



QUEZON CITY COUNCIL

Quezon City
20th City Council

PO20CC-200

66th Regular Session

ORDINANCE NO. SP- 2737, S-2018

AN ORDINANCE FOR THE REGULATION OF E-CIGARETTES IN PUBLIC PLACES, INCLUDING PUBLIC CONVEYANCES, ADVERTISEMENTS AND PROMOTIONS OF E-CIGARETTES, AND PROVIDING PENALTIES THEREFOR.

Introduced by Councilors KARL EDGAR C. CASTELO, MELENCIO "Bobby" T. CASTELO JR., ALEXIS R. HERRERA and DIORELLA MARIA G. SOTTO.

Co-Introduced by Councilors Anthony Peter D. Crisologo, Lena Marie F. Juico, Elizabeth A. Delarmente, Victor V. Ferrer, Jr., Oliviere T. Belmonte, Precious Hipolito Castelo, Voltaire Godofredo T. Liban III, Ramon P. Medalla, Ranulfo Z. Ludovica, Estrella C. Valmocina, Roderick M. Paulate, Allan Benedict S. Reyes, Gian Carlo G. Sotto, Kate Abigail G. Coseteng, Franz S. Pumaren, Eufemio C. Lagumbay, Raquel S. Malañgen, Irene R. Belmonte, Ivy Xenia L. Lagman, Marra C. Suntay, Hero Clarence M. Bautista, Julienne Alyson Rae V. Medalla, Godofredo T. Liban II, Allan Butch T. Francisco, Marivic Co-Pilar, Rogelio "Roger" P. Juan, Donato C. Matias, Eric Z. Medina and Ricardo E. Corpuz.

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

WHEREAS, a wide range of electronic cigarette or e-cigarette products have been introduced in the Philippines and globally. They are handheld products that generate a nicotine-containing aerosol without combustion;

WHEREAS, e-cigarettes should be differentiated in terms of regulation from conventional cigarettes as studies have consistently concluded that e-cigarettes are significantly safer than conventional

tobacco smoking. This is largely attributable to the fact that conventional cigarettes release much more carcinogens and toxins from the combustion process that burns tobacco, whereas e-cigarette products forego the combustion process completely. As a less harmful form of nicotine delivery, the 2016 report of the Royal College of Physicians of the United Kingdom suggested that e-cigarettes can be an effective tool in harm-reduction as well as a gateway to smoking reduction and cessation. Regulating them in the exact same way as cigarettes, however, would carry a misleading message that they are as harmful as tobacco cigarettes. Groups such as Public Health England and the British Lung Foundation have underscored the importance of regulating e-cigarette products differently from cigarettes;

WHEREAS, in order to fully protect the health and welfare of the citizens of Quezon City and at the same time safeguard the interests of all stakeholders, including smokers who have the right to choose less harmful alternatives to cigarettes, there is a need to pass an ordinance regulating the use of electronic cigarettes in public places and conveyances, including its advertising and promotion, in line with the latest studies on this class of products.

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF QUEZON CITY IN REGULAR SESSION ASSEMBLED:

SECTION 1. DEFINITION OF TERMS – As used in this Ordinance:

- a. *Electronic cigarette or e-cigarette* - means any product that generates a nicotine-containing aerosol without combustion, with or without electronics or tobacco, or any component of that product, this includes but not limited to a cartridge, a tank and the device without a cartridge or tank;
- b. *Package* - shall refer to packs, boxes, cartons or containers of any kind in which the electronic component of an e-cigarette is offered for sale to consumers.
- c. *Nicotine receptacle* - shall refer to bottles, boxes, cartons, or containers of any kind in which a nicotine-containing solution or any related product is offered for sale to consumers for use with an e-cigarette product system. #

58

1

- d. *Advertisement* - refers to any visual and/or audible message disseminated to the public about a particular product that promotes and gives publicity by words, designs, images or any other means through broadcast, electronic, print or whatever form of mass media, including outdoor advertisements, such as, but not limited to, signs and billboards. For the purpose of this Ordinance, advertisement shall be understood as e-cigarette advertisement;
- e. *Advertising* -- refers to the business of conceptualizing, presenting, making available and communicating to the public, through any form of mass media, any fact, data or information about the attributes, features, quality or availability of consumer products, services or credit. For purposes of this Ordinance, advertising shall be understood as e-cigarette advertising. This shall specifically refer to messages and images promoting e-cigarettes; the purchase or use of e-cigarettes; and e-cigarette trademarks, brand names, design and manufacturer's names;
- f. *Celebrity* - refers to any natural person who, by his accomplishments or fame, or by reason of his profession or calling, gives the public a legitimate interest in his doings, affairs, and character. The term includes anyone who has arrived at a position where public attention is focused upon him as a person, such as, but not limited to, actors, athletes and other sports personalities, war heroes, famous inventors and explorers among others.
- g. *Distributor* - refers to any person to whom an e-cigarette product is delivered or sold for purposes of distribution in commerce, except that such term does not include a manufacturer or retailer or common carrier of such product;
- h. *Enclosed area* - refers to an area that is physically separated from adjacent areas by walls or partitions and a roof or ceiling. The walls or partitions must be continuous, interrupted only by doors and windows. The mere presence of a roof or ceiling over the structure, but without walls or partitions surrounding said structure, does not constitute an enclosed area;
- i. *Mass media* - refers to any medium of communication which reaches a mass of people. For this purpose, mass media includes print media such as, but not limited to newspapers,

DS

A

R

magazines, and publications, broadcast media such as, but not limited to, radio, television, cable television, and cinema; electronic media such as but not limited to, the internet. For the purpose of this Ordinance, communications designed to reach persons by private, postal or regular mail, electronic mail (e-mail), and similar means shall not be considered as mass media;

- j. Minor – refers to any person below eighteen (18) years old;
- k. Perimeter – when used in this Ordinance in relation to sale of, and outdoor advertisements for, e-cigarette products, the term shall refer to any point in the boundaries as indicated in the Original Certificate of Title or Transfer Certificate of Title of the tract of land that is actually used or occupied by a public school, public playground owned by the government or other facility frequented particularly by persons below eighteen (18) years of age who are or are intended to be the principal users or patrons of such facility, whether or not said tract of land is separated by adjacent tracts by a wall or fence;
- l. Point-of-Sale - refers to any location at which an individual can purchase or otherwise obtain e-cigarette products;
- m. Premises– refers to a tract of land and the building or buildings thereon, including the open spaces between the buildings located on the same tract of land and within the perimeter of said tract of land;
- n. Promotion – refers to an event or activity organized by or on behalf of an e-cigarette manufacturer, distributor or retailer with the aim of promoting a brand of e-cigarette, which event or activity would not occur but for the support given to it by or on behalf of the e-cigarette manufacturer, distributor or retailer. It may also refer to the display of an e-cigarette product or manufacturer's name, trademark, logo, and the like on non- e-cigarette products. This includes the paid use of e-cigarette products bearing the brand names, trademarks, logos, and the like in movies, television and other forms of entertainment. For the purpose of this Ordinance, promotion shall be understood as e-cigarette promotion;

- o. *Public conveyances* – refers to modes of transportation servicing the general population, such as but not limited to, elevators, airplanes, buses, taxicabs, ships, jeepneys, lightrail transits, tricycles, and similar vehicles;
- p. *Public places* – refers to enclosed or confined areas of all places of worship, hospitals or other healthcare centers, public conveyances, government offices, and educational or recreational facilities primarily intended for minors;
- q. *Vaping* – refers to the act of using an e-cigarette where a user inhales from the device and exhales the vapour.

SECTION 2. PUBLIC PLACE USE – Use of e-cigarettes indoors is prohibited in places of worship, hospitals or other healthcare centers, public conveyances, government offices, and educational or recreational facilities primarily intended for minors. In all other enclosed places that are open to the general public, private workplaces and those places not covered in the preceding enumeration, e-cigarette product use shall be allowed, provided that the owner, proprietor, operator, possessor, manager or administrator of such places shall post the following statement in a clear and conspicuous manner at every ingress point of such places: "USE OF E-CIGARETTES IS ALLOWED INSIDE."

SECTION 3. DESIGNATION OF VAPING AREAS – In all enclosed places that are open to the general public, and private workplaces, and other places not covered by Section 2 of this Ordinance, such areas may include a designated vaping area within the building, which may be in an open space, or in a separate area with proper ventilation, but shall not be located within the same room that has been designated as a smoking area.

SECTION 4. MINIMUM AGE SALES – Under this Ordinance, it shall be unlawful:

For any retailer to sell or distribute e-cigarette products to a minor.

- b) To purchase e-cigarettes from a minor.
- c) For minors to sell e-cigarettes.
- d) For minors to purchase e-cigarettes.

SECTION 5. ADVERTISEMENT RESTRICTIONS - Advertisements shall be allowed in points-of-sale, through direct marketing, and on the internet. The following restrictions shall apply to all e-cigarette product advertisements:

- (a) Advertisements shall not be aimed at or particularly appeal to persons under eighteen (18) years of age.*
- (b) Advertisements shall not contain cartoon characters or subjects that depict humans or animals with comically exaggerated features or that attribute human or unnatural characteristics to animals, plants or other objects.*
- (c) Advertisements shall only depict persons who are or who appear to be above twenty-five (25) years of age.*
- (d) Advertisements shall not show, portray or depict scenes where the actual use of, act of using, or puffing of e-cigarette products is displayed.*
- (e) Advertisements should not undermine quit-smoking messages and encourage non-tobacco or non-nicotine users to use the product.*
- (f) Advertisements do not contain any information or element that is untrue or not scientifically substantiated, in particular with regard to product characteristics, health effects, risks or emissions.*
- (g) Promotional communications shall allow for adult consumers to learn about the availability of e-cigarettes, receive information about how to use them, try them before purchasing them, subject to proof of age and certification of smoker status, and receive pre-sale and after-sales support.*
- (h) Advertisements shall not appear on television, radio, or cinema.*
- (i) All allowable advertisements and promotional materials for nicotine receptacles shall contain the health warning 'This product may damage your health and is addictive.' The health warning shall occupy ten percent of the bottom area of the advertisement.*

SECTION 6. PUNISHABLE ACTS - The following acts are punishable under this Ordinance:

- a. Vaping in public places where vaping is expressly prohibited under Section 2 of this Ordinance;
- b. Non-compliance by the owners, proprietors, operators, possessors, managers or administrators of enclosed places open to the general public, private workplaces, and other places not covered under Section 2 of this Ordinance;
- c. Non-compliance with Section 4 of this Ordinance when an establishment owner requires vapers to use the same designated smoking areas provided under the Tobacco Regulation Act unless smoking is allowed in the entire establishment;
- d. Sale of e-cigarette products to or by a minor;
- e. Non-compliance with the restrictions on e-cigarette promotions and advertisements;
- f. Distribution of samples of e-cigarette products to minors;
- g. Selling of E-Cigarette products not in compliance with national law.

SECTION 7. PENALTIES FOR VIOLATION OF THIS ORDINANCE-

On the first offense, a fine of not less than Five Hundred Pesos (P500.00) but not more than One Thousand Pesos (P1,000.00) shall be imposed. On the second offense, a fine of more than One Thousand Pesos (P1,000.00) but not more than Two Thousand Five Hundred Pesos (P2,500.00) shall be imposed.

On the third offense, in addition to a fine of not less than Two Thousand Five Hundred Pesos (P2,500.00) but not more than Five Thousand Pesos (P5,000.00), the business permit/s and license/s to operate of the offender may be cancelled or revoked.

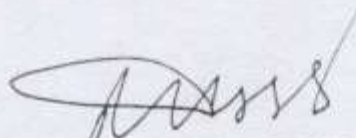
SECTION 8. REPEALING CLAUSE - All existing ordinances inconsistent with this Ordinance are hereby repealed or modified accordingly. ✕

SECTION 9. INTERPRETATION - Any request for interpretation of the provisions of this Ordinance shall be referred to the City Legal Officer. Any doubt in the interpretation of this Ordinance shall be construed in favor of the promotion of harm reduction.

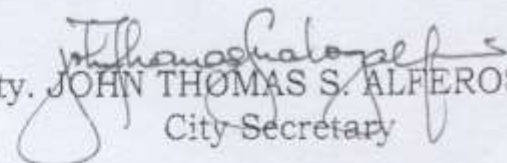
SECTION 10. SEPARABILITY CLAUSE - Should any provision of this Ordinance be subsequently declared unconstitutional or invalid, the other provisions not affected by such declaration shall remain in full force and effect.

SECTION 11. EFFECTIVITY - This Ordinance shall take effect fifteen (15) days from its publication in at least two (2) newspapers of general or local circulation within this City, consistent with the provisions of the Local Government Code.


ENACTED: June 25, 2018.


RODERICK M. PAULATE
President Pro-Tempore
Acting Presiding Officer

ATTESTED:

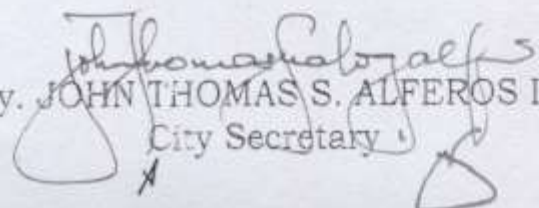

Atty. JOHN THOMAS S. ALFEROS III
City Secretary

APPROVED: 24 JUL 2018


HERBERT M. BAUTISTA
City Mayor

CERTIFICATION

This is to certify that this Ordinance was APPROVED by the City Council on Second Reading on June 25, 2018 and was PASSED on Third/Final Reading on July 2, 2018.


Atty. JOHN THOMAS S. ALFEROS III
City Secretary