

FILE OF THE COUNCIL OF THE CITY OF LEBANON, PA.

BILL NO. 8 SESSIONS 2024-2025

INTRODUCED BY Mr. Joseph O. Morales, September 22, 2025

AN ORDINANCE

AMENDING PART ELEVEN (PUBLIC HEALTH CODE) OF THE CITY OF LEBANON CODIFIED ORDINANCES TO ESTABLISH ARTICLE 1108, SPECIALTY TOBACCO AND E-CIGARETTE ESTABLISHMENTS AND HOOKAH ESTABLISHMENTS, TO ENACT REGULATIONS FOR THE SALES OF TOBACCO AND E-CIGARETTES AND TO INCLUDE REGULATIONS GOVERNING THE OPERATION OF SPECIALTY TOBACCO AND E-CIGARETTE ESTABLISHMENTS AND HOOKAH ESTABLISHMENTS WITHIN THE CITY OF LEBANON.

WHEREAS, the City of Lebanon is empowered to enact ordinances directing the uses of land for the protection and promotion of the safety, health and morals of its citizens and visitors; *and*

WHEREAS, businesses in the City are marketing tobacco, e-cigarettes and other products legally to sell to adults in the Commonwealth of Pennsylvania; *and*

WHEREAS, these businesses directly or indirectly influence minor children to acquire and consume these products with adverse effects; *and*

WHEREAS, the Pennsylvania state law prohibits the sale of tobacco to minors; *and*

WHEREAS, the City believes that it is in the best interest of the citizens to prohibit the sale of Tobacco Products to minors and to prohibit minors from entering the premises of Specialty Tobacco and E-Cigarette Establishments and Hookah Establishments.

NOW, THEREFORE, BE IT ORDAINED, by the Council for the City of Lebanon, Pennsylvania that Part Eleven, Public Health Code, of the City of Lebanon Codified Ordinances is amended by enacting Article 1108, Specialty Tobacco and E-Cigarette Establishments and Hookah Establishments, in its entirety as set forth herein:

SECTION ONE: PURPOSE

The purpose of these regulations is to foster the health and safety of all citizens and visitors in the City.

SECTION TWO: DEFINITIONS

As used in this Ordinance, the following words, terms and phrases shall have the following meanings unless it is apparent from the context that a different meaning is intended:

MINOR - As follows:

- (1) Except as provided under paragraph (2), an individual under 21 years of age.
- (2) A member of the active or reserve components of any branch or unit of the armed forces of the United States under 18 years of age or a veteran who received an honorable discharge from any branch or unit of the active or reserve components of the armed forces of the United States under 18 years of age.

TOBACCO PRODUCTS - Any substance containing tobacco leaf, including but not limited to cigarettes, cigars, pipe tobacco, snuff, chewing tobacco or dipping tobacco, chewing tobacco, and related accessories, including, but not limited to, matches, lighters, grinders, hookahs, pipes, cigarette rolling machines or papers, ashtrays, pipe tools, pipe supplies and pipe accessories, and vaping products and accessories.

SPECIALTY TOBACCO AND E-CIGARETTE ESTABLISHMENT- An establishment which is primarily dedicated to the display, sale, distribution, delivery, offering, furnishing, or marketing of Tobacco Products or e-cigarettes and related products, including but not limited to, e-cigarette atomizers, vaporizers, batteries, replacement cartridges and any solution manufactured for use with such devices. This definition does not include convenience stores and gas stations, which mainly serve ready-to-eat food and beverages for primarily off-site consumption, as well as other common household items.

ELECTRONIC SMOKING DEVICE - An electronic device that delivers nicotine or other substances via vapor for inhalation. This includes e-cigarettes, e-cigars, e-pipes and any other such products; and includes all component parts, such as e-cigarette batteries, atomizers, vaporizers, replacement cartridges and any solution manufactured for use with such a device. It does not include any product approved or certified for sale by the United States Food and Drug Administration as a tobacco use cessation product, or for other medical purposes. It may also be referred to herein as "e-cigarette".

SECTION THREE: SALES TO MINORS PROHIBITED; MANDATORY IDENTIFICATION

1. It shall be unlawful for any Specialty Tobacco, and E-Cigarette Establishment and/or Hookah Establishment to permit minors to enter or remain on the premises without the supervision of an adult.
2. It shall be unlawful for any person, including any retail business or Specialty Tobacco and E-Cigarette Establishment and/or Hookah Establishment, to sell or furnish by gift, purchase or other means to any minor the following products:
 - a. Cigarettes or other Tobacco Products
 - b. Electronic Smoking Devices or other related products
3. No person shall sell any of the products listed under 1108.03(2)(a) and (b) unless the purchaser either:

- a. demonstrates proof of legal age by means of a photographic identification card issued by a government entity; or
 - b. reasonably appears to be at least thirty (30) years of age.
- 4. Defense. The following affirmative defense is available:
 - a. It is an affirmative defense for a retailer to an offense under this section that, prior to the date of the alleged violation, the retailer has complied with all of the following:
 - i. adopted and implemented a written policy against selling tobacco products to minors which includes:
 - 1. a requirement that an employee ask an individual who appears to be 30 years of age or younger for a valid photoidentification as proof of age prior to making a sale of tobacco products;
 - 2. a list of all types of acceptable photoidentification;
 - 3. a list of factors to be examined in the photoidentification, including photo likeness, birth date, expiration date, bumps, tears or other damage and signature;
 - 4. a requirement that, if the photoidentification is missing any of the items listed in subclause (III), it is not valid and cannot be accepted as proof of age for the sale of tobacco products. A second photoidentification may be required to make the sale of tobacco products, with questions referred to the manager; and
 - 5. a disciplinary policy which includes employee counseling and suspension for failure to require valid photoidentification and dismissal for repeat improper sales.
 - ii. informed all employees selling tobacco products through an established training program of the applicable Federal and State laws regarding the sale of tobacco products to minors;
 - iii. documented employee training indicating that all employees selling tobacco products have been informed of and understand the written policy referred to in subsection (a);
 - iv. trained all employees selling tobacco products to verify that the purchaser is at least 21 years of age or if the minor is a member of the active or reserve components of any branch or unit of the armed forces of the United States or a veteran who received an honorable discharge from any branch or unit of the active or reserve components of the armed forces of the United States, at least 18 years of age before selling tobacco products;
 - v. conspicuously posted a notice that selling tobacco products to a minor is illegal, that the purchase of tobacco products by a minor is illegal and that a violator is subject to penalties; and
 - vi. established and implemented disciplinary sanctions for noncompliance with the policy under subsection (a).
 - b. An affirmative defense under this paragraph must be proved by a preponderance of the evidence.
 - c. An affirmative defense under this paragraph may be used by a retailer no more than three times at each retail location during any 24-month period.

SECTION FOUR: WARNING SIGNS

1. Every retail outlet that sells cigarettes or Tobacco Products -- including but not limited to Specialty Tobacco and E-Cigarette Establishments, Hookah Establishments, convenience stores and gas stations -- shall post in a conspicuous place, clearly visible from any point of sale, a Warning Sign, as described below. Every vending machine contained within said retail outlet shall conspicuously bear a Warning Sign, as described below.
2. Warning Signs for 1108.04(1) shall state the following:
 - a. Tobacco Products and Cigarettes: "SALE OF CIGARETTES AND OTHER TOBACCO PRODUCTS TO PERSONS UNDER 21 YEARS OF AGE IS PROHIBITED BY LAW. PHOTO I.D. WILL BE REQUIRED. THIS LAW WILL BE STRICTLY ENFORCED." Such a sign shall be printed on a white card in red letters at least one-quarter inch in height, or in such other format as the Department of Licenses and Inspections shall allow by regulation.

SECTION FIVE: PENALTY

1. *Violation of Section 1108.03.* A retailer that violates any of the provisions of Section 1108.03 (1-3), upon conviction thereof in a summary proceeding before the Magisterial District Judge, shall be sentenced as follows:
 - (i) for a first offense, to pay a fine of not less than \$100 nor more than \$500;
 - (ii) for a second offense, to pay a fine of not less than \$500 nor more than \$1,000;
 - (iii) for a third offense, to pay a fine of not less than \$1,000 nor more than \$3,000;
 - (iv) for a fourth or subsequent offense, to pay a fine of not less than \$3,000 nor more than \$5,000.
2. *Violation of Section 1108.04.* Any person who violates any of the provisions of Section 1108.04, upon conviction thereof in a summary proceeding before any Magisterial District Judge, shall be sentenced to pay a fine for each offense of not less than \$100 nor more than \$300 and the cost of prosecution.

SEVERABILITY CLAUSE.

The terms, conditions and provisions of this Ordinance are hereby declared to be severable, and, should any portion, part or provision of this Ordinance be found by a court of competent jurisdiction to be invalid, unenforceable or unconstitutional, the City Council hereby declares its intent that the Ordinance shall have been enacted without regard to the invalid, unenforceable or unconstitutional portion, part or provision of this Ordinance.

REPEALER.

Any and all other Ordinances or parts of Ordinances in violation or conflict with the terms, conditions and provisions of the Ordinance are hereby repealed to the extent of such irreconcilable conflict.