



Republic of the Philippines
SANGGUNIANG PANLUNGSOD
City of Mandaluyong

ORDINANCE NO. 671, S-2017

AN ORDINANCE REGULATING THE USE, SALE, DISTRIBUTION
AND ADVERTISEMENT OF CIGARETTES AND OTHER
TOBACCO PRODUCTS IN CERTAIN PLACES,
IMPOSING PENALTIES FOR VIOLATIONS THEREOF
AND PROVIDING FUNDS THEREOF, AND OTHER PURPOSES

WHEREAS, the 1987 Constitution of the Republic of the Philippines declares that the State shall protect and promote the right to health of the people and instill health consciousness among them;

WHEREAS, the Republic of the Philippines, under the World Health Organization Framework Convention on Tobacco Control (FCTC) to which she 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 breath 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, the Tobacco Regulation Act of 2003 (Republic Act No. 9211) prohibits smoking in certain public places whether enclosed or outdoors in certain places; prohibits the purchase and sale of cigarettes and other tobacco products to and by minors and in certain places frequented by minors; imposes bans and restrictions on advertising, promotion and sponsorship activities of tobacco companies and directs local government units to implement these provisions;

WHEREAS, the Civil Service Commission Memorandum (CSC) Circular No. 17 Series of 2009 prohibits smoking in premises, buildings, and grounds of government agencies providing health, education or social welfare and development services such as hospital, health centers, schools and universities and colleges; provides for specific requirements for designated smoking areas;

WHEREAS, the Land Transportation Franchising and Regulatory Board (LTFRB) Memorandum Circular 2009-036 provides that drivers and operators of public utility vehicles are responsible for preventing smoking in public conveyances and posting specified "No Smoking" signs in their vehicles;

WHEREAS, the Metro Manila Council has issued Resolution No. 15, S-2015 urging all local government units of Metro Manila to enact Ordinances in accord with the provisions of the WHO Framework Convention on Tobacco Control (FCTC), a Treaty which was ratified by the Philippine Senate on 6 June, 2005 and entered into force on 4 September, 2005;

WHEREAS, the City of Mandaluyong 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;

WHEREAS, the Civil Service Commission-Department of Health Joint Memorandum Circular No. 2010-01 prohibits government officials and personnel from interacting with the tobacco industry and those representing their interests unless strictly necessary to effectively regulate, control, or supervise them, and its guidelines shall be adhered to strictly;

WHEREAS, the City of Mandaluyong recognizes the fundamental and irreconcilable conflict between the tobacco industry's interest and public health policy, and realizes the need to be alert, be informed and neutralize any efforts by the tobacco industry to undermine, challenge or subvert tobacco control efforts through bribery, intimidation in local health policy implementation;

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 system;

WHEREAS, the enjoyment of the highest attainable standard of health is a fundamental right of every human being, and public health takes precedence over any commercial or business interest;

WHEREAS, an increasing number of Filipinos become afflicted with and die each year of tobacco related diseases such as stroke, heart disease, emphysema, various cancers and nicotine addiction, among others, and both the public and workers in facilities where smoking is allowed are most at risk from these and other tobacco related diseases;

WHEREAS, it is well documented that tobacco advertising, promotion and sponsorship (TAPS) increase tobacco use, and that comprehensive bans on TAPS decrease tobacco use. Studies show that minors exposed to TAPS are also likely to initiate tobacco use. While it is the main thrust of Republic Act No. 9211 to regulate and subsequently ban all tobacco advertisement and sponsorships, the provisions only provided a transition by way of partial bans and restrictions, and still continue to expose minors to tobacco advertising and marketing. An effective ban on tobacco advertising, promotion and sponsorship should, as recognized by parties to the FCTC in Articles 13.1 and 13.2, be comprehensive and applicable to all tobacco advertising, promotion and sponsorship;

WHEREAS, in order to minimize ease of access and affordability of tobacco products, particularly to minors, and in order to provide a more supportive environment for those who are attempting to quit tobacco use, there is a need to strengthen existing measures on access restriction, including the regulation of sales, distribution and availability, and those prescribed under Article 16 of the FCTC.

NOW, THEREFORE, be it ENACTED, as it is hereby ENACTED, by the Sangguniang Panlungsod, in session assembled, by virtue of the power vested in it by law, that:

- SECTION 1. TITLE. This Ordinance shall be known as the “Comprehensive Smoke Free Ordinance of the City of Mandaluyong”.
- SECTION 2. PURPOSE. It is the purpose of this Ordinance to safeguard public health and ensure the well-being of all its constituents by protecting them from the harmful effects of smoking and tobacco consumption, reduce potential exposure to tobacco marketing and advertising, restrict its accessibility, and provide support and a conducive environment for tobacco users to quit.
- SECTION 3. COVERAGE. This Ordinance shall apply to all persons, whether natural or juridical, whether resident or not, and in all places found within the territorial jurisdiction of the City of Mandaluyong.
- SECTION 4. DEFINITION OF TERMS. As used in this Ordinance, the terms below shall have the meanings ascribed to them in this Section. Any word or term not defined shall be given their plain customary meanings, unless the context requires otherwise, and shall be interpreted in a manner consistent with the purpose and spirit of this Ordinance.
- a. ADVERTISING AND PROMOTION – means any form of commercial communication, recommendation or action with the aim, effect or likely effect of promoting a tobacco product or tobacco use, either directly or indirectly;
 - b. CIVIL SOCIETY ORGANIZATION (CSO) – refers to a legally constituted, voluntary, civic and social organization or institution created with no participation of government, including but not limited to, charities, development non-governmental organizations (NGOs), community groups, women’s organizations, faith-based organizations, professional associations, coalitions and advocacy groups duly recognized by the Office of the Mayor. As used in this Ordinance, CSO does not include organizations, or associations related to, or connected with, or front groups of the tobacco industry;
 - c. DESIGNATED SMOKING AREA – refers to:
 - 1. An outdoor space duly approved by the City Health Officer, where smoking may be allowed without violating this Ordinance, that meets the following requirements:
 - a. It shall be located in an open space outside the building with no permanent or temporary roof or walls in an outdoor area;
 - b. It is not located in or within ten (10) meters from entrances, exits, or any place where people pass or congregate;
 - c. It shall not have an area larger than 10 square meters;
 - d. Food or drinks are not served in the designated smoking area;
 - e. No building shall have more than one designated smoking area;
 - f. Minors or persons below the age of eighteen (18) shall not be allowed inside;

- g. The designated smoking area has the following signage highly visible and prominently displayed:
 - g.i. "Smoking Area" signage with message showing "Minors not allowed within these premises";
 - g.ii. Graphic health warnings on the effects of tobacco use.
- h. It shall not be located in places where absolute smoking bans are in effect, such as, but not limited to: centers of youth activity such as playschools, preparatory schools, elementary schools, high schools, colleges and universities, youth hostels and recreational facilities for persons under eighteen (18) years old; elevators and stairwells; location in which fire hazards are present, including gas stations and storage areas for flammable liquids, gas, explosives or combustible materials; within the buildings and premises of public and private hospitals, medical, dental, and optical clinics, health centers, nursing homes, dispensaries and laboratories; food preparation areas; public conveyances and in enclosed, partially enclosed and outdoor areas of transport terminals that are near entrances and exits or where people congregate; within the buildings of all government facilities and premises of all offices of the Department of Health, Department of Education, Commission on Higher Education, Department of Social Welfare and Development and the Civil Service Commission, and shall likewise include parks, plazas, playgrounds, sports and recreational facilities, and other facilities where an absolute smoking ban is imposed under special laws, administrative and executive orders, memorandum circulars and related policies.

2. Enclosed area that shall strictly comply with the following standards:

- a. There shall be no opening that will allow air to escape from the DSA to the smoke-free area of the building or conveyance, except for a single door equipped with an automatic door closer; provided that, if the DSA is not located in an open space, such door shall open directly towards a Non-Smoking Buffer Zone (Buffer Zone) as defined in this Ordinance;
- b. The DSA shall not be located in or within ten (10) meters from entrances, exits, or any place where people pass or congregate, or in front of air intake ducts;
- c. The combined area of the DSA and Buffer Zone shall not be larger than 20% of the total floor area of the building or conveyance, provided that in no case shall such area be less than ten (10) square meters;
- d. No building or conveyance shall have more than one DSA;
- e. The ventilation system for the DSA other than in an open space and for the Buffer Zone shall be independent of all ventilation systems servicing the rest of the building or conveyance;
- f. Minors shall not be allowed inside the DSA and the Buffer Zone;

- g. The DSA shall have the following signages highly visible and prominently displayed:
- "Smoking Area" signage;
 - Graphic health warnings on the effects of tobacco use; and
 - Prohibition on the entry of persons below eighteen (18) years old.
- h. Other standards and specifications to better ensure a smoke-free environment as may be prescribed by the Inter-Agency Committee-Tobacco under Republic Act No. 9211, provided that such standards and specifications are consistent with this Ordinance and that persons-in-charge are given sixty (60) days to comply.

However, there shall be no DSAs in the following public places:

- a. Centers of youth activity such as playschools, preparatory schools, elementary schools, high schools, colleges and universities, youth hostels and recreational facilities for minors;
- b. Elevators and stairwells;
- c. Locations in which fire hazards are present, including gas stations and storage areas for flammable liquids, gas, explosives or combustible materials;
- d. Within the buildings and premises of public and private hospitals, medical, dental, and optical clinics, health centers, nursing homes, dispensaries and laboratories; and
- e. Food preparation areas.
- d. ENCLOSED OR PARTIALLY ENCLOSED – means being covered by a roof or other structure serving the purpose of a roof and having one or more walls or sides, wherein the openings on the walls or sides have an aggregate area that is less than half of the total wall space, regardless of the type of material used for the roof, wall or sides, and regardless of whether the structure is permanent or temporary. Doors and windows that can be opened and shut shall not be considered as openings under this paragraph. The enclosed character of a building or conveyance shall attach to all its areas, including its open spaces;
- e. MINOR – refers to any person below eighteen (18) years old;
- f. NON-SMOKING BUFFER ZONE – is a ventilated area between the door of a DSA not located in an open space and the smoke-free area. There shall be no opening that will allow air to escape from such Non-Smoking Buffer Zone to the smoke-free area, except for a single door equipped with an automatic door closer. Such door is distinct from the door of the DSA, which shall be at least two (2) meters away from the other;
- g. OPEN SPACES – refers to those areas forming part of a building or conveyance, which are not covered by a roof or similar structure;

- h. OUTDOOR ADVERTISEMENT – refers to any sign, model, placard, board, billboard, banner, bunting, poster, streamer, paint-on, light display, device, structure or representation, employed outdoors or visible from outside, wholly or partially to advertise or promote a tobacco product to the public;
- i. PERSON-IN-CHARGE – refers to: in case of public places, public outdoor spaces, workplaces, and point-of-sale, the president/manager in case of a company, corporation, partnership or association, the owner/proprietor/operator in case of a single proprietorship, or the administrator in case of government property, facility, office or building; in case of public conveyances, the owner, driver, operator, conductor, or captain of the public conveyance; in case of schools, the city school superintendent, school president, dean or principal;
- j. POINT-OF-SALE – refers to any location at which an individual can purchase or otherwise obtain tobacco products;
- k. PUBLIC CONVEYANCES – refers to modes of transportation servicing the general population, such as, but not limited to elevators, airplanes, ships, jeepneys, buses, taxicabs, trains, light rail transit, tricycles and other similar vehicles;
- l. PUBLIC PLACES – means all places, fixed or mobile that are accessible or open to the public or places for collective use, regardless of ownership or right to access, including but not limited to, school, workplaces, government facilities, establishments that provide food and drinks, accommodation, merchandise, professional services, entertainment, in the likes of Bingo Areas, Night Establishments, Cockpit Arenas, or other services. It also includes outdoor spaces where facilities are available for the public or where a crowd of people would gather, such as, but not limited to, playgrounds, sport grounds or centers, church grounds, health/hospital compounds, transportation terminal, markets, parks, resorts, walkways/sidewalks, entrance ways, waiting areas, and the like;
- m. SECOND-HAND SMOKE – means the smoke emitted from the burning end of a cigarette or from other tobacco products usually in combination with the smoke exhaled by the smoker;
- n. SMOKE FREE AIR – (for purposes of this Ordinance) is air that is 100% free from tobacco smoke. The definition includes, but is not limited to, air in which tobacco smoke cannot be seen, smelled, sensed or measured;
- o. SMOKING – means being in possession or control of a lit tobacco product regardless of whether the smoke is being actively inhaled or exhaled;
- p. SPONSORSHIP – means any form of contribution to any event, activity or individual with the aim, effect or likely effect of promoting a tobacco product or tobacco use either, directly or indirectly;
- q. TOBACCO INDUSTRY – refers to organizations, entities, associations, and individuals that work for or in behalf of the tobacco industry,

such as, but not limited to, tobacco manufacturers, wholesale distributors, importers of tobacco products, tobacco retailers, front groups and any other individuals or organizations, including, but not limited to lawyers, scientists and lobbyists that work to further the interests of the tobacco industry that compete with those of tobacco control;

- r. TOBACCO INDUSTRY INTERFERENCE – refers to a broad array of tactics and strategies used by the tobacco industry to interfere with the setting and implementation of tobacco control measures;
- s. TOBACCO PRODUCTS – means products entirely or partly made of tobacco leaf as raw material which are manufactured to be used for smoking, sucking, chewing or sniffing, such as but not limited to cigarette, cigar, pipe, shisha/hookah and chew tobacco;
- t. WORKPLACE – means any place used by people during their employment or work, whether done for compensation or voluntarily, including all attached or associated places commonly used by the workers in the course of their work (for example, corridors, elevators, stairwells, toilets, lobbies, lounges). Vehicles used in the source of work are considered workplaces.

SECTION 5. PROHIBITED ACTS. The following acts are declared unlawful and prohibited by this Ordinance:

- a. Smoking in enclosed or partially enclosed public places, workplaces, public conveyances (whether mobile or stationary), or other public places, such as those enumerated under Section 4 (l), except in Designated Smoking Areas duly approved and fully compliant with the requirements under Section 4 (c);
- b. For persons-in-charge to allow, abet or tolerate smoking in places enumerated in the preceding paragraph, outside of approved Designated Smoking Area under Section 4 (c);
- c. Selling or distributing tobacco products to minors;
- d. Purchasing tobacco products from minors;
- e. Ordering, instructing or compelling a minor to use, light up, buy, sell, distribute, deliver, advertise or promote tobacco products;
- f. Selling or distributing tobacco products in a school, public playground or other facility frequented by minors, offices of the Department of Health (DOH) and attached agencies, hospitals and health facilities, or within 100 meters from any point in the perimeter of these places;
- g. Selling of tobacco products within the premises of a government facility;
- h. Selling tobacco products without City permit to sell tobacco products;
- i. Selling of tobacco products as individual pieces or per stick, or in tobacco-product packs containing less than 20 sticks/pieces;
- j. Selling tobacco products removed from its original product packaging or without the proper government-regulated and approved health warning;

- k. Selling tobacco products by ambulant or street vendors, including other mobile or temporary stall, kiosks, stations or units;
- l. Selling or distributing of sweets, snacks, toys or any other objects in the form of tobacco products which may appeal to minors;
- m. Placing cinema or outdoor advertisement of tobacco products;
- n. Placing, posting, displaying or distributing advertisement and promotional materials of tobacco products, such as but not limited to leaflets, posters, display structures and other materials within an establishment when such establishment or its location is prohibited from selling tobacco products;
- o. Placing, posting, displaying or distributing advertisement and promotional materials of tobacco products, such as but not limited to leaflets, posters, display structures and other materials that show a tobacco brand's name (including company name), logo or indicia, such as in a point-of-sale establishment, where minors are allowed entry;
- p. Conducting promotional activities, campaigns, events, products sampling, and the like, where the establishment or its location is prohibited from selling or unauthorized to sell tobacco products and/or where minors are allowed entry;
- q. Displaying and placing tobacco products in open store shelves/ racks, except in enclosed, opaque and single-colored storages/ containments;
- r. Facilitation, participation or partnership engaged by any government official or personnel, regardless of employment status (permanent, casual, contractual, job order, consultant or special appointment) in any form of contribution, sponsorship or Corporate Social Responsibility (CSR) activity, event, program or project by a tobacco company, tobacco industry front groups, or any representation working to protect tobacco industry interests, executed for or within the territorial jurisdiction of the City of Mandaluyong, with the aim, effect or likely effect of promoting a tobacco product, its use either directly or indirectly.

SECTION 6. DUTIES AND OBLIGATIONS OF PERSONS-IN-CHARGE. Persons-in-charge shall:

- a. Prominently post and display the "No Smoking" signage in the locations most visible to the public in the areas where smoking is prohibited. At the very least, the "No Smoking" signage must be posted at the entrance to the area, which shall be at least 8 x 11 inches in size, where the symbol/s shall occupy no less than 60% of the signage. The remaining 40% of the signage shall show the following information:

EX.



STRICTLY NO SMOKING
As per Ordinance No. _____
Violators can be fined up to _____
Report violations to [hotline number]

As for the Designated Smoking Area, after complying with the specifications in Section 4(c), prominently display the following elements in the signage:

“DESIGNATED SMOKING AREA” or “SMOKING AREA”
“Minors not allowed within these premises”
(Place Graphic/Picture–Based Health warnings on the effects of Tobacco use within the signage)

- b. Prominently post and display the “No Smoking” signage in the most conspicuous location within the public conveyance. At the very least, a three and a half (3.5) square inch “No Smoking” signage shall be placed on the windshield and a ten (10) square inch “No Smoking” sign at the driver’s back seat;
- c. Remove from the places where smoking is prohibited all ashtrays and any other receptacles for disposing of cigarette refuse;
- d. For persons–in–charge of government premises intending to establish Designated Smoking Areas (DSA), secure a certification/permit from the duly authorized officer or representative of the Civil Service Commission; while for persons–in–charge of commercial establishments/buildings or other non–government facilities intending to establish a DSA, secure a certification/permit from the Building/ Engineering and Health Officers, after complying with the requirements for a DSA, as stated in Section 4 (c);
- e. For persons–in–charge of schools, public playgrounds or other facilities frequented by minors, offices of the DOH and attached agencies, hospital and health facilities, post the following statement in a clear and conspicuous manner:

SELLING, ADVERTISING AND PROMOTING CIGARETTES
OR OTHER TOBACCO PRODUCTS NOT ALLOWED
WITHIN 100 METERS FROM ANY POINT
IN THE PERIMETER OF
[NAME OF SCHOOL/PLAYGROUND/FACILITY FOR
MINORS/HEALTH FACILITY/ ETC.]

- f. For persons–in–charge of schools, public playgrounds or other facilities frequented by minors, offices of the DOH and attached agencies, hospitals and health facilities, report to the Smoke Free Task Force any tobacco product selling, advertising and/or promotion located within 100 meters from its perimeter;
- g. For persons–in–charge of establishments intending to sell tobacco products secure a permit to retail/wholesale from the Business Permits and Licensing Department;

- h. For persons-in-charge of approved point-of-sale establishments, post the following notice, together with a graphic/picture-based health warning on the health consequences of tobacco use, as prescribed by the City Health Department, in a clear conspicuous manner:

SALE/DISTRIBUTION OF TOBACCO PRODUCTS
TO MINORS IS UNLAWFUL

- i. For persons-in-charge of point-of-sale establishments, remove all forms of tobacco advertising/promotions paraphernalia deemed prohibited by this Ordinance;
- j. For persons-in-charge of point-of-sale establishments, secure approval from the City Health Department for storages or containments of tobacco products. Only a listing of available tobacco brands/variants sold at the point-of-sale establishment are allowed to appear outside of the storage or containment, where such listing shall only be written/printed in any plain font, and devoid of any recognizable product or brand typefaces, logo, indicia or markings. Such list shall not occupy more than (25%) of the exposed side of the storage or containment;
- k. For persons-in-charge of point-of-sale establishment, ensure that storages or containments of tobacco products are only opened by a store personnel/manager at the counter during actual purchase by an adult customer, or when being replenished, cleaned or inspected;
- l. Establish internal procedure and measures through which this Ordinance shall be implemented and enforced within the area of which he or she is in charge. This includes compliance to the sales, distribution, advertising and promotions restrictions, i.e. warning smoking violators in banned areas and requesting to stop smoking and if they refuse to comply, asking them to leave the premises, and if they will refuse to comply, reporting the incident to the City Health Department, the nearest peace officer, or to any member of the Smoke Free Task Force through its hotline or by other means;
- m. Ensure that all the employees in the establishment are aware of this Ordinance and the procedure and measures for implementing and enforcing it;
- n. Allow inspectors acting under Section 14 and 15 hereof, which may include other members of the Task Force and the designated civil society organization under Section 16, entry into the establishment or public conveyance during regular business hours for the purpose of inspecting its compliance with this Ordinance;
- o. For all signage required to be posted under (a), (b), (e), and (h) above, provide for versions of them in the local dialect or in English;

SECTION 7. PERSONS LIABLE. The following persons shall be liable under this Ordinance:

- a. Any person or entity who commits any of the prohibited acts stated in Section 5 hereof;

- b. Persons-in-charge who knowingly allow, abet, authorize or tolerate the prohibited acts enumerated in Section 5, or who otherwise fails to fulfill the duties and obligations enumerated in Section 6 hereof;
- c. If the violator is a minor, the enforcer of this Ordinance shall report the incident to the school principal/dean exercising jurisdiction over the minor-offender where he shall be required to comply with disciplinary measures under the school where he/she is enrolled, and/or to the City Social Welfare and Development Department for appropriate action or intervention, pursuant to Republic Act No. 9344. Should the school have no policy for offenses committed by their pupils outside school premises or if the minor is an out-of-school youth, the enforcer shall ensure that the minor is treated in accordance with the provision of Ordinance No. 599, S-2015.

SECTION 8. PENALTIES. The following penalties shall be imposed on violators of this Ordinance:

A. VIOLATION OF SECTION 5(a), (b) AND SECTION 6.

FIRST OFFENSE	Five Hundred Pesos (P500.00)
SECOND OFFENSE	One Thousand Pesos (P1,000.00)
THIRD AND SUBSEQUENT OFFENSES	Two Thousand Pesos (P2,000.00) or imprisonment for a period not less than three (3) months but not more than six (6) months or both at the discretion of the court. Suspension or revocation of business license or permit (in case of a business entity or establishment), if applicable.

B. VIOLATION OF SECTION 5(c) TO (q) SALES/ACCESS RESTRICTION AND ADVERTISING AND PROMOTIONS BAN.

FIRST OFFENSE	Two Thousand Pesos (P2,000.00)
SECOND OFFENSE	Three Thousand Pesos (P3,000.00)
THIRD AND SUBSEQUENT OFFENSES	Five Thousand Pesos (P5,000.00) or imprisonment for a period not less than three (3) months but not more than six (6) months or both at the discretion of the court. Suspension or revocation of business license or permit (in case of a business entity or establishment), if applicable.

C. VIOLATION OF SECTION 5(r). SPONSORSHIP/CONTRIBUTION/PARTNERSHIP WITH THE TOBACCO INDUSTRY INVOLVING GOVERNMENT OFFICIALS/PERSONNEL. Violators shall be proceeded as prescribed by Republic Act No. 3019, Republic Act No. 6713, Revised Penal Code (1932), and/or the CSC-DOH Joint Memorandum Circular 2010-01;

D. REVOCATION OR SUSPENSION OF LICENSE/PERMIT. The license/permit to sell (tobacco products) or to operate any establishment or of any public conveyance covered by this Ordinance shall also be suspended for at least one (1) week but, not more than one (1) month, or revoked, should the same fail to perform the necessary action within fifteen (15) days upon receipt of OVR. Failure to pay within five (5) working days the corresponding penalty as stated in the OVR for the violation committed, the case shall be filed within

the Office of the Prosecutor. Should the license/permit found to be in violation of this Ordinance, fall outside of the jurisdiction of the City Government, the recommendation for revocation or suspension of license/permit shall be forwarded to the appropriate agency or governing body. The suspension or revocation of the license/permit of the erring establishment or public conveyance shall only be lifted once all the requirements set forth upon re-inspection and evaluation of the Health Department, Building/Engineering Department, Business Permits and Licensing Department and/or the appropriate agency or governing body has been fully complied with. Any Task Force member may recommend the revocation or suspension of license or permit of an erring establishment to the appropriate office;

- E. **COMMUNITY SERVICE.** If a violator is unable to pay the fines imposed, he or she may choose to render community service within the City to be administered by the Health Department, after securing a certificate of indigency as provided for in Ordinance No. 599, S-2015. For every hour of community service rendered, his/her outstanding fine shall be reduced by an amount equivalent to triple the hourly minimum wage (or other computations/fixed amount per hour for the total number of hours needed to be rendered) in the City;
- F. **CONFISCATION OR REMOVAL.** Tobacco products, and their advertising/promotions paraphernalia associated with any violation of the prohibited acts in this Ordinance may be subject to confiscation and/or removal;
- G. **NO CONTEST PROVISION.** Persons liable who have been apprehended or cited for violation of any of the prohibited acts of this Ordinance, except for Section 5(r), and who do not wish to contest the violation, and is willing to pay voluntarily the administrative penalty imposed upon him/her for the first and second offenses enumerated in Section 8a. and 8b. prior to the filing of formal charges with the proper court shall be allowed to pay the penalty with the City Treasurer's Office, within five (5) regular business days from apprehension, to avoid being criminally prosecuted. Otherwise, the case shall be prosecuted in Court.

The "No Contest Provision" can no longer be availed for the fourth and subsequent offenses. The proceeds from payment of the herein penalties imposed shall be subject to the provision on funding in Section 20 of this Ordinance.

- H. **SUBSIDIARY IMPRISONMENT PROVISION.** Subsidiary imprisonment may be imposed by the Court in the event that the offender, who is found guilty of violating the provisions of this Ordinance, is unable to pay the fine which he is sentenced to pay.

SECTION 9. ORDINANCE VIOLATION RECEIPT (OVR).

- a. Official booklets of OVR shall be issued by the Chief, City Ordinance Enforcement Division (COED) to duly authorized and qualified enforcers;
- b. An OVR shall be issued to the person/s liable for any violation of this Ordinance upon finding of the violation by duly authorized enforcers;
- c. Violators of this Ordinance shall be informed of their violation, the "No Contest Provision" and the penalty associated with it by means of OVR System;

- d. The violator, who opted to avail of the "No Contest Provision" shall report first to the COED, for the issuance of an Order of Payment, to the Treasurer's office, within five (5) regular business days after such issuance, where he or she shall pay the fine imposed;
- e. The violator, who claims he/she has no capacity to pay the fine, shall secure a Certificate of Indigency and shall render community service.

SECTION 10. SMOKING CESSATION PROGRAM. Smokers who are willing to quit and/or those found violating this Ordinance may be referred to the Smoking Cessation program and its facilities in accordance with Ordinance No. 640, S-2016.

ENFORCEMENT

SECTION 11. LOCAL TOBACCO CONTROL COUNCIL (LTCC). A Local Tobacco Control Council shall be created to aid in the implementation, enforcement and monitoring of this Ordinance, and to protect the same from tobacco industry interference at all times, as well as to conduct educational awareness campaigns, information dissemination programs, and capacity building programs, that will inform the constituents and train enforcement officers.

The LTCC chaired by the Mayor shall have the following as members and may designate a Vice-Chair to serve as overall coordinator:

- a. City Health Officer;
- b. Health Education and Promotion Officer/or equivalent designate;
- c. City Building/Engineering Officer;
- d. City Legal Officer;
- e. City Information Officer;
- f. City Business Permits and Licensing Officer;
- g. Representative/s of one or more civil society organization (CSO) designated by the Health Officer, under Section 17 hereof;
- h. Philippine National Police (PNP) Chief of Police;
- i. City Treasurer;
- j. Environment and Natural Resources Officer (ENRO);
- k. Representative/s from DepEd, CHED and/or academic institution;
- l. Local President of the Liga ng mga Barangay ng Pilipinas;
- m. City Public Order and Safety Officer;
- n. City Ordinance Enforcement Division (COED);
- o. City Welfare and Development Officer;
- p. City Human Resources Management Officer;
- q. City Administrator;
- r. Metropolitan Manila Development Authority (MMDA);
- s. Other member/s identified by the Chair or Vice-Chair (whose specific function in the City and role may serve to effectively implement this Ordinance).

The LTCC shall not include as its member any person or entity upholding or accommodating tobacco industry interests or is connected in any way to the tobacco industry, in order to protect primary health objectives of this Ordinance from any and all interests prejudicial to tobacco control policies and to preserve its integrity. No member of the Task Force shall also receive for himself or for other individuals, beneficiaries or groups, any contribution or compensation, directly or indirectly, whether financial or otherwise, from the tobacco industry. Non-compliance of this provision governing the LTCC, shall serve as grounds for the removal of the erring LTCC member/s. If the erring LTCC member is, likewise, a public officials or government personnel, he/she shall also be subject to sanctions prescribed under the CSC-DOH Joint Memorandum Circular 2010-001.

SECTION 12. DUTIES AND RESPONSIBILITIES OF THE LTCC. Other than

1. receiving, reviewing and processing reports and complaints, serving of citations and notices, and filing of appropriate charges for violations under this Ordinance;
2. attending regular LTCC meetings; and
3. deputizing enforcers under Sections 13 to 17 hereof, and enforcing the other provisions of this Ordinance, the LTCC, headed by the Mayor, shall have the following respective duties and responsibilities:

A. THE CITY HEALTH OFFICER SHALL:

1. Make tobacco control, including the implementation of this Ordinance, a part of the health program and propose funding under the general budget of the City;
2. Establish baseline (preferably) annual data on tobacco use prevalence and other related studies, and recommend further action on the findings of such data;
3. Monitor, together with the Sanitary Inspector, Enforcers and/or Task Force members, the compliance of this Ordinance in public places, establishment, conveyances, point-of-sale, and including the approval/disapproval of permits in Designated Smoking Areas (DSAs) as well as permits/licenses for tobacco point-of-sale;
4. Facilitate, together with the Sanitary Inspector, Enforcers and/or Task Force members, the serving of notices, imposition of fines, suspension, or revocation of permits/ licenses for violations;
5. Assign a hotline or any other number and e-mail address to which violations of this Ordinance may be reported by e-mail, phone call or SMS, or other means, and a person to operate the line and record reports, while another hotline may be assigned for accepting calls or messages for Smoking Cessation counseling;

6. Develop, promote and implement a Smoking Cessation Program, stated in Section 10;
7. Assist hospitals and other health facilities including any office of the DOH within the City, together with the Sanitary Inspector, Enforcers and/or Task Force members, in the monitoring of tobacco products sales, advertisements and promotions within 100 meters from the perimeter of schools, public playgrounds, facilities frequented by minors and health facilities.

B. THE HEALTH EDUCATION AND PROMOTION OFFICER SHALL:

1. Develop and produce information, education and communication materials and conduct activities on Tobacco Control, such as the harms of smoking and second-hand smoke, as well as on the provisions of this Ordinance;
2. Encourage constituents to monitor and report violations of this Ordinance;
3. Assist the Health Officer in developing, promoting and implementing a Smoking Cessation Program.

C. THE CITY BUILDING/ENGINEERING OFFICER SHALL:

1. Conduct, together with the Health Officer or on its own, inspection activities as provided in this Ordinance;
2. Determine whether or not enclosed/partially enclosed public places, workplaces, other public places, and point-of-sale establishments, comply with this Ordinance;
3. Recommend the approval, suspension or revocation of licenses/permits for establishments/facilities, in compliance with this Ordinance.

D. THE CITY LEGAL OFFICER SHALL:

1. Assist the Task Force in reviewing reports of and complaints for violations of this Ordinance and in determining liability or appropriate cases to file;
2. Extend any legal assistance and/or file cases on matters pertaining to this Ordinance.

E. THE CITY INFORMATION OFFICER SHALL:

1. Assist in disseminating information pertaining to all aspects of this Ordinance, including the printing and distribution of copies of this Ordinance to the public;
2. Make a printed materials summarizing the provisions of this Ordinance, and facilitate the development of related information materials and required signage;
3. Publicize activities and reports related to implementation and enforcement.

F. THE CITY BUSINESS PERMITS AND LICENSES OFFICER SHALL:

1. Order the suspension or revocation of licenses/permits of establishments found to have violated this Ordinance, subject to the provisions of Section 8 hereof;
2. Deny renewal of licenses/permits of repeat violators of this Ordinance;
3. Establish procedure for identifying, informing and marking establishments covered by the 100-meter ban on sale, distribution and advertising of tobacco products.

G. THE CIVIL SOCIETY ORGANIZATION (CSO) REPRESENTATIVE/S SHALL:

1. Assist in inspections and in monitoring violations of this Ordinance;
2. Assist in promoting awareness of this Ordinance and in encouraging public support and participation for its implementation and enforcement;
3. Assist in promoting and, if capable, implementing a Smoking Cessation Program;
4. Assist in developing and conducting orientation and training seminars for enforcers;
5. Assist in evaluating the performance of the Task Force and the effectiveness of the implementation and enforcement of this Ordinance.

H. THE PNP CHIEF OF POLICE SHALL:

1. Direct the Local PNP in the orderly enforcement of this Ordinance;
2. Ensure apprehension of violators in accordance with the provisions of this Ordinance and other rules and procedures of engagement;
3. Assist Task Force members, City officials and deputized civilians in apprehending violators and in filing the appropriate complaints when necessary;
4. Assist in promoting awareness of this Ordinance and in encouraging public support and participation in its implementation and enforcement;
5. Employ the assistance of the members of the Task Force and other police enforcers, such as those from other LGUs, during enforcement when coordination is necessary;
6. Refer minors caught in violation of this Ordinance to the Social Services and Development Office and/or to the school authorities where the minor is enrolled;
7. Use the OVR during apprehensions and maintain a record or log of violations/apprehensions made within particular periods, for purposes of reporting.

I. THE CITY TREASURER SHALL:

1. Facilitate the printing and reprinting of the OVR;
2. Collect/receive fines paid by violators and submit reports on its collection;
3. Designate collection agents and guidelines for collections as necessary to assist in efficient collection of fines from the City;
4. Facilitate the release and allocation of funds, and the remuneration of enforcers share in accordance with the provision for the sharing of proceeds, derived from the collection of fines, penalties, generated resources and appropriated budget.

J. THE ENVIRONMENT AND NATURAL RESOURCES OFFICER SHALL:

1. Assist in promoting awareness of this Ordinance as a component in the protection and conservation of the environment and in encouraging public support and participation in its implementation and enforcement;
2. Assist in inspection and monitoring violations of the Ordinance on its own or with any other member of the Task Force;
3. Conduct timely monitoring of air, water, soil quality and other studies pertinent to determining levels of exposure to tobacco smoke, residues, by products and litter, among other;
4. Provide expertise in the application and management of appropriate technologies to avert environmental/health risks, accidents and damage posed by tobacco smoke, residues, by-products, disposal and litter, among others.

K. THE REPRESENTATIVE FROM DEPED, CHED AND/OR ACADEMIC INSTITUTION SHALL:

1. Implement the Department/Commission Orders on the integration of tobacco control education into the school curricular;
2. Ensure strict compliance of the Memos and Orders on the protection of the bureaucracy from industry interference as per FCTC Article 5.3;
3. Ensure strict compliance of schools in enforcing 100% smoke-free campuses and school facilities including the schools' vehicles;
4. Assist in the monitoring of tobacco products' sales, advertisements and promotions within 100-meters from the perimeter of schools, public playgrounds and facilities frequented by minors;

5. Ensure the posting in clear and conspicuous manner "No Smoking" signs, and notices for the sales ban of tobacco products within 100-meters from the perimeter of schools, public playgrounds, facilities frequented by minors and health facilities.

L. THE LOCAL PRESIDENT OF THE LIGA NG MGA BARANGAY NG PILIPINAS SHALL:

1. Assist in promoting awareness of this Ordinance in encouraging public support and participation in its implementation and enforcement;
2. Coordinate with all Barangay Captains and the PNP, or other members of the Task Force in monitoring violations of the Ordinance within their jurisdictions;
3. Provide the necessary coordination among the Barangay Health Workers, Kagawads and Tanods and other enforcers (i.e Coast Guards) for the implementation of activities pertinent to the Ordinance;
4. Assist in the facilitation of the referrals to the Smoking Cessation Program at the Barangay Level, if applicable.

M. THE PUBLIC ORDER AND SAFETY OFFICER SHALL:

1. Assist in promoting awareness of this Ordinance in encouraging public support and participation in its implementation and enforcement;
2. Monitor compliance in public places, establishments, conveyances, point-of-sale, Designated Smoking Areas (DSAs), together with other members of the Task Force;
3. Coordinate with enforcers and/or Task Force members regarding the imposition of fines, suspension or revocation of licenses/permits for violations.

N. THE CITY SOCIAL WELFARE AND DEVELOPMENT OFFICER:

1. Assist in the enforcement of this Ordinance when minors are involved;
2. Provide the necessary interventions for minors implicated in violations.

O. THE CITY HUMAN RESOURCES AND MANAGEMENT OFFICER:

1. Oversee the strict implementation of smoke-free government facilities;
2. Evaluate for approval the proper establishment of Designated Smoking Areas in government facilities where it may apply;
3. Oversee the strict implementation of policy preventing tobacco industry interference, pursuant to the CSC-DOH Joint Memorandum Circular 2010-01;

4. Monitor, supervise and report on all concerns pertaining to tobacco industry activities, communications, and other related concerns;
5. Assist in matters related to tobacco control policies as it applies to the performance of functions and duties affecting government officials/personnel.

P. THE CITY ADMINISTRATOR:

1. Assist the Mayor in overseeing the implementation and enforcement of this Ordinance, in close coordination with other members of the Task Force;
2. Provide regular updates to the Mayor as to the status of implementation and enforcement of the Ordinance.

Q. THE COORDINATOR, IN THE CASE OF SEPARATE COORDINATING UNIT OR OFFICE OF THE TASK FORCE, UNDER THE AUTHORITY OF THE MAYOR:

1. Perform any of the functions assigned to it by the Mayor pertaining to the implementation, enforcement and promotion of this Ordinance;
2. Coordinate with any/all members of the City Task Force as necessary, to any related function as required/instructed by the Mayor;
3. Provide regular updates to the Mayor as to the status of implementation of Tobacco Control in the City and of the Ordinance.

R. THE METROPOLITAN MANILA DEVELOPMENT AUTHORITY:

1. Assist in the training of enforcers, communication development workshop and other capacity building activities;
2. Assist in the enforcement activities by providing technical support and manpower, as requested;
3. Assist in the monitoring and evaluation of activities related to this Ordinance;
4. Provision of technical support for the implementation of this Ordinance, as requested.

SECTION 13. LOCAL TOBACCO CONTROL TASK FORCE.

- a. There is hereby created a Local Tobacco Control Task Force (LTCTF) that shall be responsible for setting the direction, development, implementation, and coordination of tobacco control policies, laws, ordinances, programs and activities.
- b. The Task Force and its members in coordination with the LTCTF Head shall appoint from and among the ranks of City Government employees provided that they possess the necessary qualifications and training to the positions to which they are appointed.

SECTION 14. ENFORCEMENT ON INDIVIDUALS. Members of the PNP and/or persons duly deputized by the Mayor/Task Force shall apprehend and issue OVR against persons found in violation or have failed to comply with any provision enumerated under Sections 5 and 6 hereof. They shall forward copies of the tickets they issued to the COED within 24 hours. If the violator is a minor (person below 18), he or she must be brought to the nearest City Welfare and Development Officer for dispensation of appropriate action, subject to Republic Act No. 9344 (Juvenile Justice and Welfare Law) and/or to the school authorities at the school where the minor is enrolled.

SECTION 15. ENFORCEMENT ON PUBLIC CONVEYANCES. Members of the PNP and/or persons duly deputized by the Task Force shall inspect public conveyances during their regular hours of operation and shall issue OVR upon discovery of any violation of this Ordinance. They shall forward copies of the OVR they issued to violators to the COED regularly or at least once a week.

SECTION 16. ENFORCEMENT ON ESTABLISHMENTS. Ninety (90) calendar days after effectivity of this Ordinance, an inspection team composed of representatives from the Health Department, Engineering Department, Business Permits and License Department, and other members of the Task Force, shall conduct inspections of establishments and buildings to determine their compliance with the provisions of this Ordinance.

Regular inspection shall, thereafter, be conducted at least once every month or simultaneously with other regular inspections done by the appropriate City office or department, whichever is more frequent, during normal hours of operation of the establishment.

The inspection team shall issue an OVR against the establishment upon finding of non-compliance with or of any violation of this Ordinance. An OVR may be issued for each day that the establishment is found to be non-compliant.

Re-inspection of the establishment shall be done on any day after the issuance of the OVR, but in no case more than ten (10) calendar days after such issuance. If the establishment fails to comply with the obligations stated in the OVR upon re-inspection, the inspection team shall recommend the suspension of its license/ permit, consistent with Section 8(D) hereof.

In the course of inspection, the inspection team may apprehend individual violators and request the assistance of the PNP in doing so.

SECTION 17. CIVILIAN PARTICIPATION IN ENFORCEMENT. Within thirty (30) calendar days from the effectivity of the Ordinance, the Health Department shall designate, with the approval of the Office of the Mayor, one or more civil society organizations (CSO) to discharge the duties and responsibilities enumerated in Section 12(G) hereof.

The Task Force may deputize qualified civilians to serve as enforcers of this Ordinance. Any person can file with the Task Force a report or complaint, or present evidence for any violation of this Ordinance.

INFORMATION CAMPAIGN

SECTION 18. INFORMATION DISSEMINATION. Within sixty (60) calendar days of the effectivity of this Ordinance, the Task Force shall:

- a. In coordination with the Office of the Mayor:
 1. Provide at least two (2) copies of this Ordinance to every PNP station or precinct in the jurisdiction of the City;
 2. Provide a primer on this Ordinance for every officer of the PNP/deputized enforcers; and
 3. Conduct lectures to brief officers of the PNP and other enforcers, the provisions of this Ordinance and of their responsibilities with respect to its enforcement.
- b. In coordination with the Business Permit and License Department, provide a copy of this Ordinance and its primer to all existing establishments that are licensed to operate, as well as to those applying for new licenses or permits to operate, and/or permits to sell tobacco products;
- c. In coordination with the Public Information Office, provide a copy of this Ordinance and its primer to all public utility vehicle operators plying within and through the territorial jurisdiction of the City.

SECTION 19. PUBLIC BILLBOARDS, NOTICES IN BARANGAYS. Upon effectivity of this Ordinance, the City Engineering Department shall put up billboards in conspicuous places within the City to notify the public of the restrictions and sanctions imposed by the Ordinance. The Public Information Office shall also immediately issue, for dissemination at the Barangay level, notices on obligations of persons under the Ordinance.

SECTION 20. CONDUCT OF ORIENTATION SEMINARS AND TRAININGS. Within sixty (60) calendar days from the effectivity of this Ordinance and periodically thereafter, the Health Officer, with the assistance of the Health Education and Promotion Officer, and the CSO representative designated under Section 17 hereof, with other members of the Task Force, shall develop and conduct a series of orientation seminars and trainings for the enforcers of this Ordinance, at least one for each group, including but not limited to, deputized enforcers like Barangay Health Workers, Barangay Tanods, and the Local PNP.

FINANCING

SECTION 21. FUNDING. An initial funding to defray the expenses necessary for or incidental to the implementation of this Ordinance and Tobacco Control Program of the City of Mandaluyong in the amount of Three Million Pesos (P3,000,000.00) shall be sourced from the fund of the City Government, and is hereby allocated. Every year thereafter, at least Three Million Pesos (P3,000,000.00) shall automatically be included in the Annual Budget of the City for the implementation and enforcement of this Ordinance and the City's Tobacco Control Program.

The initial funding, annual budget appropriated for this purpose, and funds generated from other sources, such as, but not limited to the proceeds from administrative penalties, shall be placed in a Trust Fund, specifically intended to defray expenses and operationalize activities of this Ordinance and the City's Tobacco Control Program. The Task Force shall be empowered to determine how the Trust Fund is to be utilized in furtherance of this Ordinance, subject, however, to the usual government accounting and auditing procedures.

The above expenses include, but are not limited to:

- a. Cost of printing copies of this Ordinance, the OVR, and information, education and communication materials pertaining to tobacco control;
- b. Cost of regular or periodic meetings of the Smoke Free Task Force;
- c. Cost of inspection and enforcement by the Smoke Free Task Force including allowances for meals and transportation, the amounts of which shall be set by the Office of the Mayor;
- d. Remuneration for the apprehending enforcer's share of the proceeds from penalties paid;
- e. Institutional and operating expenses of the Smoking Cessation Program and facility;
- f. Other expenses associated with the implementation and enforcement of this Ordinance.

SECTION 22. REPEALING CLAUSE. All Ordinances contrary to or inconsistent with this Ordinance are hereby repealed or modified accordingly.

SECTION 23. SEPARABILITY CLAUSE. If any part or provision of this Ordinance is declared unconstitutional or invalid, the same shall not affect the validity and effectivity of the other parts or provisions hereof.

SECTION 24. EFFECTIVITY CLAUSE. This Ordinance shall take effect fifteen (15) days after its publication in a newspaper of local or general circulation or posting in at least two (2) conspicuous places within the City.

ENACTED on this 17th day of July, 2017 in the City of Mandaluyong.

I HEREBY CERTIFY THAT THE FOREGOING ORDINANCE
WAS ENACTED AND APPROVED BY THE SANGGUNIANG
PANLUNGSOD OF MANDALUYONG IN REGULAR SESSION
HELD ON THE DATE AND PLACE FIRST ABOVE GIVEN.


MA. TERESA S. MIRANDA
Sanggunian Secretary

ATTESTED BY:


ANTONIO DLS. SUVA
Vice Mayor &
Presiding Officer

APPROVED:


CARMELINA A. ABALOS
City Mayor

Date: AUG 08 2017