



Republic of the Philippines
Province of Leyte
City of Baybay
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OFFICE OF THE SANGGUNIANG PANLUNGSOD

Excerpt from the
Minutes of the 21st Regular Session of the Sangguniang Panlungsod, this city, held on
June 5, 2017.

PREFATORY STATEMENT

WHEREAS, the Republic of the Philippines, under the Framework Convention on Tobacco Control (FCTC) to which it is a Party, determined to give priority to the right to protect public health and to promote measures of tobacco control based on current and relevant scientific, technical and economic considerations, and agreed to implement the measures provided in the treaty;

WHEREAS, the Local Government Code of 1991 (Republic Act No. 7160) accords every local government unit power and authority to promote the general welfare within its territorial jurisdiction, including the promotion of health and safety of its constituents;

WHEREAS, the Philippine Clean Air Act of 1999 (Republic Act No. 8749) declares the right of every citizen to breathe clean air, prohibits smoking inside enclosed public places including public vehicles and other means of transport, and directs local government units to implement this provision;

WHEREAS, scientific evidence has unequivocally established that tobacco consumption and exposure to tobacco smoke cause death, disease and disability; lead to devastating health, social, economic and environmental consequences; and places burdens on families, on the poor, and on national and local health systems;

WHEREAS, scientific evidence has shown that there is no safe level of exposure to tobacco smoke; that effective measures to protect from exposure to it requires the total elimination of smoking and tobacco smoke; and that approaches other than 100% smoke-free environments, including ventilation, air filtration and the use of designated smoking areas (whether with separate ventilation systems or not) have repeatedly been shown to be ineffective;

WHEREAS, the City Government of Baybay recognizes that local governments must act with urgency to denormalize the culture of smoking and tobacco consumption through comprehensive and proven effective tobacco control measures as increasing number of Filipinos die each year of tobacco-related diseases such as stroke, heart disease, and various cancers, among others.

WHEREAS, it is the policy of the City Government of Baybay to promote the health and welfare of its citizens.

WHEREFORE, on motion of Honorable SP Member, Vicente Victor G. Veloso and duly seconded by Honorable SP Member Leoncio P. Asilom, Jr., thus, this ordinance:

CITY ORDINANCE NO. 15, S. 2017

"AN ORDINANCE REGULATING SMOKING IN PUBLIC PLACES AS HEALTH PROTECTION TO THE GENERAL PUBLIC IN THE CITY OF BAYBAY AND PROVIDING PENALTIES FOR VIOLATION THEREOF"

Be it ordained, by the 21st Sangguniang Panlungsod of the City of Baybay it its regular session assembled;

SECTION 1. TITLE.

This shall be known as an Ordinance Regulating Smoking in Public Places as Health Protection to the General Public in the City of Baybay and Providing Penalties for Violation thereof.

SECTION 2. THE DECLARATION OF POLICY

It shall be the policy of the City Government of Baybay to protect its citizens from hazardous products and promote their right to health and instill health consciousness.

SECTION 3. DEFINITION OF TERMS

The words and phrases used in this rules and regulations shall mean as follows:

- A. **ESTABLISHMENTS** – a collective term used to describe any building, edifice, and/or structure, including its premises;
- B. **ACCOMMODATION AND ENTERTAINMENT ESTABLISHMENT** – refer to establishments that provide food, accommodation, drinks, merchandise, entertainment or other professional services including, but not limited to, restaurants, fast foods, eateries, hotels, motels, lodges, inns, boarding houses, disco houses, videoke bars, resto bars, and movie houses, or any other place with pleasant environment and atmosphere conducive to comfort, healthful relaxation and rest, offering food and/or drinks, sleeping accommodation and recreation facilities to the public for a fee;
- C. **CERTIFICATE OF COMPLIANCE** – a certification in writing issued by the City Mayor or his duly authorized representative, that the establishment has complied with the general and specific requirements of a designated smoking area, after the required inspection, evaluation and recommendation conducted by the concerned regulatory offices;
- D. **DESIGNATED SMOKING AREA** – refers to an outdoor space where a person is allowed to smoke without violating the Anti-Smoking Law with the following requirements, at the minimum:
- It shall be located in an open-space with no permanent or temporary roof or walls in an outdoor area.
 - It shall be located within 10 meters of entrances, exits or any place where people pass or where people congregate.
 - It shall not have an area larger than 5 square meters.
 - No food or drinks shall be served in the designated smoking area
 - Every smoking area shall have highly visible and prominently displayed **"SMOKING AREA"** sign and a graphic depiction and corresponding explanation of the ill effects of smoking to the smoker's health or exposure to secondhand smoke. Under no circumstances shall any mark, device, word or image associated with any tobacco company or product be included in any of these signs and materials.
- In the absence of a duly designated smoking area as certified by the Anti-Smoking Task Force, all prohibited places mentioned in Section 4 here of shall be understood as a totally non-smoking area.
- All designated smoking areas shall be covered by a certificate of compliance from the Office of the City Mayor thru the Anti-Smoking Task Force.
- E. **ELECTRONIC DEVICE SYSTEMS** – refers to any device such as electronic nicotine device systems, electronic cigarette and similar devices, whether

or not it is used to deliver nicotine to the user, that resembles the outward appearance of real smoking products;

F. ENCLOSED OR PARTIALLY ENCLOSED PUBLIC PLACE – refers to all places which are enclosed by one or more walls or sides whether covered by a roof or not, or even if open on all sides but is covered by a roof, regardless of whether the structure is permanent or temporary in nature, that are accessible or open to the public, whether or not by invitation or by payment, or all places for collective use, regardless of ownership or right to access including, but not limited to gasoline stations, banks, malls, shopping/business arcades, town squares, terminals, airport, seaport, schools, places of worship/churches, hospitals, cinema houses, gymnasiums/covered courts, funeral parlors, barber shops, cockpits, gaming areas, recreational facilities, pedestrian overpass, indoor car parks, waiting sheds, sidewalks and other places where people usually congregate.

G. ORDINANCE – is a piece of legislation enacted by a municipal authority or local government unit such as this Anti-Smoking Ordinance of Baybay City

H. PUBLIC CONVEYANCES – refer to any vehicle, whether mobile or stationary, used in the transport of passengers or available to the public as a mode of transport, such as but not limited to jeepneys, buses, trains, vans, taxis, airplanes, ships and other modes of water transportation, tricycles, motorcycles, and other public utility vehicles whether covered by a Certificate of Public Convenience or not;

I. PUBLIC BUILDING – refers to any of the following:

a) A building or structure owned by a private person but used, rented or occupied by the government or any of its instrumentalities;

b) Any building or structure used, or controlled exclusively for public purposes by any department or branch of government, local government unit or barangay without reference to the ownership of the building.

J. PUBLIC OUTDOOR SPACES – refer to outdoor spaces that are open to the public or places where facilities are available for the public or where a crowd of people gather or congregate regardless of ownership or right to access such as but not limited to parks, playgrounds, sports grounds or centers, gaming areas, cockfighting areas, church grounds, healthcare/hospital compounds, cemeteries, gardens, resorts, beaches, pools, markets, streets, sidewalks, parking areas, walkways, entrance ways, waiting areas, stairwells and the like.

K. SHISHA –also known or referred to as waterpipe, Sheesha, Hookah, Nargeela, Argeel, Nargile or any other name that refers to a device or instrument which may have a single or multi- stemmed pipe for smoking, whether or not it delivers nicotine to the user, in which the smoke is passed through a water basin before inhalation;

L. SMOKING – refers to the lighting and/or puffing of cigarette, cigar, tobacco product of any kind, form of type, electronic device systems, Shisha and the like. Possession of any lighted cigarette, cigar, or any tobacco product, or an actually operated electronic device system, Shisha and the like within the prohibited areas for smoking shall constitute a prima face evidence as an act of smoking prohibited under this Ordinance.

M. TOBACCO PRODUCT – any product that consist of loose tobacco that contains nicotine and is intended for use in a cigarette, including any product containing tobacco and intended smoking or oral or nasal use;

N. VAPING – Smoking using e-cigarettes

O. **WORKPLACES** – an area, permanent or temporary, in which a person performs duties of employment or work, regardless of whether the work is done for compensation or on a voluntary basis, and includes private offices, common area and any other area which generally is used or frequented during the course of employment or work. Company-owned vehicles used for transporting employees and guests or any vehicle used in the course of work are considered workplaces.

SECTION 4 COVERAGE

1. All drivers, conductors, inspectors and passengers, of all public conveyances, government-owned vehicles, and other means of public transport within the territorial jurisdiction of Baybay City.
2. All accommodation and entertainment establishments;
3. All work places ;
4. All enclosed public places;
5. All partially enclosed public places;
6. All public buildings;
7. All public outdoor spaces.

SECTION 5. PROHIBITED ACTS.

The following acts shall be prohibited:

- A. Smoking any tobacco product or using Electronic Device System, Shisha and the like in any of the places enumerated in Section 4 of the Ordinance, except in duly approved designated smoking areas;
- B. Knowingly allowing, abetting, or tolerating smoking any tobacco or using Electronic Device Systems, Shisha and the like in any of the places enumerated in section 4 of the Ordinance, except when smoking is done within the duly approved designated smoking areas;
- C. Failure to comply with the mandatory duties and obligations as enumerated in Section 6 of this rules and regulations as well as any other provisions of the Ordinance

SECTION 6 MANDATORY DUTIES AND OBLIGATIONS.

The person-in-charge, which refers to the President or Manager in cases of a company, Corporation, or Association, or Partnership or the Owner/Proprietor or Operator in case of Single Proprietorship, of accommodation and entertainment establishments, whether tourism-accredited or not, Workplaces, Public Buildings, Enclosed or Partially Enclosed Public Places, Public Outdoor Spaces shall:

A. POST AND DISPLAY OF SIGNAGES:

1. Post and display an 8x16 inches "This is a Non-Smoking Establishment" sign at all entrances.
2. Prominently display "No Smoking" signs in the most visible locations in the area where smoking is prohibited (main accommodation area, function rooms, bars, cashiers, VIP rooms, comfort rooms), in order to ensure that the public can easily view such signs and be notified.
3. At the very least, a "NO SMOKING" sign for new establishments shall be at least 8 x 18 inches in size and the International No Smoking symbol
4. (consisting of a pictorial representation of a burning cigarette enclosed in a red Circle With a red bar across it) Covering no less than 50% of said signage. The remaining lower 50% of the signage shall show the following warning prominently:



NO SMOKING

Maximum Penalty of P5,000.00

Report Violations to (Baybay City Complain No.)

- B. Remove all ashtrays or any receptacles for dispensing cigarette refuse from Accommodation and Entertainment Establishments, Workplaces, Enclosed or Partially Enclosed Public Places, Public Buildings and other Public Outdoors;
- C. Ensure that all the employees in the establishment are aware of the Ordinance and to provide a procedure informing customers or clients of the provisions of the Ordinance;
- D. Undertake all reasonable steps to ensure strict implementation of the Ordinance and to inform and refrain people from smoking any tobacco product or using Electronic Device Systems, Shisha and the like within their establishments except in duly approved designated smoking areas. The person-in-charge or his/her duly authorized representative including the employees concerned shall immediately inform the Anti-Smoking Task Force or its duly deputized enforcers, or any law enforcer or the nearest police station of the violation and the violator/s thereof;
- E. Selling of cigarettes or any tobacco product shall not be allowed inside the accommodation and entertainment establishments, and public buildings
- F. Owners, operators and drivers of Public Conveyances, government-owned and company-owned vehicles used to transport employees and guests are mandated to prominently display "NO SMOKING" sign in their units, as follows:
1. For the "NO SMOKING" sign of at least 3.5 sq inch shall be placed at the back of the windshield and another sign of at least 10 sq. inch shall be placed at the back of the front row seats;
 2. For taxis, vans or ether similar vehicles, the "NO SMOKING" sign of at least 3.5 sq inch shall be placed on the glove compartment at the front right side of the taxi windshield and another sign of at least 10 sq inch shall be placed at the back of the driver's seat;
 3. For the "NO SMOKING" sign of at least 3.5 sq inch shall be placed at the back of the windshield, and another sign of at least 14 sq inch shall be placed at the back Of the driver's seat facing the passengers or a similarly prominent area of the bus.
 4. For other types of vehicles, the "NO SMOKING" sign of at least 3.5 sq inch shall be placed at the back of the windshield, and another sign of at least 10 sq. inch shall be placed at a prominent location facing the passengers or a similarly prominent area of the vehicles.

SECTION 7. PERSONS LIABLE.

The following persons are liable under the Ordinance:

- A. Any person smoking any tobacco product or using Electronic Device Systems, Shisha and the like within any of the prohibited places enumerated in Section 4 of the Ordinance, except in duly approved designated smoking areas;
- B. The President or Manager in case of a company, Corporation, or Association or Partnership or the Owner/Proprietor or Operator in case of Single Proprietorship of Accommodation and Entertainment establishments, whether tourism accredited or not, Enclosed or Partially Enclosed Public Places, Public Buildings, Public Outdoor Spaces or Workplaces:
1. who knowingly allows, abets or tolerates and/or fails to report violators of the Ordinance to any member of the Anti-Smoking Task Force or its duly deputized enforcers or any law enforcer or the nearest police station immediately upon commission of the Violation or
 2. who otherwise fail to fulfill the mandatory duties and obligations as enumerated in Section 7 of this rules and regulations;
- C. The operator, driver, conductor or inspector of Public Conveyances, government owned or company-owned vehicles who knowingly allows, abets or tolerates and/or fails to warn, advise or report violators of the Ordinance to any member Of the Anti-Smoking Task Force or its duly deputized enforcers, or any law enforcer or nearest police station immediately upon commission of the violation or, who otherwise fails to fulfill the mandatory duties and obligations as enumerated in Section 7 of this rules and regulations.

SECTION 8. PENALTIES.

1. **FIRST OFFENSE** - Php 500.00 or community service;
2. **SECOND OFFENSE** - Php 1,000 or 1 month community service or both at the discretion of the court;
3. **THIRD OFFENSE** - Php 1,500.00 or 2 months community service or both at the discretion of the court.
4. **Fourth (4th)** and subsequent violations of the Ordinance shall be ground for Cancellation of the establishment's business permit.

VIOLATIONS: BY MINORS

a. All cases involving minor violators of any of the provisions of the Ordinance shall be referred by the apprehending officer, after the issuance of the citation ticket, to the City Social Welfare and Development Office (CSWDO) and the latter shall ensure that the minor and his/her parents or guardians be referred to the City Health Office (CHO) for proper smoking cessation counseling.

b. Thereafter, the minor shall be referred to the Barangay Council for the Protection of Children (BCPC), to which the minor is a resident, for the appropriate diversion and rehabilitation program.

c. For this purpose, the CSWDO, in coordination with the BCPC and CHO, is enjoined to formulate its appropriate diversion and rehabilitation programs.

SECTION 9. ANTI-SMOKING TASK FORCE.

An Inter-Agency Task Force which will be known as the "Anti-Smoking Task Force" is hereby constituted and created with the following duties and responsibilities:

- A. The Anti-Smoking Task Force is tasked to inspect and monitor compliance of all places covered by the Ordinance, certify the appropriateness of the designated smoking areas, apprehend violators, and recommend closure of non-compliant establishments taking into consideration the provisions of existing laws and the purpose of smoking regulations which is to protect nonsmokers from the pernicious effects of exposure to tobacco smoke;
- B. With the approval of the City Mayor, the Anti-Smoking Task Force Shall also have the power to recommend for amendment or revision of any provision of this Ordinance;
- C. Sixty (60) days after effectivity of the Ordinance, the Anti-Smoking Task Force in coordination with the Business Permits and Licensing Office (BPLO) shall conduct an ocular inspection of all non-accredited tourism establishments in Baybay City to determine compliance with the requirements as mandated in this Ordinance;
- D. For tourism-accredited accommodation and entertainment establishments, the ocular inspection shall be conducted by the Anti-Smoking Task Force in coordination with the City Tourism Office and the Business Permits and Licensing Office;
- E. The Anti-Smoking Task Force, in coordination with the City Health Office, shall undertake educational awareness campaigns on the ill effects of smoking and exposure to secondhand smoke, information dissemination programs, and capacity building programs and smoking cessation clinics;
- F. The Anti-Smoking Task Force in coordination with the City Information Office shall inform the public of the provisions of this Ordinance, thru an intensified tri-media campaign;
- G. The Anti-Smoking Task Force in coordination with the Bus Terminal and Traffic Management Office (BTTMO), shall inspect the presence of "No Smoking" signs in all public utility vehicles and strictly monitor its compliance;
- H. The Anti-Smoking Task Force shall prepare the procedures for the issuance of the Certificate of Compliance of designated smoking areas, in accordance with Section 3(b) of the Ordinance.

SECTION 10. COMPOSITION OF ANTI-SMOKING TASK FORCE.

The Anti-smoking Task Force (ASTF) shall be composed of the following:

MAYOR
CITY ADMINISTRATOR
Or Representative duly
Authorized or Appointed by the
City Mayor

Honorary Chairperson
Chairperson
Co-Chairperson

CITY LEGAL OFFICER

Vice Chairperson

MEMBERS:

CITY HEALTH OFFICER;

BUSINESS PERMITS & LICENSING OFFICER (BPLO);

CITY ENGINEERING OFFICE, represented by its Building Official;

CITY TOURISM OFFICER;

CITY INFORMATION OFFICER;

GENERAL SERVICES OFFICER;

CITY ENVIRONMENT AND NATURAL RESOURCES OFFICER;

BAYBAY CITY PNP STATION or its duly designated Officer;

PRIVATE SECTORS' Representative.

ENFORCEMENT MECHANISM

SECTION 11. CITATION TICKETS.

A citation ticket shall be issued to violators of any of the provisions of the ordinance and/or this rules and regulations. The citation ticket shall state, among others, the name and address of the violator, the specific violation committed and the corresponding administrative penalty. There shall be three copies of the citation ticket. First copy shall be endorsed to the Anti-smoking Task Force Office, the second copy shall be given to the violator, and the Third Copy shall be retained by the apprehending enforcer.

The Philippine National Police and such other appropriate enforcers as commissioned by the City Mayor through the Anti-Smoking Task Force shall have the power to apprehend violators of the Ordinance and/or this rules and regulations, and issue citation tickets.

The City Mayor through the Anti-Smoking Task Force may deputize barangay officials or representatives of the private sectors, non-government organizations and government organizations in the strict implementation of this rules and regulations and/or Ordinance, as the need arises.

SECTION 12. DEPUTIZED ENFORCERS.

These deputized enforcers shall be responsible in monitoring compliance with the provisions of this City Ordinance, reporting violations and may also be authorized to apprehend violators and issue the corresponding citation tickets.

SECTION 13. TRAINING AND DEPUTATION

All enforcers shall be required to undergo training on enforcement before they are deputized and allowed to enforce Anti-Smoking Ordinance and theses rules and regulations. Only those who shall have completely undergone the training shall be deputized as enforcers by the City Mayor.

SECTION 14. NO CONTEST PROVISION.

Persons liable mentioned in Section 6(a) of this Ordinance, who may have been apprehended or cited for violation/s and who would **not** intend or desire to contest the violation/s and *willingly submits to pay voluntarily the administrative penalty imposed upon him/her* shall be allowed to pay an administrative penalty in the amount of Five Hundred (P500.00) Pesos at the City Treasurer's Office to avoid being criminally prosecuted within three (3) days from apprehension, otherwise, the case shall be prosecuted in court. The no contest provision can only be availed once and all proceeds from payment of the herein penalty imposed shall accrue to the City's General Funds.

Smoking cessation counselling in accredited clinics and district health centers is required after the penalty has been paid. The smoking cessation counsellor shall attest that the violator had undergone counselling by signing his/her name in the citation ticket attached to the required counselling form. After complying with the said requirements, the violator shall return the citation ticket to the respective apprehending officer or to the Anti-

Smoking Task Force Office, or to the deputized enforcer, or to the Baybay City PNP Officer as the case may be.

Notwithstanding the payment of the administrative penalty herein provided, the failure of any person violating any of the provisions of the Ordinance to undergo the smoking cessation counselling, shall still warrant the filing of case in court.

SECTION 15. REPEALING CLAUSE.

The other executive orders and rules and regulations inconsistent with the provisions of this Ordinance are hereby repealed accordingly.

SECTION 16. SEPARABILITY CLAUSE.

Should any provision of these rules and regulations be subsequently declared unconstitutional or invalid, the other provisions not so declared and not affected by such declaration shall remain in full force and effect.

SECTION 17. EFFECTIVITY.


This Ordinance shall take effect immediately upon confirming approval by the Sangguniang Panlalawigan, Province of Leyte.

Enacted: June 5, 2017.
Baybay City, Leyte, Philippines.


RESOLVED FURTHER, that certified copies of this resolution be furnished to the offices concerned for their information and appropriate action.

CARRIED UNANIMOUSLY.

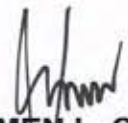
I HEREBY CERTIFY to the correctness of the foregoing resolution which was duly adopted during the 21st Regular Session of the Sangguniang Panlungsod, this city, held on June 5, 2017.

ATTY. 
SP Secretary

ATTESTED & CERTIFIED
TO BE DULY ADOPTED:



MICHAEL L. CARI
City Vice Mayor, Presiding Officer

APPROVED BY HER HONOR:

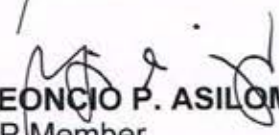

CARMEN L. CARI
City Mayor


With our concurrence:


ATTY. ERNESTO M. BUTAWAN
SP Member


EDGARDO R. OMPOY
SP Member


ARTURO ELISA O. ASTORGA
SP Member



LEONCIO P. ASILOM, JR.
SP Member



RODULFO S. PALMA, JR.
SP Member


VICENTE VICTOR G. VELOSO
SP Member


ALAN D. FERNANDEZ
SP Member


DOMINADOR K. MURILLO, DM
SP Member


FILEMON F. AVILA
SP Member


JORGE V. REBUCAS
SP Member


MANDY G. MUNEZ
President, LIGA Ng Mga Barangay
Ex-Officio, SP Member