it several times since 2002. The Smoke-Free Air Act remains a central part of the City's comprehensive program to reduce exposure to environmental toxicants produced by smoking and to reduce and prevent tobacco use.

Despite substantial progress in reducing both environmental smoke exposure and smoking rates among adults and youth, the use of water-pipes, or hookah smoking, is increasing and threatens the progress the City has made to reduce tobacco use by residents and visitors to the City. The number of establishments in the City advertising hookah on Yelp! is almost five times higher than it was in 2012. Disturbingly, hookah is especially popular among the City's youth. Between 2008 and 2016, the percentage of middle school students in the City who have smoked hookah increased from 2.9 percent to 5.6 percent. As of 2016, the percentage of high school students who have smoked hookah is 16.4 percent. The increase in younger New Yorkers' hookah smoking is particularly troubling because some studies suggest youth who smoke hookah may be more likely to try cigarettes.

The Council finds that hookah smoking, regardless of whether the shisha contains tobacco, poses significant health risks to smokers and nonsmokers, including employees at establishments that serve hookah. All hookah smoking involves burning charcoal, which is used to heat the shisha. The charcoal alone creates health hazards for smokers and those exposed to secondhand smoke by emitting carbon monoxide, fine particulate matter, and various toxicants. In addition, non-tobacco shisha has been shown to emit harmful substances in equal or greater quantities as tobacco-containing shisha, including carbon monoxide, polycyclic aromatic hydrocarbons, fine particulate matter, tar, and volatile aldehydes. While risks associated with non-tobacco hookah smoking are clear, air quality in the City's hookah establishments is complicated further by evidence that many hookah establishments have been found to be violating the Smoke-Free Air Act by serving shisha that contains tobacco. In addition to the toxicants emitted by non-tobacco shisha, tobacco-containing shisha has been shown to emit phenols, nicotine, and NNAL, a tobacco-specific nitrosamine. Thus, unsuspecting patrons of hookah establishments may be consuming tobacco unwittingly, in addition to the harmful substances emitted by charcoal and tobacco shisha.

The Council further finds that regulating non-tobacco smoking would promote enforcement of the City's Smoke-Free Air Act and Fire Code. Regulating non-tobacco hookah establishments would also likely strengthen the City's ability to promote compliance with the Smoke-Free Air Act by preventing non-tobacco hookah establishments from serving tobacco-containing shisha to unsuspecting consumers. Moreover, reasonable precautionary regulations will minimize the risk that hookah pipes and charcoals may contribute to the creation of fire hazards.

The Council hereby declares that this local law responds to the significant health hazards posed by hookah smoking in the following ways: (1) it protects the integrity of the City's Smoke-Free Air Act, which was intended to provide all New Yorkers with access to clean air in public places and workplaces, by discouraging smoking and reducing exposure to secondhand smoke for nonsmokers; (2) it continues the City's efforts to de-normalize smoking and reduce tobacco dependence; and (3) it restricts access to establishments

where hookah smoking can take place.

§ 2. Subdivision y of section 17-502 of the administrative code of the city of New York, as amended by local law number 5 for the year 1995, is amended to read as follows:

y. “Smoking” means inhaling, exhaling, burning or carrying any lighted or heated cigar, cigarette, little cigar, pipe, water pipe, herbal cigarette, non-tobacco smoking product, or any similar form of lighted object or device [which contains tobacco] designed for human use or consumption by the inhalation of smoke.

§ 3. Section 17-502 of the administrative code of the city of New York is amended by adding new subdivisions zz and aaa to read as follows:

zz. “Non-tobacco smoking product” means any product that does not contain tobacco or nicotine and that is designed for human use or consumption by the inhalation of smoke, including but not limited to (i) pipes, water pipes, rolling papers, and any other component, part, or accessory of such product and (ii) shisha, as defined in subdivision z of section 17-702, provided that such shisha does not contain tobacco or nicotine.

aaa. “Non-tobacco hookah establishment” means an establishment that, as of the date of enactment of the local law that added this subdivision, generated fifty percent or more of its total annual gross sales during the preceding calendar year from the on-site sale of non-tobacco smoking products, and that has a permit issued by the department pursuant to section 17-513.5.

§ 4. Paragraph 6 of subdivision a of section 17-503 of the administrative code of the city of New York, as amended by local law number 152 for the year 2013, is amended to read as follows:

6. Business establishments (other than retail tobacco stores) including, but not limited to, banks and other financial institutions, catering halls, offices where trade or vocational activity occurs or professional or consumer services are rendered and non-profit entities, including religious institutions; provided however, that this paragraph shall not apply to membership associations, and provided further, however, that this paragraph shall not apply to the smoking of non-tobacco smoking products in non-tobacco hookah establishments.

§ 5. Section 17-508 of the administrative code of the city of New York is amended by adding new

subdivisions l and m to read as follows:

l. When a person who has been issued a permit to operate a non-tobacco hookah establishment has been found to have been in violation of subdivision a of section 17-508 or subdivision 1 of section 1399-s of the public health law, the commissioner shall revoke the permit issued to such person to operate such non-tobacco hookah establishment.

m. A non-tobacco hookah establishment found to be in violation of subdivision a of section 17-508 or subdivision 1 of section 1399-s of the public health law shall be responsible for any expert costs relating to proving such violation. The recovery of the costs authorized by this subdivision shall be in addition to any other penalties imposed by this section or by any other provision of law.

§ 6. The heading of section 17-513.1 of the administrative code of the city of New York, as added by local law number 47 for the year 2002, is amended to read as follows:

§ 17-513.1 Effective dates for membership associations, owner operated bars, [and] tobacco bars and non-tobacco hookah establishments.

§ 7. Section 17-513.1 of the administrative code of the city of New York is amended by adding a new subdivision d to read as follows:

d. Any entity that in good faith believes itself to be a non-tobacco hookah establishment shall have 180 days from the effective date of the local law that added this subdivision to apply to the department for a permit as a non-tobacco hookah establishment. No permit application shall be approved by the department for any entity that fails to meet any requirement for a permit contained in subdivision g of section 17-513.5. During the period of time from the effective date of the local law that added this subdivision until the expiration of 180 days, no provision of the local law that added this subdivision, except for the provisions of this section, shall apply to such entity.

§ 8. Chapter 5 of title 17 of the administrative code of the city of New York is amended by adding a new section 17-513.5 to read as follows:

§ 17-513.5 Non-tobacco hookah establishments.

a. It shall be unlawful for a person to operate a non-tobacco hookah establishment without a permit from the department.

b. A permit issued pursuant to this section shall be valid for one year.

c. A permit issued pursuant to this section is not assignable or transferrable.

d. Where any person becomes the beneficial owner of 10 percent or more of the stock of an organization to which a permit has been granted pursuant to this section, if such person previously did not hold at least a 10 percent interest, such permit shall immediately become void.

e. Any permit issued pursuant to this section shall immediately become void upon the addition or termination of any general partner or upon the dissolution of a partnership that owns a non-tobacco hookah establishment.

f. The department may charge a fee of \$25 for a permit issued pursuant to this section.

g. To obtain and renew a permit issued pursuant to this section for a non-tobacco hookah establishment, a person shall demonstrate that:

1. such non-tobacco hookah establishment generated 50 percent or more of its total annual gross sales during the preceding calendar year from the on-site sale of non-tobacco smoking products;

2. such non-tobacco hookah establishment has been operating as a non-tobacco hookah establishment since at least the date of enactment of the local law that created this section, and has not expanded its size or changed its location on or after the date of enactment of the local law that added this section;

3. such non-tobacco hookah establishment has not been found to have served shisha containing tobacco or nicotine, in violation of subdivision a of section 17-508 or subdivision 1 of section 1399-s of the public health law, after the effective date of the local law that added this section;

4. such non-tobacco hookah establishment does not owe a civil penalty for a violation of any provision of this chapter or of chapter 7 of title 17; and

5. the permit of such non-tobacco hookah establishment issued pursuant to this section has not been revoked pursuant to subdivision l of section 17-508 or subdivision b of section 17-716.

§ 9. The heading of subchapter 2 of chapter 7 of title 17 of the administrative code of the city of New York, as amended by local law number 69 for the year 2009, is amended to read as follows:

SUBCHAPTER 2

REGULATION OF THE SALE OF FLAVORED TOBACCO PRODUCTS AND REGULATION OF AGE OF ENTRY TO NON-TOBACCO HOOKAH ESTABLISHMENTS

§ 10. Section 17-716 of the administrative code of the city of New York, as amended by a local law of the city of New York for the year 2017 amending the administrative code of the city of New York, in relation to prohibiting the sale of non-tobacco smoking products to minors and young adults, and repealing subdivision f of section 17-713 and section 17-714 of the administrative code of the city of New York, relating to the sale of herbal cigarettes to individuals under eighteen years of age, as proposed in introduction number 1076-A for the year 2016, is amended by adding new subdivisions b and c to read as follows:

b. Any person who violates subdivision a of section 17-719 shall be liable for a civil penalty of two hundred dollars for the first violation, and not more than two hundred dollars for each additional violation found on the same day; and five hundred dollars for the second violation and each subsequent violation at the same place of business. A proceeding to recover any such civil penalty shall be commenced by the service of a notice of violation returnable to any tribunal established within the office of administrative trials and hearings or within any agency of the city designated to conduct such proceedings. When a person has been found to be in violation of subdivision a of section 17-719 on two or more occasions at a non-tobacco hookah establishment, the commissioner shall revoke the non-tobacco hookah establishment permit issued to such person pursuant to section 17-513.5.

c. Any person found to be in violation of subdivision b of section 17-719 shall be liable for a civil penalty of one hundred dollars for the first violation and not more than one hundred dollars for each additional

violation found on the same day, and two hundred dollars for each subsequent violation at the same place of business. A proceeding to recover any such civil penalty shall be commenced by the service of a notice of violation returnable to any tribunal established within the office of administrative trials and hearings or within any agency of the city designated to conduct such proceedings.

§ 11. Chapter 7 of title 17 of the administrative code of the city of New York is amended by adding a new section 17-719 to read as follows:

§ 17-719 Requirements relating to non-tobacco hookah establishments.

a. It shall be unlawful for a person to permit an individual under 21 years of age to enter a non-tobacco hookah establishment during operating hours. Entry into such non-tobacco hookah establishment shall be permitted only to an individual who demonstrates, through a driver's license or other photographic identification card issued by a government entity or educational institution, that the individual is at least 21 years of age. Such identification need not be required of any individual who reasonably appears to be at least 30 years of age, provided, however, that such appearance shall not constitute a defense in any proceeding alleging the granting of permission to enter such an establishment to an individual under 21 years of age.

b. Non-tobacco hookah establishments, as defined in section 17-502, shall clean and sanitize the interior of the bowl, stem, hose, base, and any other part of paraphernalia provided to customers for smoking non-tobacco smoking products, as defined in section 17-502, in accordance with rules promulgated by the department.

§ 12. Section 403.3 of the New York city mechanical code, as amended by local law number 141 for the year 2013, is amended to read as follows:

403.3 Outdoor airflow rate. Ventilation systems shall be designed to have the capacity to supply the minimum outdoor airflow rate determined in accordance with this section. The occupant load utilized for design of the ventilation system shall not be less than the number determined from the estimated maximum occupant load rate indicated in Table 403.3. Ventilation rates for occupancies not represented in Table 403.3 shall be those for a listed occupancy classification that is most similar in terms of occupant density, activities and building construction; or shall be determined by an approved engineering analysis. The ventilation system shall be designed to supply the required rate of ventilation air continuously during the period the building is occupied, except as otherwise stated in other provisions of the code.

With the exception of [smoking lounges] non-tobacco hookah establishments, the ventilation rates in Table 403.3 are based on the absence of smoking in occupiable spaces. Where smoking is anticipated in a space other than a [smoking lounge] non-tobacco hookah establishment, the ventilation system serving the space shall be designed to provide ventilation over and above that required by Table 403.3 in accordance with accepted engineering practice.

§ 13. Table 403.3 of the New York city mechanical code is amended to read as follows:

OCCUPANCY CLASSIFICATION	PEOPLE OUTDOOR AIRFLOW RATE IN BREATHING ZONE CFM/PERSON	AREA OUTDOOR AIRFLOW RATE IN BREATHING ZONE R _a CFM/FT ^{2a}	DEFAULT OCCUPANT DENSITY #/1000 FT ^{2a}	EXHAUST AIRFLOW RATE CFM/FT ^{2a}
Correctional facilities				
Cells without plumbing fixtures	5	0.12	25	-
with plumbing fixtures ^g	5	0.12	25	1.0
Dining halls (see food and beverage service)	-	-	-	-
Guard stations	5	0.06	15	-
Day room	5	0.06	30	-
Booking/waiting	7.5	0.06	50	-
Dry cleaners, laundries				
Coin-operated dry cleaner	15	-	20	-
Coin-operated laundries	7.5	0.06	20	-
Commercial dry cleaner ¹	30	-	30	-
Commercial laundry	25	-	10	-
Storage, pick up	7.5	0.12	30	-
Education				
Auditoriums	5	0.06	150	-
Corridors (see public spaces)	-	-	-	-
Media center	10	0.12	25	-
Sports locker rooms ^g	-	-	-	0.5
Music/theater/dance	10	0.06	35	-
Smoking lounges ^b	60	-	70	-
Day care (through age 4)	10	0.18	25	-
Classrooms (ages 5-8)	10	0.12	25	-
Classrooms (age 9 plus)	10	0.12	35	-
Lecture classroom	7.5	0.06	65	-
Lecture hall (fixed seats)	7.5	0.06	150	-
Art classroom	10	0.18	20	0.7
Science laboratories ^{g, k}	10	0.18	25	1.0
Wood/metal shops ^g	10	0.18	20	0.5
Computer lab	10	0.12	25	-
Multiuse assembly	7.5	0.06	100	-
Locker/dressing rooms ^g	-	-	-	0.25
Food and beverage service				
Bars, cocktail lounges	7.5	0.18	100	-
Cafeteria, fast food	7.5	0.18	100	-
Dining rooms	7.5	0.18	70	-
Kitchens (cooking) ^b <u>Non-tobacco smoking estab</u>	60	-	70	0.7

Hospitals, nursing and convalescent homes				
Autopsy rooms ^b	-	-	-	0.5
Medical procedure rooms	15	-	20	-
Operating rooms	30	-	20	-
Patient rooms	25	-	10	-
Physical therapy	15	-	20	-
Recovery and ICU	15	-	20	-
Hotels, motels, resorts and dormitories				
Multipurpose assembly	5	0.06	120	-
Bathrooms/toilet-private ^g	-	-	-	25/50 ^f
Bedroom/living room	5	0.06	10	-
Conference/meeting	5	0.06	50	-
Dormitory sleeping areas	5	0.06	20	-
Gambling casinos	7.5	0.18	120	-
Lobbies/prefunction	7.5	0.06	30	-
Laboratories^j				
Biological	-	1.0	-	1.0
Chemical	-	1.0	-	1.0
Industrial and nonteaching	-	1.0	-	1.0
Nonproduction chemical labs	-	1.0	-	1.0
Offices				
Conference rooms	5	0.06	50	-
Office spaces	5	0.06	5	-
Reception areas	5	0.06	30	-
Telephone/data entry	5	0.06	60	-
Main entry lobbies	5	0.06	10	-
Private dwellings, single-family				
Garages, common for multiple units	-	-	-	0.75
Garages, separate for each unit	-	-	-	100 cfm per car
Kitchens ^b	-	-	-	25/100 ^f
Living areas ^{c,i}	0.35 ACH but not less than 15 cfm/person	-	Based upon number of bedrooms. First bedroom, 2; each additional bedroom, 1	-
Toilet rooms and bathrooms	-	-	-	20/50 ^f
Public spaces				
Corridors	-	0.06	-	-
Elevator car	-	-	-	1.0
Shower room (per shower)	-	-	-	50/20 ^f
Smoking lounges ^b	60	-	70	-
Toilet rooms - public ^g	-	-	-	50/70 ^e
Places of religious worship	5	0.06	120	-
Courtrooms	5	0.06	70	-
Legislative chambers	5	0.06	50	-
Libraries	5	0.12	10	-
Museums (children's)	7.5	0.12	40	-
Museums/galleries	7.5	0.06	40	-

Retail stores, sales floors			
Sales (except as below)	7.5	0.12	15
Dressing rooms	-	-	0.25
Mall common areas	7.5	0.06	40
Shipping and receiving	-	0.12	-
Smoking lounges and no establishments ^b	60	-	70
Storage rooms	-	0.12	-
Warehouses (see storage)	-	-	-
Specialty shops			
Automotive motor-fuel d	-	-	1.5
Barber	7.5	0.06	25
Beauty and nail salons ^{b, h}	20	0.12	25
Embalming room ^b	-	-	2.0
Pet shops (animal areas) ^h	7.5	0.18	10
Supermarkets	7.5	0.06	8
Sports and amusement			
Disco/dance floors	20	0.06	100
Bowling alleys (seating a	10	0.12	40
Game arcades	7.5	0.18	20
Ice arenas without comb	-	0.30	0.5
Gym, stadium, arena (pla	-	0.30	-
Spectator areas	7.5	0.06	150
Swimming pools (pool a	-	0.48	-
Health club/aerobics roo	20	0.06	40
Health club/weight room	20	0.06	10
Storage			
Repair garages, enclosed	-	-	0.75
Warehouses	-	0.06	-
Theaters			
Auditoriums (see educati	-	-	-
Lobbies	5	0.06	150
Stages, studios	10	0.06	70
Ticket booths	5	0.06	60
Transportation			
Platforms	7.5	0.06	100
Transportation waiting	7.5	0.06	100
Workrooms			
Bank vaults/safe deposit	5	0.06	5
Darkrooms	-	-	1.0
Copy, printing rooms	5	0.06	4
Meat processing ^e	15	-	10
Pharmacy (prep. area)	5	0.18	10
Photo studios	5	0.12	10
Computer (without print	5	0.06	4

For SI: 1 cubic foot per minute = 0.0004719 m³/s, 1 ton = 908 kg, 1 cubic foot per minute per square foot = 0.00508m³/(s m²),
C = ((F) -32) /1.8, 1 square foot = 0.0929m².

- a. Based upon net occupiable floor area.
- b. Mechanical exhaust required and the recirculation of air from such spaces is prohibited (see Section 403.2.1, Item 4).
- c. Spaces unheated or maintained below 50°F are not covered by these requirements unless the occupancy is continuous.
- d. Ventilation systems in enclosed parking garages shall comply with Section 404.
- e. Rates are per water closet or urinal. The higher rate shall be provided where periods of heavy use are expected to occur, such as toilets in theaters, schools and sports facilities. The lower rate shall be permitted where periods of heavy use are not expected.
- f. Rates are per room unless otherwise indicated. The higher rate shall be provided where the exhaust system is designed to operate intermittently. The lower rate shall be permitted where the exhaust system is designed to operate continuously during normal hours of use.
- g. Mechanical exhaust is required and recirculation is prohibited.
- h. For nail salons, the required exhaust shall include ventilation tables or other systems that capture the contaminants and odors at their source and are capable of exhausting a minimum of 50 cfm/ft² per station.
- i. For R-2 buildings less than 125 feet in height, outdoor ventilation air provided by mechanical means serving dwelling units designed to exceed 100 cfm per dwelling unit, whether intermittent or continuous, shall be required. For buildings 125 feet and greater, outdoor ventilation air shall be provided by mechanical means when the sum of the exhaust designed to exceed 75 cfm, whether continuous or intermittent, per dwelling unit. Manually operated openable exterior wall openings shall not be used to provide outside ventilation air except where calculations are submitted showing that such openings are located at or below the lowest calculated neutral pressure plane (calculated at the winter outdoor design temperature, and taking into account a composite mass flow air balance of the building including all mechanical systems.)
- j. During unoccupied hours the ventilation rate and exhaust rates may be reduced to 0.5 cfm/ft².
- k. When an educational science laboratory is occupied and hoods are not in use and hazardous materials are not present, then ventilation rates shall be consistent with actual use of the space, but not less than 0.5 cfm/ft².
 - l. See Section 502.6 for additional requirements.

§ 14. Section 105.6 of chapter 1 of the New York city fire code, as amended by local law number 148 for the year 2013, is amended by adding the following permit to the list of required permits, to read as follows:

Non-tobacco hookah establishments. A permit is required to maintain or operate a non-tobacco hookah establishment pursuant to Chapter 5 of Title 17 of the Administrative Code and FC310.7.

§ 15. Section 310.2 of chapter 3 of the New York city fire code, as amended by local law number 148 for the year 2013, is amended to read as follows:

310.2 Prohibitions. It shall be unlawful to:

- 1. smoke in any area in which smoking is prohibited, as set forth in this section or elsewhere in this code.
- 2. place or discard, or cause to be placed or discarded, any lighted pipe, cigar, cigarette or other type of smoking paraphernalia or material where it can cause the ignition of combustible material or combustible waste, or otherwise cause an unwanted fire.
- 3. smoke in any building, structure, premises or part thereof where flammable or combustible materials or explosives are manufactured, stored, handled, used or transported.
- 4. smoke in the following occupancies and spaces:

4.1. Cellars and basements, except in R-3 occupancies.

4.2. Group A occupancies and public gathering places, except for smoking non-tobacco smoking products in a non-tobacco hookah establishment in accordance with FC310.7.

4.3. Group M occupancies, except for smoking non-tobacco smoking products in a non-tobacco hookah establishment in accordance with FC310.7.

4.4. Hospitals, nursing homes, rehabilitation facilities and similar medical facilities housing the ill, aged and infirm[, except within designated smoking rooms when in compliance with the requirements of the Title 17 of the Administrative Code, the New York City Health Code and rules promulgated by the commissioner].

4.5. On any bulkhead, dock, drydock, shipyard, pier, wharf, warehouse or shed on the waterfront.

4.6. On board any ship, barge, ferry, lighter, carfloat, scow, and all other similar floating watercraft or equipment whether berthed or moored at a dock, wharf, pier, or to a marine vessel made fast thereto or in a shipyard.

4.7. Factories as set forth in Section 283 of the New York State Labor Law.

4.8. As otherwise prohibited by this code or the rules.

§ 16. Section 310.7 of chapter 3 of the New York city fire code, as added by local law number 26 for the year 2008, is amended to read as follows:

310.7 [Reserved] Non-tobacco hookah establishments. Smoking of non-tobacco smoking products is allowed in non-tobacco hookah establishments lawfully operating pursuant to Chapter 5 of Title 17 of the Administrative Code (as those terms are defined therein), provided that such establishments are designed, installed, operated and maintained in accordance with the following requirements:

310.7.1. Permits. Permits shall be required as set forth in FC105.6.

310.7.2 Supervision. The storage of coal and other solid or liquid flammable and combustible materials in non-tobacco hookah establishments shall be under the general supervision of a person holding a certificate of fitness. The handling and use of charcoal and other solid or liquid flammable and combustible materials in non-

tobacco hookah establishments shall be under the personal supervision of a person holding a certificate of fitness.

310.7.3 Use of charcoal or other material for smoking paraphernalia. Where smoking paraphernalia requires the use of lighted charcoal or any other solid or liquid flammable or combustible material, such material shall be stored, handled and used in accordance with this section and the rules.

310.7.3.1 Smoking paraphernalia. Smoking paraphernalia shall comply with such safety measures as may be prescribed in the rules to minimize the risk of fire associated with the use of such paraphernalia.

310.7.3.2 Storage of charcoal. Charcoal shall be stored in the same manner as solid fuel used for commercial cooking operations, as set forth in FC 609.5.2 and the rules. Other flammable or combustible materials shall be stored in compliance with the requirements of this code or the rules.

310.7.3.3 Preparation, handling and disposal of charcoal and other materials. Charcoal shall be prepared for use in an enclosed stationary furnace or oven vented to the outdoors in accordance with the Construction Codes, in an approved vessel heated by an electric element and vented by means of a hood, or in a room with an approved ventilation system, as set forth in the rules. Lighted charcoal and ashes, cinders and other fire debris, and other combustible waste shall be handled and disposed of in such manner as may be prescribed in the rules to minimize the risk of fire.

310.7.3.4 Portable fire extinguishers. In addition to complying with the requirements of FC906, a portable fire extinguisher with at least a 5-B rating shall be provided and maintained in a non-tobacco hookah establishment in the charcoal preparation area and in each area in which non-tobacco smoking products are smoked.

310.7.3.5 Decorations. Decorations in non-tobacco hookah establishments shall be flame-resistant in accordance with FC805 and the rules.

§ 17. The department of health and mental hygiene shall educate businesses that sell non-tobacco smoking products, as defined in subdivision zz of section 17-502 of the administrative code of the city of New

York, or which permit the smoking of such non-tobacco smoking products, about their obligations pursuant to this local law and any rules promulgated thereto.

§ 18. This local law takes effect 180 days after it becomes law, except that:

(i) section seventeen of this local law takes effect immediately, and is deemed repealed 1 year after it becomes law;

(ii) subdivision b of section 17-716 of the administrative code of the city of New York, as added by section ten of this local law, takes effect on the same day as a local law for the year 2017 amending the administrative code of the city of New York in relation to prohibiting the sale of non-tobacco smoking products to minors and young adults, and repealing subdivision f of section 17-713 and section 17-714 of the administrative code of the city of New York, relating to the sale of herbal cigarettes to individuals under eighteen years of age, as proposed in introduction number 1076-A for the year 2016, takes effect;

(iii) section 403.3 of the New York city mechanical code and table 403.3 of such mechanical code, as amended by sections twelve and thirteen of this local law, respectively, take effect 3 years after enactment of this local law; and

(iv) the department of health and mental hygiene and the fire commissioner may take such actions, including the promulgation of rules, as are necessary for timely implementation of this local law, prior to the effective date of this local law.

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