

Calendar No.

35,093

(Rev)

Name Daisy Ellis Ext. 8-2508
Person responsible for routing

DEC 24 2024
RECEIVED CAO
(Exp) 04:15

CHECK SHEET TO BE USED FOR
CLEARING ORDINANCES, MOTIONS, AND RESOLUTIONS
BEFORE SUBMISSION TO COUNCIL CLERK

The originating agency shall attach a copy of each proposed ordinance, motion, or resolution to the check sheet for processing in the sequence indicated after preparing a synopsis. The detailed memorandum of explanation shall also be attached to this check sheet.

SYNOPSIS OF DOCUMENT: The proposed ordinance restricts the sale of flavored alternative
nicotine products, including pouches and vapes, to tobacco-specific businesses. The ordinance will reduce
the accessibility of flavored nicotine products to youth in New Orleans.

1. [Signature]
Department Head
2. [Signature] 12/11/24
Department of Law
3. [Signature] 12/12/2024
Chief Administrative Officer
4. [Signature]
Director of Council Relations
5. _____
Initials of Sponsoring Council Member

COUNCIL ACTION

Council Members Present: _____

Absent: _____

AMENDMENTS:

FINAL ADOPTION:

MOVED:

2ND:

YEAS:

NAYS:

ABSENT:

RECUSED:

7. _____
Reviewed by the Chief Administrative Officer after adoption by the City Council and prior to the Mayor's signature.

REF. POLICY MEMORANDUM NO. 3



LEGISLATIVE SUMMARY

TO ACCOMPANY ORDINANCES

BEFORE SUBMISSION TO CLERK OF COUNCIL

Requesting Department or Agency: Health

Name of Contact Person: Dr. Jennifer Avegno

Telephone Number: 504-658-2518

Email Address: Jennifer.avegno@nola.gov

Initials of Sponsoring Councilmember(s): _____

DETAILED SYNOPSIS OF THE ORDINANCE

Please generally describe the purpose, intent, and effect of the proposed ordinance.

The proposed ordinance would restrict the sale of all flavored alternative nicotine products, including
pouches and e-cigarettes, to tobacco-specific retailers (smoke shops). This would remove flavored
alternative nicotine products from hundreds of retail locations and reduce youth access to
these harmful and addictive items.



LEGISLATIVE SUMMARY

If the Ordinance is to effectuate a contract, CEA, or other similar agreement (hereafter contract), please provide the following additional information.



If this section is not applicable, please check this box.

The parties involved:

The obligations, expectations, and deliverables of the parties involved:

Any fiscal implications for the City with the contract:

The public purpose and need for the contract:

The duration of the contract:



LEGISLATIVE SUMMARY

If the Ordinance is to effectuate an amendment to the Codes of the City of New Orleans, please provide the following additional information.

☐

If this section is not applicable, please check this box.

The existing provision(s) of the Code being proposed for amendment:

The proposed ordinance would add Chapter 82, Article XV. – 'Sale of Flavored Alternative

Nicotine Products Limited to Tobacco-Specific Businesses' to the municipal code.

The general content/requirements of the existing Code provision:

Chapter 82 is concerned with health and sanitation in the City of New Orleans. This would be an
additional, new article concerned with the sale of flavored alternative nicotine products.

How the proposed ordinance will alter the existing Code provision(s):

The proposed ordinance will add an additional restriction to existing code that will remove flavored
products from tobacco retailers like gas stations, convenience stores, and bodegas and their sale to
tobacco-specific businesses.

Why these changes are needed:

In recent years, the use of flavored alternative nicotine products has exploded among young people.

30% of Louisiana students regularly use these products, and 90% of those youth use a flavored item.

Flavored alternative nicotine products are addictive, damaging to the physical and mental health of these
young people, and easily accessible at common locations like gas stations and corner stores.

REQUESTED ADOPTION DATE: _____

Reference: Council Rule 41 & City Code Section 2-813

ORDINANCE
CITY OF NEW ORLEANS

CITY HALL: April 10, 2025

CALENDAR NO. 35,093

NO. _____ MAYOR COUNCIL SERIES

**BY: COUNCILMEMBERS THOMAS, GIARRUSSO, GREEN, KING AND HARRIS
(BY REQUEST)**

AN ORDINANCE to ordain Chapter 82, Article XV, Sections 82-718 – 82-723 of the Code of the City of New Orleans to restrict the sale of flavored alternative nicotine products, specifically vapes and pouches, to tobacco-specific businesses; and otherwise to provide with respect thereto.

WHEREAS, the sale and distribution of tobacco products to individuals under the age of 21 is prohibited by Louisiana law (La. R.S. 14:91.8), with the intent to prevent youth access to harmful tobacco products; and

WHEREAS, flavored tobacco products, including alternative nicotine products like vapes and pouches, have been shown to appeal particularly to youth and young adults, with 90% of middle and high school tobacco users reporting use of a flavored product; and

WHEREAS, a study in San Francisco found that after implementing a flavor restriction, the prevalence of flavored tobacco use decreased significantly among young adults, with 20% of participants quitting tobacco use altogether and an additional 14% reducing their tobacco use; and

WHEREAS, flavored nicotine products have been made readily available to young people across New Orleans in corner stores and gas stations within close walking distance of every high school; and

WHEREAS, research has found that increased baseline exposure to e-cigarette advertising, including point-of-sale advertising in stores, is linked to a higher chance of subsequently reporting nicotine use within the last 30 days among youth aged 13-20; **NOW THEREFORE**

SECTION 1. THE COUNCIL OF THE CITY OF NEW ORLEANS HEREBY ORDAINS, That Chapter 82, Article XV of the Code of the City of New Orleans is hereby ordained to read as follows:

“Chapter 82 – HEALTH AND SANITATION

ARTICLE XV. – SALE OF FLAVORED ALTERNATIVE NICOTINE PRODUCTS LIMITED TO TOBACCO-NICOTINE SPECIFIC BUSINESSES

Sec. 82-718. – Definitions

For the purposes of this article, the following terms shall have the following meanings:

Tobacco-Nicotine Specific Business shall mean a retailer with a unique municipal address whose primary activity is the sale, manufacture, or promotion of tobacco, tobacco products, tobacco accessories, nicotine, nicotine products or nicotine product accessories, such that the sale of other products is merely incidental.

Tobacco-Nicotine Retail Location shall mean any retail store with a tobacco permit that sells gasoline, grocery or household items, any hot food items, alcohol, technology such as cell phones and chargers, wire transfer services, lottery, or other such products such that customers reasonably enter the store with the intent to purchase items that do not contain nicotine.

Alternative Nicotine Product shall mean any product or device not FDA approved for nicotine replacement therapy and not consisting of or containing tobacco, which provides for

19 nicotine to be ingested in the body, including but not limited to all types of vapes, e-cigarettes, and
20 pouches.

21 *Traditional Tobacco Product* means any product intended for nicotine to be ingested into
22 the body that contains tobacco, such as a cigar, cigarette, smokeless tobacco, dip, or smoking
23 tobacco.

24 *Flavored* when qualifying alternative nicotine or traditional tobacco product shall mean
25 that the product contains a constituent which imparts a flavor, including menthol.

26 **Sec. 82-719. – Limitation of Sale of Flavored Alternative Nicotine Products**

27 Notwithstanding anything else contained in the City Code, the sale of flavored alternative
28 nicotine products shall be limited to tobacco-nicotine specific businesses.

29 **Sec. 82-720. – Regulations**

30 Pursuant to Section 2-1000 of the City Code, the New Orleans Health Department may
31 promulgate rules and regulations in accordance with the provisions contained in this article and
32 such other rules and regulations as may be necessary for the purpose of implementing and carrying
33 out the provisions of this article.

34 **Sec. 82-721. – Enforcement**

35 1. The New Orleans Health Department, the New Orleans Department of Safety and Permits,
36 and the New Orleans Police Department shall have the power to enforce the provisions of
37 this article.

38 2. The New Orleans Health Department shall perform a compliance check after receiving a
39 complaint to determine if a tobacco-nicotine retail location is in compliance with this
40 article.

41 **Sec. 82-722. – Violations and Penalties**

- 42 1. Nothing contained in this article prohibits the sale of non-flavored alternative nicotine
43 products and flavored traditional tobacco products by any tobacco-nicotine retail location.
44 2. It shall be unlawful for any tobacco-nicotine retail location to fail to comply with the
45 limitation set forth in Section 82-720.
46 3. Any person or entity who violates this article shall be subject to penalties in accordance
47 with Section 1-13 of this Code. Each day that such violation exists shall constitute a
48 separate and distinct offense. Notice and hearing requirements for determining violation(s),
49 fines, and penalties shall be in accordance with the administrative procedures provided in
50 Chapter 6, Article II of the City Code.”

1 **SECTION 2. THE COUNCIL OF THE CITY OF NEW ORLEANS FURTHER**

2 **ORDAINS**, That the provisions of this ordinance shall become effective on July 1, 2025.

ADOPTED BY THE COUNCIL OF THE CITY OF NEW ORLEANS _____

PRESIDENT OF THE COUNCIL

DELIVERED TO THE MAYOR ON _____

APPROVED: _____

DISAPPROVED: _____

MAYOR

RETURNED BY THE MAYOR ON _____ **AT** _____

ASSISTANT CLERK OF COUNCIL

ROLL CALL VOTE:

YEAS:

NAYS:

ABSENT:

RECUSED:

ENGROSSED VERSION:

Chapter 82 – HEALTH AND SANITATION

ARTICLE XV. – SALE OF FLAVORED ALTERNATIVE NICOTINE PRODUCTS LIMITED TO TOBACCO-NICOTINE SPECIFIC BUSINESSES

Sec. 82-718. – Definitions

For the purposes of this article, the following terms shall have the following meanings:

Tobacco-Nicotine Specific Business shall mean a retailer with a unique municipal address whose primary activity is the sale, manufacture, or promotion of tobacco, tobacco products, tobacco accessories, nicotine, nicotine products or nicotine product accessories, such that the sale of other products is merely incidental and almost all transactions include a nicotine-containing product.

Tobacco-Nicotine Retail Location shall mean any retail store with a tobacco permit that sells gasoline, grocery or household items, any hot food items, alcohol, technology such as cell phones and chargers, wire transfer services, lottery, or other such products such that customers reasonably enter the store with the intent to purchase items that do not contain nicotine.

Alternative Nicotine Product shall mean any product or device not FDA approved for nicotine replacement therapy and not consisting of or containing tobacco, which provides for nicotine to be ingested in the body, including but not limited to all types of vapes, e-cigarettes, and pouches.

Traditional Tobacco Product means any product intended for nicotine to be ingested into the body that contains tobacco, such as a cigar, cigarette, smokeless tobacco, dip, or smoking tobacco.

Flavored when qualifying alternative nicotine or traditional tobacco product shall mean that the product contains a constituent which imparts a flavor, including menthol.

Sec. 82-719. – Limitation of Sale of Flavored Alternative Nicotine Products

Notwithstanding anything else contained in the City Code, the sale of flavored alternative nicotine products shall be limited to tobacco-nicotine specific businesses.

Sec. 82-720. – Regulations

Pursuant to Section 2-1000 of the City Code, the New Orleans Health Department may promulgate rules and regulations in accordance with the provisions contained in this article and

such other rules and regulations as may be necessary for the purpose of implementing and carrying out the provisions of this article.

Sec. 82-721. – Enforcement

1. The New Orleans Health Department, the New Orleans Department of Safety and Permits, and the New Orleans Police Department shall have the power to enforce the provisions of this article.
2. The New Orleans Health Department shall perform a compliance check after receiving a complaint to determine if a tobacco-nicotine retail location is in compliance with this article.

Sec. 82-722. – Violations and Penalties

1. Nothing contained in this article prohibits the sale of non-flavored alternative nicotine products and flavored traditional tobacco products by any tobacco-nicotine retail location.
2. It shall be unlawful for any tobacco-nicotine retail location to fail to comply with the limitation set forth in Section 82-720.
3. Any person or entity who violates this article shall be subject to penalties in accordance with Section 1-13 of this Code. Each day that such violation exists shall constitute a separate and distinct offense. Notice and hearing requirements for determining violation(s), fines, and penalties shall be in accordance with the administrative procedures provided in Chapter 6, Article II of the City Code.