

~~(H) BE ESTABLISHED WITHOUT ANY REQUIREMENTS TO MODIFY THE STRUCTURAL OR ATMOSPHERIC CONDITIONS OF THE AREAS OF THE ESTABLISHMENT.~~

(1) (I) NOTWITHSTANDING ANY REGULATIONS ADOPTED BY THE COMMISSIONER MAY NOT PROPOSE OR ADOPT ANY REGULATION THAT RESTRICTS UNDER THIS SECTION, THE SMOKING OF TOBACCO PRODUCTS IS PERMITTED IN ANY OF THE FOLLOWING LOCATIONS UNLESS RESTRICTED AS AUTHORIZED UNDER PARAGRAPH (3) OF THIS SUBSECTION:

1. ANY PORTION OF A PRIVATE RESIDENCE WHICH IS NOT OPEN TO THE PUBLIC FOR BUSINESS PURPOSES;

2. ANY ESTABLISHMENT THAT:

A. IS NOT A RESTAURANT OR HOTEL AS DEFINED IN ARTICLE 2B, § 1-102 OF THE CODE AND THAT;

B. POSSESSES AN ALCOHOLIC BEVERAGES LICENSE ISSUED UNDER ARTICLE 2B OF THE CODE THAT ALLOWS CONSUMPTION OF ALCOHOLIC BEVERAGES ON THE PREMISES OF THE ESTABLISHMENT; AND

C. IS GENERALLY RECOGNIZED AS A BAR OR TAVERN; OR

~~3.~~ 3. A BAR IN A HOTEL OR MOTEL; OR

4. A CLUB AS DEFINED IN ARTICLE 2B, § 1-102 OF THE CODE AND THAT POSSESSES AN ALCOHOLIC BEVERAGES LICENSE ISSUED UNDER ARTICLE 2B OF THE CODE AND THAT ALLOWS CONSUMPTION OF ALCOHOLIC BEVERAGES ON THE PREMISES OF THE CLUB;

5. IN THE CASE OF A RESTAURANT AS DEFINED IN ARTICLE 2B, § 1-102 OF THE CODE;

A. IF THE RESTAURANT DOES NOT POSSESS AN ALCOHOLIC BEVERAGES LICENSE ISSUED UNDER ARTICLE 2B OF THE CODE, A SEPARATE ENCLOSED ROOM NOT TO EXCEED 40% OF THE TOTAL AREA OF THE RESTAURANT; OR

B. IF THE RESTAURANT POSSESSES AN ALCOHOLIC BEVERAGES LICENSE ISSUED UNDER ARTICLE 2B OF THE CODE, A BAR OR BAR AREA, A SEPARATE ENCLOSED ROOM NOT EXCEEDING 40% OF THE RESTAURANT, OR A COMBINATION OF A BAR OR BAR AREA AND A SEPARATE ENCLOSED ROOM NOT EXCEEDING 40% OF THE TOTAL AREA OF THE RESTAURANT INCLUDING THE BAR OR BAR AREA;

6. UP TO 40% OF THE SLEEPING ROOMS IN A HOTEL OR MOTEL;

7. A SEPARATE ENCLOSED ROOM OF AN ESTABLISHMENT OTHER THAN AN ESTABLISHMENT SPECIFIED IN ITEMS 1 THROUGH 6 OF THIS SUBPARAGRAPH THAT POSSESSES AN ALCOHOLIC BEVERAGES LICENSE ISSUED UNDER ARTICLE 2B OF THE CODE THAT ALLOWS CONSUMPTION OF ALCOHOLIC BEVERAGES ON THE PREMISES OF THE ESTABLISHMENT; OR