

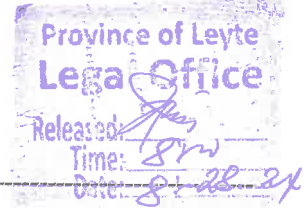


Republic of the Philippines
PROVINCE OF LEYTE
 Provincial Capitol
 Tacloban City

-oOo-

Item No.: 19

Date: 03 2024 SEP



SANGGUNIANG PANLALAWIGAN PROVINCIAL LEGAL OFFICE



2nd INDORSEMENT
 August 22, 2024

Respectfully returned to the Sangguniang Panlalawigan of Leyte, through SP Secretary, the attached Ordinance No. 05 series of 2024 of the Sangguniang Bayan of Merida, Leyte.

Issues/concerns for review/recommendation/legal opinion is/are as follows:

- Ordinance No. 05 series of 2024 entitled: **“An Ordinance Prohibiting the Use, Sale, Distribution, and Advertisement of Cigarettes and Other Tobacco Products, Electronic Nicotine and Non-Nicotine Delivery Systems, Heated Tobacco Products and Other Tobacco Products, in Certain Places, Imposing Penalties for Violations Thereof and Providing Funds Therefor, to Instill Health Consciousness and for Other Purposes.**

REVIEW/RECOMMENDATION/LEGAL OPINION:

This office is of the opinion that the Subject Ordinance is in accordance to its power under Section 16¹ - General welfare clause and Section 447 (1)(iii)² of the Local Government Code of 1991(R.A 7160).

In addition, this Ordinance is in consonance with Republic Act No. 9211 (Tobacco Regulation Act of 2003) which is an Act Regulating the Packaging, Use, Sale, Distribution and Advertisements of Tobacco Products and for Other Purposes. Hence, recommending for the declaration of its validity.

We hope to have assisted you with this request. Please note that the opinion rendered by this Office are based on facts available and may vary or change when additional facts and documents are presented or changed. This opinion is likewise without prejudice to the opinions rendered by higher and competent authorities and/or the courts.

ATTY. JOSE RAYMUND A. ACOL
Asst. Provincial Legal Officer

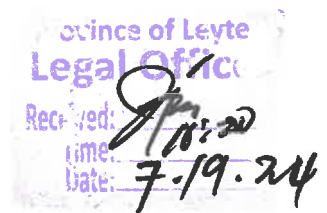
¹ Section 16 – Every local government units shall exercise the powers expressly granted, those necessarily implied therefrom, as well as the powers necessary, appropriate, or incidental for its efficient and effective governance, and those which are essential to the promotion of the general welfare. Within their respective territorial jurisdiction, local government units shall ensure and support, among other things xxx promote health and safety xxx

² Section (1)(iii) Approve ordinances imposing a fine not exceeding Two Thousand Five Hundred (P2,500.00) xxx

Republic of the Philippines
PROVINCE OF LEYTE
Palo, Leyte

OFFICE OF THE SANGGUNIANG PANLALAWIGAN

1ST INDORSEMENT
19 July 2024



The Provincial Legal Office is respectfully requested to review and submit recommendations on the herein enclosed **MUNICIPAL ORDINANCE NO. 05, series of 2024 of the MUNICIPALITY OF MERIDA, LEYTE**, entitled: **An Ordinance Prohibiting the Use, Sale, Distribution, and Advertisement of Cigarettes and Other Tobacco Products, Electronic Nicotine and Non-Nicotine Delivery Systems, Heated Tobacco Products and Other Tobacco Products, in Certain Places, Imposing Penalties for Violations Thereof and Providing Funds Therefor, to Install Health Consciousness and For Other Purposes.**

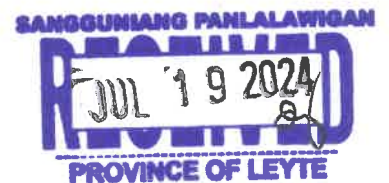

ANDRE S. SANICO
Provl. Govt. Assl. Dept. Head



Republic of the Philippines
Province of Leyte
MUNICIPALITY OF MERIDA

OFFICE OF THE SANGGUNIANG BAYAN

CERTIFICATION



TO WHOM IT MAY CONCERN:

THIS IS TO CERTIFY that **MUNICIPAL ORDINANCE NO. 05, SERIES OF 2024 – “AN ORDINANCE PROHIBITNG THE USE, SALE, DISTRIBUTION, AND ADVERTISEMENT OF CIGARETTES AND OTHER TOBACCO PRODUCTS, ELECTRONIS NICOTINE AND NON-NICOTINE DELIVERY SYSTEMS, HEATED TOBACCO PRODUCTS AND OTHER NOVEL TOBACCO PRODUCTS IN CERTAIN PLACES, IMPOSING PENALTIES FOR VIOLATIONS THEREOF AND PROVIDING FUNDS THEREFORE, TO INSTILL HEALTH CONSCIOUSNESS AND FOR OTHER PURPOSES”** had been posted in three (3) conspicuous places in the locality within three (3) consecutive weeks from **JUNE 25, 2024** to **JULY 16, 2024**.

THIS CERTIFICATION has been issued in compliance to Section 511 (1), Title One, book IV of RA 7160, otherwise known as the Local Government Code of 1991.

DONE AND ISSUED this 18TH DAY OF JULY at Merida, Leyte, Philippines.


JOSELITO T. DELOS ANGELES
Secretary to the Sangguniang Bayan



Republic of the Philippines
PROVINCE OF LEYTE
MUNICIPALITY OF MERIDA

OFFICE OF THE SANGGUNIANG BAYAN



EXCERPT FROM THE MINUTES OF THE 91ST REGULAR SESSION OF THE SANGGUNIANG BAYAN (18TH COUNCIL) MERIDA, LEYTE HELD ON JUNE 03, 2024 AT THE LEGISLATIVE BUILDING SESSION HALL.

-RESOLUTION NO. 18-24-090-

A RESOLUTION ADOPTING MUNICIPAL ORDINANCE NO. 05, SERIES OF 2024 "AN ORDINANCE PROHIBITING THE USE, SALE, DISTRIBUTION, AND ADVERTISEMENT OF CIGARETTES AND OTHER TOBACCO PRODUCTS, ELECTRONIC NICOTINE AND NON-NICOTINE DELIVERY SYSTEMS, HEATED TOBACCO PRODUCTS AND OTHER NOVEL TOBACCO PRODUCTS, IN CERTAIN PLACES, IMPOSING PENALTIES FOR VIOLATIONS THEREOF AND PROVIDING FUNDS THEREFOR, TO INSTILL HEALTH CONSCIOUSNESS AND FOR 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 as a party which signed and ratified the World Health Organization Framework Convention on Tobacco Control (FCTC), gives 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 all the measures provided in the treaty;

WHEREAS, the Philippines signed and ratified the Convention on the Rights of the Child (CRC) recognizing children as persons with Rights and Entitlements. Article 4 of the CRC mandates that "States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation;

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

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

WHEREAS, the wide range of electronic nicotine / non-nicotine delivery systems (ENDS/ENNDS), heated tobacco products (HTPs), and their components, some of which are considered harmful and potentially harmful chemicals that can be inhaled not only by the user but by non-users as well through secondhand aerosol, have been introduced in the Philippines and globally;

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, 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 hospitals, 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 2009036 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 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;

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J. Antonio R. May

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WHEREAS, the Universal Health Care Act of 2019 (Republic Act No. 11223) directs local government units to enact stricter ordinances that strengthen and broaden existing health policies and implement effective programs that promote health literacy and healthy lifestyle among their constituencies to advance population health and individual wellbeing, reduce the prevalence of non-communicable diseases and their risk factors, particularly tobacco and alcohol use;

WHEREAS, the Food and Drug Administration (FDA) is mandated under Republic Act No. 11467, amending the National Internal Revenue Code of 1997, as amended, to periodically determine and regulate, consistent with evolving medical and scientific studies, the manufacture, importation, sale, packaging, advertising, and distribution of vapor and heated tobacco products, including banning sale to nonsmokers or persons below age twenty-one (21), and banning of flavors. Local government units, in the pursuit of common health goals, must then act to ensure effective enforcement of these measures within their jurisdictions;

WHEREAS, the Executive Order No. 106 series of 2020, which amended Executive Order No. 26 series of 2017, directs local government units to adopt and implement the nationwide smoking and vaping ban and to strengthen existing measures on access restriction, including the regulation on sales, distribution, and availability of cigarettes and other tobacco products, electronic nicotine and non-nicotine delivery systems (ENDS/ENNDS), heated tobacco products (HTPs) and other novel tobacco products;

WHEREAS, the Seal of Good Local Governance Act of 2019 (RA 11292) measures, among others, the local government units' capability to effectively implement and deliver health services and information systems as well as pursue evidence-based health promotion and protection policies scientifically proven and accepted to advance population health and individual well-being. One of the indicators for this measurement is strict enforcement of laws and ordinances that regulate tobacco sale and use;

WHEREAS, the Municipal Local Government Unit (LGU) can help the national government implement the letter & spirit of the said laws and regulations in their own territorial jurisdiction, and that the Municipal LGU can impose penalties for violations thereof that shall accrue exclusively to the Municipal LGU;

WHEREAS, the Municipality of Merida recognizes that local governments must act with urgency to denormalize the culture of tobacco consumption, smoking, and vaping through comprehensive and proven effective tobacco control measures to prevent the initiation of non-users and the youth and prevent exposure to harmful chemical and emissions that pose risks to health while providing a supportive environment to those attempting to quit smoking and vaping;

WHEREAS, in order to fully protect the health and welfare of the constituents of LGU-Merida and at the same time safeguard the interests of all stakeholders, including smokers and vapers, there is a need to pass a comprehensive ordinance covering tobacco products and new products, prohibiting the sale, purchase, delivery, and/or use of unregistered, adulterated, and/or noncompliant ENDS/ENNDS, HTPs, and their components; prohibiting persons below twenty-one (21) years old to sell, buy, purchase, deliver and/or use ENDS/ENNDS, HTPs, and their components; other regulations thereof in public places, including public conveyances; providing penalties therefore; and for other purposes;

NOW, THEREFORE, BE IT ENACTED, AS IT IS HEREBY ENACTED, BY THE SANGGUNIAN BAYAN (18TH COUNCIL), IN SESSION ASSEMBLED, BY VIRTUE OF THE POWERS VESTED IN IT BY LAW, THAT:

RESOLVED, as it is hereby Resolved to Enact the hereunder Ordinance:

**-MUNICIPAL ORDINANCE NO. 05-
SERIES OF 2024**

"AN ORDINANCE PROHIBITING THE USE, SALE, DISTRIBUTION, AND ADVERTISEMENT OF CIGARETTES AND OTHER TOBACCO PRODUCTS, ELECTRONIC NICOTINE AND NON-NICOTINE DELIVERY SYSTEMS, HEATED TOBACCO PRODUCTS AND OTHER NOVEL TOBACCO PRODUCTS, IN CERTAIN PLACES, IMPOSING PENALTIES FOR VIOLATIONS THEREOF AND PROVIDING FUNDS THEREFOR, TO INSTILL HEALTH CONSCIOUSNESS AND FOR OTHER PURPOSES."

Be it ordained by the Sangguniang Bayan (18th Council) of Merida, Leyte, that;

Section 1. Title. — This Ordinance shall be known as the "Comprehensive Smoke-Free and Vape-Free Ordinance of the Municipality of Merida, Province of Leyte.

Section 2. Purpose. — It is the purpose of this Ordinance to safeguard public health and ensure the well-being of all its constituents from the harmful effects of smoking, tobacco consumption, and vaping by decreasing exposure to its marketing and advertising, restricting its use, sale, distribution, and accessibility, and providing a supportive and conducive environment for users to quit.

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Section 3. Coverage. — *This Ordinance shall apply to all persons, natural or juridical, resident or non-resident, and in all places, found within the territorial jurisdiction of the Municipality of Merida.*

Section 4. Definition of Terms. — *As used in this Ordinance, the terms below shall have the meanings ascribed to them in this section. Any words or terms not defined shall be given their plain and 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 tobacco products, ENDS/ENNDS, HTPs, or their components, or the use thereof, either directly or indirectly.
- b. **Civil Society Organization (CSO)** - refers to a legally constituted voluntary civic and social organization or institution created without government participation, including but not limited to, charities, development non-governmental organizations (NGOs), peoples' organizations, community groups, women's organizations, faith-based organizations, professional associations, coalitions and advocacy groups duly recognized by the Office of the Mayor; provided such organization, institution or association is not directly or indirectly related to, connected and/or associated with, or has partnership with or recipients of funding or conduits of, or act as front groups of the tobacco and/or electronic cigarette industry.
- c. **Designated Smoking/Vaping Area (DSVA)** - refers to an outdoor space, duly approved by the Municipal Health Officer where smoking and/or vaping may be allowed without violating this ordinance, subject to specific requirements :
 - 1. It shall be located in an open space outside the building with no permanent or temporary roof or walls.
 - 2. It is not 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 .
 - 3. It shall not have an area larger than (12) Twelve square meters.
 - 4. Food or drinks are not served.
 - 5. No building shall have more than one designated smoking/vaping area;
 - 6. The entry of persons below the age of 18 shall not be allowed.
 - 7. **Highly visible signages with the following messages should be prominently displayed:**
 - a. "Smoking/Vaping Area" signage with a message showing "Persons below 18 not allowed within these premises"
 - b. Graphic health warnings on the effects/harms of tobacco, electronic cigarette, and heated tobacco use or exposure
 - c. Information on cessation hotline and/or cessation clinic/services
 - 8. It shall not be located in places where absolute smoking/vaping 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 the youth; elevators and stairwells; locations 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 pass or 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/vaping ban is imposed under special laws, ordinances, administrative and executive orders, memorandum circulars and related policies.
 - 9. It shall have a receptacle for proper disposal of refuse from tobacco products or disposable components of electronic devices.
- d. **Electronic Nicotine and Non-Nicotine Delivery Systems (ENDS/ENNDS)** – are combinations of non-tobacco containing e-liquids, solutions or refills which may or may not contain nicotine and an electronic delivery device to produce aerosol, mist, or vapor that users inhale by mimicking the act of smoking. ENDS/ENNDS deliver nicotine and/or other chemicals to the lungs after one end of a plastic or metal cylinder is placed in the mouth, like a cigarette or cigar, and inhaled to draw a mixture of air and vapors from the device into the respiratory system. They contain electronic vaporization systems, rechargeable batteries and chargers, electronic controls and replaceable cartridges containing nicotine and/or other chemicals. They are also commonly known as electronic cigarettes (e-cigarettes), vapor products, vapes, vape pens, electronic shisha (e-shisha), mods, and other similar or related devices.



- e. **Enclosed or partially enclosed** - means being covered by a roof or enclosed by one or more walls or sides, regardless of the type of material used for the roof, wall, or sides, and regardless of whether the structure is permanent or temporary .
- f. **Heated Tobacco Products (HTPs)** - refers to tobacco products that contain the highly addictive substance nicotine and/or non-tobacco additives and flavorings that produce aerosols when heated, which are inhaled by users through the mouth. HTPs mimic the behavior of smoking conventional cigarettes, and some make use of specifically designed cigarettes to contain tobacco for heating .
- g. **Minors** - refers to persons below eighteen (18) years old, and the minimum legal age at which a person is legally allowed to use, sell or purchase tobacco products within the territorial jurisdiction of LGU Merida.
- h. **Novel Tobacco Products** - refers to all substances, devices, and innovations entirely or partly made of tobacco leaf as raw material, already existing or to be developed in the future, intended to be used as substitutes for cigarettes, conventional tobacco products, ENDS/ENNDS or HTPs.
- i. **Second-hand smoke (SHS)/Second-hand vaping aerosol (SHVA)** - means the smoke, aerosol, or emission coming from the burning end/heated component of a cigarette/other tobacco products including heated tobacco products, and electronic cigarettes and other similar devices, usually in combination with the smoke, aerosol or emission exhaled by the smoker/vaper.
- j. **Smoke-free air** - refers to the air that is 100% free from tobacco smoke, but is not limited to, the air in which tobacco smoke cannot be seen, smelled, sensed, or measured . Similarly, **vape aerosol-free air** refers to the air that is 100% free from vaping (e-cigarette) aerosol.
- k. **Smoker** - refers to any person engaging in the act of smoking.
- l. **Smoking** - means being in possession or control of a lit tobacco product regardless of whether or not the smoke or emission is being actively inhaled or exhaled .
- m. **Sponsorship** - means any form of a contribution to any event, activity, or individual with the aim, effect, or likely effect of promoting tobacco products, ENDS/ENNDS, HTPs, or their components, or the use thereof, either directly or indirectly.
- n. **Tobacco Products** - means products entirely or partly made of the leaf tobacco as raw material which is manufactured to be used for smoking, sucking, chewing, or snuffing, such as but not limited to cigarette, cigar, pipe, shisha/hookah, and chew tobacco. This excludes ENDS/ENNDS, heated and smokeless tobacco products, and novel tobacco products, and related consumer products.
- o. **Tobacco Industry** - refers to organizations, entities, associations, and individuals that work for or on behalf of the tobacco industry, such as, but not limited to, tobacco manufactures, 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. In a similar context, those that belong to or work to further the interests of those involved in electronic cigarette products are referred to as the Electronic Cigarette (E-Cigarette) Industry.
- p. **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. In this light, interference by the Electronic Cigarette (E-Cigarette) Industry can be referred to as Electronic Cigarette (E-Cigarette) Industry Interference.
- q. **Vaper** - refers to any person engaging in the act of vaping.
- r. **Vaping** - refers to being in possession or control of a powered ENDS/ENNDS or HTP, regardless of whether the emission in the form of smoke, vapor, or aerosol is being actively inhaled or exhaled.
- s. **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 course of work are considered workplaces .
- t. **Youth** - refers to persons aged 15-24 as defined by the World Health Organization.



Section 5. Smoking Cessation and Livelihood Assistance Programs. — *The Municipal Health Officer, with the assistance of the Health Education and Promotion Officer or other members of the Task Force, shall develop, promote and implement a Smoking/Vaping Cessation Program and encourage the participation therein of public and private facilities which may be able to provide for its requirements. Smokers/vapers who may have developed dependence but who are willing to quit, including those who may be dual users of tobacco and electronic devices (ENDS/ENNDS/HTPs), and those found violating the smoking/vaping prohibitions in Section 10 of this Ordinance, may be referred to the Municipal’s Smoking Cessation service provider or other facilities.*

Persons involved in selling tobacco/ENDS/ENNDS/HTPs prior to the effectivity of this ordinance, such as, but not limited to, ambulant vendors, whose economic activity shall be affected or displaced by the restrictions on sales, may be referred for enrollment and given assistance in the livelihood programs of the Municipality or by other appropriate agencies.

Section 6. Duties and Obligations of Persons-in-Charge. — *Persons-in-charge shall:*

- a. *Prominently post and display the “No Smoking/No Vaping” symbol, in the locations most visible to the public in the areas where smoking and vaping is prohibited. At the very least, the “No Smoking/No Vaping” 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 pertinent information/precautionary statement, as follows:*



STRICTLY NO SMOKING AND NO VAPING
As per **ORDINANCE NO. 05, Series of 2024**
Violators can be fined up to **Php2,500.00**
Report violations to **(053) 557-9588**

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

“DESIGNATED SMOKING/VAPING AREA” or “SMOKING/VAPING AREA”
“Persons below 18 not allowed within these premises”

- b. *Prominently post and display the “No Smoking/No Vaping” 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/No Vaping” signage shall be placed on the windshield and a ten (10) square inch “No Smoking/No Vaping” sign at the driver’s back seat;*

Remove from all places where smoking and/or vaping is prohibited all ashtrays and any other receptacles for disposing of cigarette, electronic cigarette, and heated tobacco refuse;

- c. *For person-in-charge of commercial establishments/buildings or other non-government facilities intending to establish a DSVA, secure a certification/ permit from the Municipal Building/Engineering and Health Officers after complying with the requirements for a DSVA, as stated in Section 4 (c);*

- d. *For persons-in-charge of schools, public playgrounds, or other facilities frequented by the youth and/or minors, offices of the DOH and attached agencies, hospitals, and health facilities, post the following statement in a clear and conspicuous manner:*



SELLING, DISTRIBUTING, ADVERTISING AND PROMOTING CIGARETTES AND OTHER TOBACCO PRODUCTS TO MINORS, OR ELECTRONIC CIGARETTES, HEATED TOBACCO, OTHER TOBACCO PRODUCTS, AND/OR ITS COMPONENTS NOT ALLOWED WITHIN 100 METERS FROM ANY POINT IN THE PERIMETER OF ANY SCHOOL, LOCAL PLAYGROUNDS, FACILITY FOR THE YOUTH AND/OR MINORS / HEALTH FACILITIES, ETC.

- e. *For persons-in-charge of schools, public playgrounds or other facilities frequented by persons the youth and/or minors, offices of the DOH and attached agencies, hospitals, and health facilities, report to the Smoke/Vape-Free Task Force any sale, advertisement, or promotion of tobacco, electronic cigarette, heated tobacco products, and/or any of its components located within 100 meters from its perimeter;*
- f. *For persons-in-charge of establishments intending to sell tobacco/electronic cigarette, heated tobacco products, and/or any of its components secure a valid business permit and license to sell in retail or wholesale from the municipality's Business Permits and Licensing Office, and shall comply with all essential requirements as directed by other regulatory agencies, if applicable;*
- g. *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, electronic cigarette, and heated tobacco use and exposure, as prescribed by the Municipal Health Office, in a clear and conspicuous manner:*

SALE/DISTRIBUTION OF TOBACCO PRODUCTS TO MINORS, OR ELECTRONIC CIGARETTES, HEATED TOBACCO PRODUCTS, AND/OR ANY OF ITS COMPONENTS TO PERSONS BELOW AGE 21 IS UNLAWFUL

- h. *For persons-in-charge of approved point-of-sale establishments, remove all forms of tobacco, electronic cigarette and heated tobacco product, and/or any of its components' advertisement/promotions paraphernalia prohibited by this Ordinance;*
- i. *For persons-in-charge of approved point-of-sale establishments, secure approval from the Municipal Health Office for storages or containments of tobacco/electronic cigarette/heated tobacco product, and/or any of its components as prescribed under Section 10 (t). Only a listing of the available product's/component's brands/variants sold at the point-of-sale establishment is allowed to appear outside of the storage or containment, where such listing shall only be written/printed in any plain font, and without 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;*
- j. *For persons-in-charge of approved point-of-sale establishments, ensure that storages or containments of tobacco/electronic cigarette/heated tobacco product and/or its components are opened only by the store personnel/manager at the counter during actual purchase, or when being replenished, cleaned, or inspected;*
- k. *Establish internal procedures 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 with smoking and/or vaping sales, distribution, advertising, and promotions restrictions (i.e. warning smoking/vaping violators in banned areas and requesting them to stop smoking/vaping, and if they refuse to comply, asking them to leave the premises, and if they still refuse to comply, reporting the incident to the Municipal Health Office, the nearest peace officer, or to any member of the Smoke/Vape-Free Task Force through its hotline or by other means);*
- l. *Ensure that all the employees in the establishment and government offices are aware of this Ordinance and the procedure and measures for implementing and enforcing it;*
- m. *Allow inspectors acting under Sections 12 and 13 hereof, which may include other members of the Task Force and the designated civil society organization under Section 14, entry into the establishment, public conveyance, and government offices and facilities during regular business hours to inspect its compliance with this Ordinance;*
- n. *For all signage required to be posted under (a), (b), (e), and (h) above, provide for versions of them in the local language/dialect or English; and*
- o. *Owners, administrators, or persons-in-charge of business establishments are not prevented from banning the use of tobacco products, ENDS/ENNDS and heated tobacco products within their premises nor they are required to establish Designated Smoking/Vaping Areas in their establishments.*



ENFORCEMENT

Section 7. Smoke/Vape-Free Task Force; Duties and Responsibilities, Composition. — A Task Force shall be created to aid in the implementation, enforcement, and monitoring of this Ordinance, and to protect the same from tobacco/electronic cigarette 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. It shall have the following duties and responsibilities:

- a. Receiving, reviewing and processing reports and complaints, serving of citations and notices, and filing of appropriate charges for violations under this Ordinance;
- b. Attending regular Task Force meetings; and
- c. Deputizing enforcers under Sections 11 to 14 hereof, and enforcing the other provisions of this Ordinance.

The Mayor shall head the Task Force as Chair. The Mayor may designate a vice-chair to serve as an overall coordinator. The Task Force shall have the following as members:

- a. Health Officer;
- b. Health Education and Promotion Officer/or equivalent designate;
- c. Building/Engineering Officer;
- d. Legal Officer;
- e. Information Officer;
- f. Business Permits and Licensing Officer;
- g. Local Philippine National Police (PNP) Chief of Police;
- h. Treasurer;
- i. Environment and Natural Resources Officer (ENRO) from the local government unit or from DENR;
- j. Representative/s from DepED, CHED and/or academic institution;
- k. Local President of the Liga ng mga Barangay ng Pilipinas;
- l. Public Order and Safety Officer;
- m. Social Welfare and Development Officer
- n. Human Resources Management Officer
- o. Municipal Administrator/Chief of Staff
- p. Coordinator of the Task Force Unit or Office (if other than the above officers)
- q. Representative/s of one or more civil society organizations (CSO) designated by the Health Officer, under Section 14 hereof; and
- r. Other members identified by the chair or vice-chair (whose specific function in the local government unit and role may serve to effectively implement this Ordinance).

The Task Force shall not include as its member any person or entity supporting or accommodating tobacco/electronic cigarette industry interests or is connected in any way to the tobacco/electronic cigarette industry in order to protect and preserve the integrity of the primary health objectives of this Ordinance.

No member of the Task Force shall also receive for himself/herself, members of his/her immediate family up to the fourth civil degree of consanguinity or affinity, or for other individuals, beneficiaries or groups, any contribution, donation, sponsorship or compensation, directly or indirectly, whether financial or otherwise, from the tobacco/electronic cigarette industry. Non-compliance of this provision governing the Task Force shall serve as grounds for the removal from the Task Force. If the erring Task Force member is likewise a public official or government personnel, he/she shall also be subject to sanctions prescribed under the CSC-DOH Joint Memorandum Circular 2010-001-10¹ or other applicable laws/policies.

Section 8. Duties and Responsibilities of the Chair of the Task Force. — In addition to heading the Task Force and supervising the general administration of the Task Force, the Mayor shall direct and manage the implementation and execution of policies, standards, rules, and regulations promulgated pursuant to the objectives of this Ordinance.

Section 9. Duties and Responsibilities of the Members of the Task Force. — As members of the Task Force, their duties and responsibilities shall include the following:

- a. The Health Officer shall:
 1. Make tobacco control, including the implementation of this Ordinance, a part of the health program and propose funding under the annual general budget of the local government unit or the Local Health Investment Plan;
 2. Establish baseline annual data on tobacco/e-cigarette use prevalence and other related studies, and recommend further action on the findings of such data;

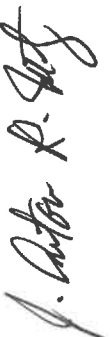
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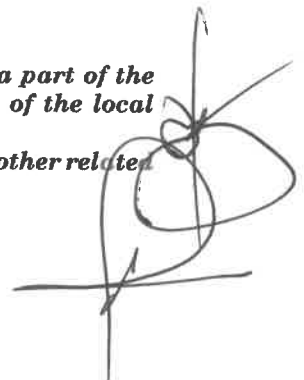














1. Monitor, together with the Sanitary Inspector, Enforcers and/or Task Force members, the compliance of this Ordinance in public places, establishments, conveyances, point-of-sale, and including the approval/disapproval of permits in Designated Smoking/Vaping Areas (DSVAs) as well as permits/licenses for tobacco/e-cigarette point-of-sale;
 2. Facilitate, together with the Sanitary Inspector, Enforcers, and/or Task Force members, the serving of notices, citations, the imposition of fines, suspension, or revocation of permits/licenses for violations;
 3. Assign a hotline or any other number and email address to which violations of this Ordinance may be reported by email, 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;
 4. Develop, promote and implement a Smoking Cessation Program, stated in Section 5;
 5. Assist hospitals and other health facilities including any office of the DOH within the local government unit, together with the Sanitary Inspector, Enforcers and/or Task Force members, in the monitoring of tobacco/e-cigarette products' sales, advertisements, and promotions within 100 meters from the perimeter of schools, public playgrounds, facilities frequented by the youth and/or 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 Prevention and Control, such as the harms of tobacco and e-cigarette use, and exposure to second-hand smoke/aerosol, 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 Building/Engineering Officer shall:
1. Conduct, together with the Health Office 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 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 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 primer 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 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 22 hereof;
 2. Deny renewal of licenses/permits of repeat violators of this Ordinance;
 3. Establish a procedure for identifying, informing, and marking establishments covered by the 100-meter ban on the sale, distribution, and advertising of tobacco/e-cigarette products.
- g. The local 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, local government unit 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 other members of the Task Force and other police enforcers, such as those from other local government units, during enforcement when coordination is necessary;
 6. Refer minors caught in violation of this Ordinance to the Social Welfare and Development Office and/or to the school authorities where the violator is enrolled;

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7. Use the Citation Tickets during apprehensions and maintain a record or log of violations/apprehensions made within particular periods, for purposes of reporting.

h. The Treasurer shall:

1. Facilitate the printing and reprinting of Citation Tickets;
2. Issue booklets of the Citation Tickets to the local government units' enforcers and other deputized enforcers, as appropriate;
3. Collect/receive fines paid by violators and submit reports on its collection;
4. Designate collection agents and guidelines for collections as necessary to assist in efficient collection of fines from local government units;
5. 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.

i. The Environment and Natural Resources Officer from the local government unit or from DENR 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, e-cigarette aerosol, residues, byproducts, and litter, among others;
4. Provide expertise in the application and management of appropriate technologies to avert environmental/health risks, accidents, and damage posed by tobacco smoke, e-cigarette aerosol, residues, by-products, waste generated, among others.

j. 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 curricula;
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/electronic cigarette products' sales, advertisements, and promotions within 100 meters from the perimeter of schools, public playgrounds, and facilities frequented by the youth and/or minors;
5. Ensure the posting in a clear and conspicuous manner "No Smoking/Vaping" signs, and notices for the sales ban of Tobacco Products within 100 meters from the perimeter of schools, public playgrounds, facilities frequented by the youth and/or minors, and health facilities.

k. 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, Sangguniang Kabataan (SKs) and Tanods and other enforcers (i.e. Coast Guards) for the implementation of activities pertinent to the Ordinance;
4. Assist in the facilitation of and referrals to the Smoking/Vaping Cessation Program at the Barangay Level, if applicable.

l. 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/Vaping Areas (DSVAs), together with other members of the Task Force;
3. Assist in the enforcement and coordinate with other enforcers/Task Force members regarding the serving of Citation Tickets, the imposition of fines, suspension or revocation of licenses/permits for violations;

m. The Social Welfare and Development Officer:

1. Assist in the enforcement of this Ordinance when persons below 18 are involved;
2. Provide the necessary interventions for persons below 18 implicated in violations.



- n. **The Human Resources and Management Officer or equivalent officer/LGU point-person for the Civil Service Commission:**
 - 1. **Oversee the strict implementation of smoke and vape free government facilities;**
 - 2. **Evaluate for approval the proper establishment of Designated Smoking/Vaping Areas in government facilities where it may apply;**
 - 3. **Oversee the strict implementation of a policy preventing industry interference, pursuant to the CSC-DOH Joint Memorandum Circular 2010-01;**
 - 4. **Monitor, supervise, and report on all concerns on tobacco/e-cigarette 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.**
- o. **The Municipal Administrator/Chief of Staff:**
 - 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.**
- p. **The Coordinator, in case of a separate Coordinating Unit or Office of the Task Force, under the authority of the Mayor:**
 - 1. **Perform any of the functions assigned to him/her by the Mayor pertaining to the implementation, enforcement, and promotion of this Ordinance;**
 - 2. **Coordinate with any/all members of the Municipal Task Force as necessary, facilitate training, assist in enforcement/promotion/monitoring/research, and attend 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 local government unit and of the Ordinance.**
- q. **The 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.**

Section 10. Prohibited Acts. — The following acts are declared unlawful and prohibited by this Ordinance:

USE, SALE, DISTRIBUTION, ADVERTISING, AND PROMOTION

- a. **Smoking and/or vaping 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/Vaping Areas duly approved and fully compliant with the requirements under Section 4 (c);**
- b. **For persons-in-charge to allow, abet, or tolerate smoking and/or vaping in places enumerated in the preceding paragraph, outside of the duly approved Designated Smoking/Vaping Area under Section 4 (c);**
- c.
- d. **Selling, distributing, or purchasing tobacco products to minors or electronic cigarettes, and heated tobacco products and/or its components to or from persons below the age 21. (Proof of Age Verification – In case of doubt as to the age of the buyer, retailers shall verify by means of a valid form of photographic identification and proof of age card containing the date of birth of the bearer (i.e. driver’s license, passport, voter’s ID) that no individual purchasing tobacco is below 18, and no individual purchasing electronic cigarette or heated tobacco product is below the age of 21 as per this ordinance);**
- e. **Use, sale, or purchase of tobacco among minors, and electronic cigarette, and heated tobacco products and/or its components by persons below age 21;**
- f. **Ordering, instructing, or compelling a minor to use, light up, buy, sell, distribute, deliver, advertise or promote tobacco products, and ordering, instructing, or compelling a person below age 21 to use, light up, buy, sell, distribute, deliver, advertise or promote electronic cigarettes and heated tobacco products;**



- g. Advertising, selling or distributing tobacco, electronic cigarette, and heated tobacco products and/or its components in a school, public playground, or other facility frequented by the youth and minors, offices of the Department of Health (DOH) and its attached agencies, hospitals, and health facilities or within 100 meters from any point in the perimeter of these places², within premises of a government facility, establishments that serve food and drinks or provide accommodation and entertainment³;*
- h. Selling tobacco, electronic cigarette, and heated tobacco products and/or its components without a valid municipal business permit and license to sell;*
- i. Manufacturing, importation, distributing, marketing, or selling of unregistered or adulterated electronic cigarettes and components thereof in the form of devices, eliquids, solutions or refills whether physically part of or intended to be used with electronic cigarettes, heated tobacco products, and other novel tobacco products;*
- j. Selling of e-liquids, solutions, or refills forming components of electronic cigarettes or heated tobacco products, without the License to Operate or authorization from the Food and Drug Administration;*
- k. Selling of devices forming components of electronic cigarettes or heated tobacco products not compliant with product standards that may be imposed by the Department of Trade and Industry and the Food and Drug Administration in accordance with R.A. Nos. 7394 and 11467;*
- l. Manufacturing, distributing, importing, marketing and selling of electronic cigarettes, heated tobacco products or their components, without the License to Operate or authorization from the Food and Drug Administration;*
- m. Selling of tobacco, electronic cigarette, and heated tobacco products and/or its components removed from its original product packaging or sold as individual pieces or per stick, or in packs containing less than 20 sticks/pieces in case of tobacco products and heated tobacco product refills/heat sticks;*
- n. Manufacturing, importing and selling tobacco products, electronic cigarette, and heated tobacco products and/or its components without the appropriate government-issued health warning labels;*
- o. Selling electronic cigarette, and heated tobacco products and/or its components knowingly or inadvertently to non-smokers⁴ and non-vapers;*
- p. Selling or distributing of sweets, snacks, toys, accessories, apparel, or any other objects in the form of or bearing resemblance to the logo, insignia, packaging, or distinguishable design elements of tobacco which may appeal to minors, and selling or distributing of sweets, snacks, toys, accessories, apparel, or any other objects in the form of or bearing resemblance to the logo, insignia, packaging, or distinguishable design elements of electronic cigarette, heated tobacco products and/or its their components, including limitations thereof, which may appeal to persons below age 21;*
- q. Placing cinema or outdoor advertisements of tobacco, electronic cigarette, and heated tobacco products and/or its components;*
- r. Placing, posting, displaying, wearing, or distributing advertisement and promotional materials of tobacco, electronic cigarette, and heated tobacco products and/or their components, such as but not limited to leaflets, posters, display structures, video/digital displays, accessories, apparel, and other materials within an establishment when such establishment, or its location, is prohibited or not licensed to sell and distribute tobacco, electronic cigarette, heated tobacco products, and/or their components, and are not adult-only establishments;*
- s. Conducting promotional activities, campaigns, events, product sampling, and other similar activities where the establishment or its location prohibits selling, distributing, and purchasing of tobacco, electronic cigarette, heated tobacco products, and its components, and where persons below age 21 are allowed entry;*

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- t. *Displaying and placing tobacco, electronic cigarette, and heated tobacco products and/or its components in open store shelves/racks, except in enclosed, opaque, and single-colored storages/containments;*

ONLINE SALE, DISTRIBUTION, ADVERTISING AND PROMOTION

Selling, distribution, advertising, and promotion of tobacco, electronic cigarettes, heated tobacco products, and/or related components/products in online platforms/ecommerce subject to

- u. *pertinent regulation/guidelines of the Food and Drug Administration (FDA) and other concerned agencies.*
- v. *Restrictions on advertising on the internet. - Advertisements are prohibited on the internet and other similar medium unless the internet site is restricted to persons eighteen (18) years of age and older. A site will be deemed restricted if a person cannot obtain access beyond the first page of the website unless the person has established that he or she is at least eighteen 18 years old.*

ENGAGEMENT AND SPONSORSHIP INVOLVING THE TOBACCO/E-CIGARETTE INDUSTRY

- w. *Facilitation, participation, or partnership involving any government official or personnel of LGU-Merida regardless of employment status (permanent, casual, contractual, job order, consultant or special appointment) in any form of contribution, favor, sponsorship, or corporate social responsibility (CSR) activity, event, program or project by a tobacco/electronic cigarettes company, tobacco/electronic cigarette industry front groups, or any representation working to protect or promote tobacco/electronic cigarette industry interests, executed for and in behalf of and within the territorial jurisdiction of the Municipality of Merida, with the aim, effect or likely effect of promoting a tobacco/electronic cigarette product, its use either directly or indirectly.*

Section 11. Enforcement on Individuals. — *Members of the PNP and/or persons duly deputized by the Mayor/Task Force shall apprehend and issue Citation Tickets against persons found in violation or have failed to comply with any provision enumerated under Sections 6 and 10 hereof. They shall forward copies of the tickets they issue violators to the Treasurer’s Office regularly or per week. If the violator is a minor, he or she must be turned over for dispensation of appropriate action to the nearest Social Welfare and Development Officer or its appointed designates, subject to RA No. 9344 (Juvenile Justice and Welfare Law), as amended, and/or to the school authorities at the school where the violator is enrolled, and/or to the Barangay Office where the violator is a resident, and where the parents or guardians may be called. In case any valid or sufficient form of identification is not presented, he/she shall be brought to the nearest police station for proper identification, then to the Smoke/Vape-Free Task Force for the payment of penalty or rendition of community service.*

Section 12. 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 Citation Tickets upon discovery of any violation of this Ordinance. They shall forward copies of the tickets they issue violators to the Treasurer’s Office regularly or at least once a week.*

Section 13. Enforcement on Establishments. — *Ninety (90) calendar days after the effectivity of this Ordinance, an inspection team composed of representatives from the Health Office, Engineer’s Office, Permits and Licenses Office, and other members of the Task Force, shall conduct inspections of establishments and buildings to determine their compliance with the provisions of this Ordinance.*

A regular inspection shall thereafter be conducted at least once every month or simultaneously with other regular inspections done by the appropriate office or department, whichever is more frequent, during normal hours of operation of the establishment. The inspection team shall issue a Citation Ticket against the establishment upon finding of non-compliance with or of any violation of this Ordinance. A Citation Ticket 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 Citation Ticket but in no case more than ten (10) working days after such issuance. If the establishment fails to comply with the obligations stated in the Citation Ticket upon re-inspection, the inspection team shall recommend the suspension of its license/permit consistent with Section 22 (g) hereof.

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

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Section 14. Civilian Participation in Enforcement. — Within thirty (30) calendar days from the effectivity of this Ordinance, the Task Force/Health Office shall designate with the approval of the Office of the Mayor, one or more civil society organizations (CSO) not connected/represents interests of the tobacco/e-cigarette industry, to discharge the duties and responsibilities enumerated in Section 9 (g) hereof. The Mayor may deputize qualified civilians to also 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, or be assigned other duties pursuant to the attainment of its effective implementation.

Section 15. Evidence Needed. — The evidence of the violation of this Ordinance may be obtained by means of photograph or video. In case of confiscated items, signed sworn statements/ affidavits shall be made by the apprehending officer with specific details of the violation, details of the confiscated items, including the procedures taken to preserve its integrity and evidentiary value. Upon confiscation, the items should be appropriately marked by the apprehending officer with his initials and signature, and subsequently photographed and recorded in the inventory of the Task Force.

INFORMATION CAMPAIGN

Section 16. 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 respective LGUs;
 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 their responsibilities concerning its enforcement.
- b. In coordination with the Permits and Licenses Office, 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/e-cigarette products.
- c. In coordination with the 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 LGU Merida, and for other sectors as necessary.
- d. In coordination with the Health Office, develop, disseminate and post timely health information on prevention and cessation, including the use of graphic health warnings, information, education, and communication (IEC) materials, depicting the health and other impacts of tobacco/e-cigarette use and exposure.

Section 17. Public Billboards, Notices in Barangays. — Upon effectivity of this Ordinance, the Engineer's Office shall put up billboards in conspicuous places within the LGU to notify the public of the restrictions and sanctions imposed by the ordinance. The Information Office shall also immediately issue for dissemination at the barangay level notices on obligations of persons under the ordinance.

Section 18. Conduct of Orientation Seminars and Training. — 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 14 hereof, with other members of the Task Force, shall develop and conduct a series of orientation seminars and training 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 19. Funding. — Initial funding to defray the expenses necessary for or incidental to the implementation of this Ordinance and Tobacco Control Program of LGU Merida in the amount of One Hundred Thousand (Php100,000.00) shall be sourced from the fund of the Municipal Government and is hereby allocated.

Every year thereafter, at least [insert amount here] shall automatically be included in the Annual Budget of the municipality for the implementation and enforcement of this Ordinance and the Municipal's Tobacco Control Program.

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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 Municipal'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 to the usual government accounting and auditing procedures.

The above expenses may include, but are not limited to:

- e. Establishment/provision of a livelihood assistance program for displaced business entities or individuals such as ambulant vendors;
- f. Cost of printing copies of this Ordinance, the Citation Tickets, and information, education, and communication materials on tobacco control;
- g. Cost of regular or periodic meetings of the Task Force;
- h. Cost of inspection and enforcement by the Task Force, including allowances for meals and transportation which shall be set by the Office of the Mayor;
- i. Remuneration for the apprehending enforcer's share of the proceeds from penalties paid;
- j. Incentive or reward for private citizens who report violations of this Ordinance;
- k. Institutional and operating expenses of the smoking cessation program and facility;
- l. Other expenses associated with the implementation and enforcement of this Ordinance;
- m. The hiring of coordinator/staff/agents who shall be involved in the day to day operations;
- n. Conduct prevalence and compliance monitoring and assessment activities.

Section 20. Sharing of Proceeds from the Penalties under this Ordinance. — The amount of the corresponding penalty paid by a violator to the Treasurer shall be apportioned where the equivalent of Thirty Percent (30%) shall accrue to the apprehending officer or deputized enforcer as an incentive. The remainder of the proceeds from penalties collected as payment by violators, after deducting the amounts that shall accrue to the apprehending officers or deputized enforcers shall form part of the abovementioned Trust Fund.

PENALTIES

Section 21. 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 10 hereof; provided, if the violator is a minor, the apprehending officer from the Task Force shall report the incident to the school principal/dean exercising jurisdiction over the violator where he shall be required to comply with disciplinary measures imposed by the school/university where he/she is enrolled, or endorse to the Municipal Social Welfare and Development Office for appropriate action or intervention under Republic Act 9344 or the Juvenile Justice and Welfare Act, as amended. Should the school/university have no policy for offenses committed by their students outside school premises or if the violator is an out-of-school youth, the enforcer shall endorse the violator to the Municipal Social Welfare and Development Office, which may involve the parents or guardians and/or a Barangay Official where the violator is a resident, in carrying out disciplinary measures.

b. Persons-in-charge who knowingly allow, abet, authorize or tolerate the prohibited acts enumerated in Section 10, or who otherwise fails to fulfill the duties and obligations enumerated in Section 6 hereof;

Section 22. Penalties. — Any person who violates this ordinance may be meted administrative, disciplinary, civil, or criminal action on top of the penalties prescribed in this ordinance. The following penalties shall be imposed on violators of this Ordinance:

a. Violation of Section 10 (a) & (b) Smoking/Vaping or Allowing Smoking/Vaping and Section 6 (a) to (o) Duties and Obligations of Persons-In-Charge

[for Municipality]

i. First Offense

[P 1,000.00]

ii. Second Offense

[P 2,000.00]

iii. Third and Subsequent Offenses

[P 2,500.00], or imprisonment for a period not exceeding [6 months], or both at the discretion of the court.⁵

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Suspension or revocation of business license or permit may be prescribed (in case of a business entity or establishment), if applicable.

a. Violation of Section 10 (c) to (u) Sales/Access Restriction and Advertising and Promotions Ban

[for Municipality]

- i. First Offense** *[P 1,000.00]*
- ii. Second Offense** *[P 2,000.00]*
- iii. Third and Subsequent Offenses** *[P 2,500.00], or imprisonment for a period not exceeding [6 months], or both at the discretion of the court.⁶*

Suspension or revocation of business license or permit may be prescribed (in case of a business entity or establishment), if applicable.

b. Violation of Section 10 (v) Sponsorship/Contribution/Partnership with the Tobacco Industry Involving Government Officials/Personnel.

[for Municipality]

- i. First Offense** *[P 1,000.00]*
- ii. Second Offense** *[P 2,000.00]*
- iii. Third and Subsequent Offenses** *[P 2,500.00], or imprisonment for a period not exceeding [6 months], or both at the discretion of the court.⁷*

c. Community Service. *If a violator is unable to pay the penalties imposed, he or she may choose to render community service within the municipality. For purposes of this section, community service is defined as any actual physical activity which indicates civic consciousness, and is intended toward the improvement of a public work or promotion of a public service. If a violator is unable to accomplish community service as an alternative, they may be refined or re-arrested.*

d. Proper Identification. *Persons found in violation of this ordinance must present valid proof of identification. In the absence of such proof, the violator shall be brought to the nearest police station for proper identification, then to the Task Force for the payment of penalty or rendition of community service.*

b. Confiscation or Removal. *Tobacco, electronic cigarettes, heated tobacco products, related products or components, and their advertising/promotions paraphernalia found violating any of the prohibited acts in this ordinance shall be subject to confiscation and/or removal.*

c. Revocation or Suspension of Business Permits and License to Sell. *The business permit and license to sell tobacco, electronic cigarette, and heated tobacco products or Certificate of Public Convenience of any public conveyance shall be suspended for at least one (1) week but not more than one (1) month, or revoked when the necessary action has not been performed within ten (10) working days upon receipt of the Citation Ticket or when penalties have not been settled within five (5) working days. Should the establishment or public conveyance found to violate this Ordinance fall outside of the jurisdiction of this local government unit, the recommendation for revocation or suspension of business permit and license to sell or Certificate of Public Convenience shall be forwarded to the appropriate local government unit, agency or governing body. The suspension or revocation shall only be lifted once all the requirements set forth upon re-inspection and evaluation of the Municipal Health Office,*

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Building/Engineering Office, Business Permits and Licensing Office 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.

Section 23. No Contest Provision. *Persons who violate any provision of this Ordinance except for Section 10 (p) who do not wish to contest the violation and are willing to pay voluntarily the penalty imposed upon him/her for the first and second offenses enumerated in Section 22 (a) and (b) prior to the filing of a formal complaint with the proper court, shall be allowed to pay the penalty with the Municipal Treasurer's Office within five (5) working days from the day of apprehension. If after the lapse of five (5) working days, the violator has failed to present the Official Receipt of the payment of the penalties, the Task Force shall have the case filed with the Prosecutor's Office, attaching an Affidavit or Certification from the Municipal Treasurer's Office that the violator failed or did not avail of the No Contest Provision. The No Contest Provision cannot be availed for third and subsequent offenses.*

Section 24. Citation Ticket System. — *Violators of this Ordinance shall be informed of their violation and its corresponding penalty using a Citation Ticket System with the following guidelines:*

- a. *Official booklets of Citation Tickets shall be issued by the Municipal Treasurer to duly authorized enforcers within ninety (90) calendar days of the effectivity of this Ordinance.*
- b. *A Citation Ticket shall be issued by duly authorized enforcers to person/s liable for any violation of this Ordinance.*
- c. *Citation Ticket shall contain the following information:*
 - 1. *checklist of the violations under this Ordinance;*
 - 2. *the fines associated with each violation;*
 - 3. *option to render community service in case violator is unable to pay fine;*
 - 4. *the due date for compliance with the obligations imposed by the ticket*
- d. *When a Citation Ticket is issued to a violator, he/she shall report to the Municipal Treasurer's Office or its duly authorized collecting agent within five (5) working days after such issuance, where he or she shall either pay the fine imposed or render community service under Section 22 (d) hereof.*
- e. *The Municipal Treasurer's Office shall keep a duplicate of all Citation Tickets issued to violators as well as all other records of violations of this Ordinance.*

Section 25. Repealing Clause. — *All ordinances contrary to or inconsistent with this Ordinance are hereby repealed or modified accordingly.*


Section 26. 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 27. Effectivity Clause. — *This Ordinance shall take effect three (3) consecutive weeks⁸ after its publication in a newspaper of local or general circulation or posting in at least two (2) conspicuous places within the municipality.*

ENACTED BY THE SANGGUNIANG BAYAN (18TH COUNCIL) OF MERIDA, LEYTE AT ITS REGULAR SESSION HELD ON THE 3RD DAY OF JUNE 2024.

APPROVED UNANIMOUSLY.

SANGGUNIANG BAYAN MEMBERS


CHENIL C. CALDERON
Municipal Councilor
Assistant Floor Leader


JOEL A. MARSON
Municipal Councilor


JESUS ANTONIO R. MARTINEZ
Municipal Councilor

-OVER-







(CONTINUATION OF MUNICIPAL ORDINANCE NO. 05, SERIES OF 2024 DATED JUNE 03, 2024
.....//PAGE 17)


EMARITO A. LUZARES
Municipal Councilor
Majority Floor Leader


FELIPE H. PEREZ, JR.
Municipal Councilor


CAMILO L. DEJON
Municipal Councilor

NENFA C. OYAO
Municipal Councilor


STEPHANIE M. MIRALLES
Municipal Councilor

ASHLEY NOREEN DIAZ
Ex-Officio (Mun. SK. Fed. President)
(Forced Leave)

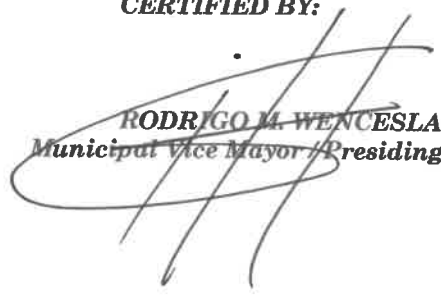
RONILLO O. LABANG
Ex-Officio (Mun. LnB President)

APPROVED BY HIS HONOR, THE MUNICIPAL MAYOR ON June 21, 2024.

APPROVED BY:


ENGR. ROLANDO M. VILLASENCIO
Municipal Mayor

CERTIFIED BY:


RODRIGO M. WENCESLAO
Municipal Vice Mayor / Presiding Officer

ATTESTED BY:


JOSELITO T. DELOS ANGELES
Secretary to the Sangguniang Bayan





Republic of the Philippines
Province of Leyte
MUNICIPALITY OF MERIDA

OFFICE OF THE SANGGUNIANG BAYAN

18 JULY 2024

THE SANGGUNIANG PANLALAWIGAN OF LEYTE
CAPITOL BUILDING
PALO LEYTE

DEAR HONORABLE MEMBERS;

I have the honor to submit to the Sangguniang Panlalawigan of Leyte copies of **MUNICIPAL ORDINANCE NO. 05, SERIES OF 2024 – “AN ORDINANCE PROHIBITING THE USE, SALE, DISTRIBUTION, AND ADVERTISEMENT OF CIGARETTES AND OTHER TOBACCO PRODUCTS, ELECTRONIC NICOTINE AND NON-NICOTINE DELIVERY SYSTEMS, HEATED TOBACCO PRODUCTS AND OTHER NOVEL TOBACCO PRODUCTS IN CERTAIN PLACES, IMPOSING PENALTIES FOR VIOLATIONS THEREOF AND PROVIDING FUNDS THEREFORE, TO INSTILL HEALTH CONSCIOUSNESS AND FOR OTHER PURPOSES”** enacted by the 18th Council of this Municipality, for review and consideration.

Hoping everything is in order.

Thank you.

Respectfully,


JOSELITO T. DE LOS ANGELES
Secretary to the Sangguniang Bayan