

Republic of the Philippines
QUEZON CITY COUNCIL
Quezon City
20th City Council

PO20CC-415

86th Regular Session

ORDINANCE NO. SP- **2840**, S-2019

AN ORDINANCE ADOPTING EXECUTIVE ORDER NUMBER 51, OTHERWISE KNOWN AS THE NATIONAL CODE OF MARKETING OF BREASTMILK SUBSTITUTES, BREASTMILK SUPPLEMENTS AND OTHER RELATED PRODUCTS AND PROVIDING PENALTIES FOR VIOLATION/S THEREOF.

Introduced by Councilor LENA MARIE P. JUICO.

Co-Introduced by Councilors Elizabeth A. Delarmente, Victor V. Ferrer, Jr., Oliviere T. Belmonte, Alexis R. Herrera, Precious Hipolito Castelo, Voltaire Godofredo L. Liban III, Ramon P. Medalla, Ranulfo Z. Ludovica, Estrella C. Valmocina, Gian Carlo G. Sotto, Kate Abigael G. Coseteng, Jose Mario Don S. De Leon, Franz S. Pumaren, Eufemio C. Lagumbay, Raquel S. Malañgen, Irene R. Belmonte, Ivy Xenia L. Lagman, Marra C. Suntay, Karl Edgar C. Castelo, Julianne Alyson Rae V. Medalla, Godofredo T. Liban II, Andres Jose G. Yllana, Jr., Allan Butch T. Francisco, Marivic Co-Pilar, Melencio "Bobby" T. Castelo, Jr., Rogelio "Roger" P. Juan, Diorella Maria G. Sotto, Donato C. Matias, Eric Z. Medina, Alfredo S. Roxas and Noe Lorenzo B. Dela Fuente III.

WHEREAS, Section 15, Article II of the 1987 Constitution of the Philippines states that "The State shall protect and promote the right to health of the people and instill health consciousness among them";

WHEREAS, Section 2, Article II of the same Constitution states in part that The Philippines x x x adopts the generally accepted principles of international law as part of the law of the land x x x;

WHEREAS, the Philippines has adopted the WHO and UNICEF "2002 Global Strategy on Infant and Young Child Feeding", and the various World Health Assembly Resolutions to implement the same, and therefore is legally and morally obligated to follow their provisions;

WHEREAS, towards this end, the State shall support the "2002 Global Strategy on Infant and Young Child Feeding" and exerts efforts to address the provision of safe and adequate nutrition for infants and young children, by the protection, promotion and support of breastfeeding;

WHEREAS, the WHO/UNICEF Global Strategy on Infant and Young Child Feeding recommends not only exclusive breast milk for newborns up until 6 months, but also the introduction of a six (6) months indigenous, fresh and natural foods in combination with continued breastfeeding for infants and young children. It is guided by the World Health Assembly Resolutions, Codex Alimentarius, and consistent with national laws or national policies;

WHEREAS, adequate and proper nutrition is an important and universally recognized component of each child's right to the enjoyment of the highest attainable standard of health as provided for in the United Nations Convention on the Rights of the Child, which the Philippine Senate, in accordance with its constitutional prerogative under Section 21, Article VII of the 1987 Constitution, ratified on July 26, 1990, and which mandates the Philippines to implement various international agreements relevant to Infant and Young Child Feeding;

WHEREAS, the use of breastmilk which is widely recognized as the best source of nutrition for babies, promotes the development of emotional bonding between the mother and child, bestows upon the newborn infant protection against infection, provides for the mother natural contraception after delivery, and protects the mothers from closely spaced pregnancy;

WHEREAS, with the resultant healthier population and the reduction in infant and under five mortality rates, the country will be closer in reaching its targets for the Sustainable Development Goals;

WHEREAS, breastfeeding is the most far-reaching and the least costly strategy for the alleviation of poverty;

WHEREAS, Section 11, Article VIII of the 1987 Constitution provides that the State shall adopt an integrated and comprehensive approach to health development;

WHEREAS, Section 12, Article VIII of the 1987 Constitution provides that the State shall establish and maintain an effective food and drug regulatory system and undertake appropriate health manpower development and research, responsive to the country's health needs and problems;

WHEREAS, Section 3, Article XV of the 1987 Constitution provides that the State shall defend the right of children to assistance, including proper care and nutrition;

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WHEREAS, Section 3 of Executive Order Number 51, also known as the "ADOPTING A NATIONAL CODE OF MARKETING OF BREASTMILK SUBSTITUTES, BREASTMILK SUPPLEMENTS AND RELATED PRODUCTS, PENALIZING VIOLATIONS THEREOF, AND FOR OTHER PURPOSES" provides that the aim of the Code is to contribute to the provision of safe and adequate nutrition for infants by the protection and promotion of breastfeeding and by ensuring the proper use of breastmilk substitutes and breastmilk supplements when these are necessary, on the basis of adequate information and through appropriate marketing and distributions;

WHEREAS, Section 3 of Executive Order Number 51 also provides that any person who violates the provisions of this Code or the rules and regulations issued pursuant to this Code shall, on conviction, be punished by a penalty of two (2) months to one (1) year imprisonment or a fine of not less than One Thousand Pesos (1,000.00) nor more than Thirty Thousand Pesos (P30,000.00) or both. Should the offense be committed by a juridical person, the Chairman of the Board of Directors, the president, general manager, or the partners and/or the persons directly responsible therefore, shall be penalized.

NOW, THEREFORE,

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

TITLE ONE: GENERAL PROVISIONS

SECTION 1. TITLE – This ordinance shall be known as the "An Ordinance Regulating the Promotion and Marketing of Breastmilk Substitutes and Breastmilk Supplements and providing penalties thereof."

SECTION 2. OBJECTIVE – Contribute to the provision of safe and adequate nutrition for infants by the protection and promotion of breastfeeding and by ensuring the proper use of breastmilk substitutes and breastmilk supplements when these are necessary, on the basis of adequate information and through appropriate marketing and distributions.

SECTION 3. SCOPE – The Code applies to the marketing and practices related thereto, of the following products: breastmilk substitutes, including infant formula; other milk products, foods and beverages, including bottle-fed complementary foods, when marketed or otherwise represented to be suitable, with or without modification, for use as a partial or total replacement of breastmilk; feeding bottles and teats. It also applies to their quality and availability, and to information concerning their use.

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SECTION 4. DEFINITION OF TERMS.

- a. *BREASTMILK SUBSTITUTES* - mean any food being marketed or otherwise represented as a partial or total replacement of breastmilk, whether or not suitable for that purpose;
- b. *COMPLEMENTARY FOOD* - means any food, whether manufactured or locally prepared, suitable as a complement to breastmilk or to infant formula, when either becomes insufficient to satisfy the nutritional requirements of the infant. Such food is also commonly called "weaning food" or "breastmilk supplement";
- c. *CONTAINER* - any form of packaging of products for sale as normal retail unit, including wrappers;
- d. *DISTRIBUTOR* - a person, corporation or any other entity in public or private sector engaged in the business (whether directly or indirectly) of marketing at the wholesale or retail level a product within the scope of this Code. A "primary distributor" is a manufacturer's sales agent, representative, national distributor or broker;
- e. *INFANT* - a person falling within the age bracket of 0-12 months;
- f. *HEALTH CARE SYSTEM* - governmental, non-governmental or private institutions or organizations engaged, directly or indirectly, in health care for mothers, infants and pregnant women; and nurseries or child care institutions. It also includes health workers in private practice. For the purpose of this Code, the health care system does not include pharmacies or other established sales outlets;
- g. *HEALTH WORKER* - a person working in a component of such health care system, whether professional or non-professional, including volunteer workers;
- h. *INFANT FORMULA* - a breastmilk substitute formulated industrially in accordance with applicable Codex Alimentarius standards, to satisfy the normal nutritional requirements of infants up to between four to six months of age, and adapted to their physiological characteristics. Infant formula may also be prepared at home in which case it is described as "home-prepared";

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- i. LABEL - any tag, brand, mark, pictorial or other descriptive matter, written, printed, stenciled, marked, embossed or impressed on, or attached to, a container of any product within the scope of this Code;
- j. MANUFACTURER - a corporation or other entity in the public or private sector engaged in the business or function (whether directly or through an agent or an entity controlled by or under contract with it) of manufacturing a product within the scope of this Code;
- k. MARKETING - product promotion, distribution, selling, advertising, product public relations, and information services;
- l. MARKETING PERSONNEL - any person whose functions involve the marketing of a product or products coming within the scope of this Code;
- m. SAMPLE - single or small quantities of a product provided without a cost;
- n. SUPPLIES - quantities of a product provided for use over an extended period, free or at a low price, for social purposes, including those provided to families in need.

**TITLE TWO: THE QUEZON CITY HEALTH DEPARTMENT
(QCHD)**

SECTION 5. IMPLEMENTING AUTHORITY – The Quezon City Health Department (QCHD) shall take measures to promote, protect, support and monitor appropriate infant and young child feeding (IYCF) practices. Appropriate IYCF practices include the following:

- a. Proper Latching-on immediately after birth and initiation of breastfeeding within the first thirty (30) minutes thereafter;
- b. Exclusive breastfeeding from 0-6 months;
- c. Appropriate complementary feeding from 6 months onwards;
- d. Continuous breastfeeding up to two (2) years of age or beyond.

The goals will be achieved by providing women an access to the support that they require – in the family, the community and the workplace. The QCHD shall provide an objective, updated and consistent information and training of health workers and the general public on infant and young child nutrition in partnership with the local governments and civil societies without any conflict of interest.

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SECTION 6. INFORMATION AND EDUCATION – The Local Government Unit, through the QCHD shall ensure that objective and consistent information is provided on infant and young child feeding, for the use by families and those involved in the field of infant nutrition. This responsibility shall cover the planning, provision, design and dissemination of information, and the control thereof.

a. In this regard, the QCHD in collaboration with the national agencies, local government units, including non-governmental organizations and members of civil society, shall:

- i. Plan, provide, design, disseminate and regulate information related to infant and young child nutrition and the implementation of the Milk Code;*
- ii. Formulate and implement a communication plan, which among others will indicate key messages on infant and young child nutrition;*
- iii. Create a Technical Working Group to serve as a clearing house for all information and training materials on infant and young child nutrition and the Milk Code; and*
- iv. Assist Local Government Units (LGUs) and other partners in developing strategies to promote breastfeeding and infant and young child nutrition.*

b. Information and educational materials intended to reach pregnant women and mothers of infants, including women of reproductive age, which materials shall include clear information and ensuing:

- i. The benefits and superiority of breastfeeding;*
- ii. Maternal nutrition, and the preparation for and maintenance of breastfeeding;*
- iii. The negative effect on breastfeeding of introducing partial bottle-feeding;*
- iv. The difficulty of reversing the decision not to breastfeed; and*

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- v. Where needed, the proper use of infant formula, whether manufactured industrially or home-prepared. When such materials contain information about the use of infant formula, they shall include the social and financial implications of its use; the health hazards of inappropriate foods or feeding methods; and in particular, the health hazards of unnecessary or improper use of infant formula and other related products including information that powdered infant formula may contain pathogenic microorganisms and must be prepared and used appropriately.

- c. The promotion, protection and support of breastfeeding and the proper implementation of the Milk Code shall be an integral part of all information, education and communication plans and training activities of the QCHD, as well as of the Department of Education (DepEd), Social Services Development Department (SSDD), and other such concerned agencies/individuals.

SECTION 7. MONITORING, IMPLEMENTATION, FUNCTIONS – Quezon City Health Department shall primarily be responsible for the monitoring, implementation and enforcement of the Milk Code. It shall likewise provide regular training on monitoring compliance and enforcement on violations of the Milk Code for all persons engaged in or volunteering to help in the monitor and implementation of the Code. The Office may request for the assistance of non-governmental organizations, civil society, and concerned national/international agencies in order to better monitor the implementation of these rules.

Accordingly, a monitoring team shall be created and established with the following functions:

- Monitors compliance as well as problems encountered in the implementation of the Milk Code;
- Reviews/acts on reports of violations of the provisions of the Code;
- Verifies reports of violations of the Milk Code;
- Monitors labels of products within the scope of the Code and marketing practices in various distribution centers;
- Recommends sanctions or punitive actions for violations of the Milk Code to the Bureau of Foods and Drugs;

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- Submits regular reports on the status of the Milk Code implementation to the Food and Drug Administration (FDA).

**TITLE THREE: PROPER LABELLING AND
PROHIBITED ACTS**

SECTION 8. PROPER LABEL ON CONTAINERS – The following shall be observed and the violation of the same shall be subject to the penalties provided for under section 6 of this Ordinance pursuant to Executive Order No. 51:

- a. Containers and/or labels shall be designed to provide the necessary information about the appropriate use of the products, and in such a way as not to discourage breastfeeding.
- b. Each container shall have a clear, conspicuous and easily readable and understandable message in Filipino or English printed on it, or on a label, which message cannot readily become separated from it, and which shall include the following points:
 - i. The words "Important Notice" or their equivalent;
 - ii. A statement of the superiority of breastfeeding;
 - iii. A statement that the product shall be used only on the advice of a health worker as to the need for its use and the proper methods of use; and
 - iv. Instructions for appropriate preparation, and a warning against the health hazards of inappropriate preparation.
- c. Neither the container nor the label shall have pictures or texts which may idealize the use of infant formula. They may, however, have graphics for easy identification of the product and for illustrating methods of preparation.
- d. The term "humanized", "maternalized" or similar terms shall not be used.
- e. Food products within the scope of this Code marketed for infant feeding, which do not meet all the requirements of an infant formula but which can be modified to do so, shall carry on the label a warning that the unmodified product should not be the sole source of nourishment of an infant.

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- f. The labels of food products within the scope of this Code shall, in addition to the requirements in the preceding paragraphs, conform with the rules and regulations of the Bureau of Food and Drugs.

SECTION 9. PROHIBITED ACTS – Pursuant to Section 6 of Executive Order Number 51, the following shall be prohibited:

- a. No advertising, promotion or other marketing materials, whether written, audio or visual, for products within the scope of this code shall be printed, published, distributed, exhibited and broadcasted unless such materials are duly authorized and approved by an inter-agency committee created pursuant to Executive Order No. 51;
- b. Manufacturers and distributors shall not be permitted to give, directly or indirectly, samples and supplies of products within the scope of this Code or gifts of any sort to any member of the general public, including members of their families, to hospitals and other health institutions, as well as to personnel within the health care system;
- c. There shall be no point-of-sale advertising, giving of samples or any other promotion devices to induce sales directly to the consumers at the retail level, such as special displays, discount coupons, premiums, special sales, bonus and tie-in sales for the products within the scope of this Code. This provision shall not restrict the establishment of pricing policies and practices intended to provide products at lower prices on a long-term basis;
- d. Manufacturers and distributors shall not distribute to pregnant women or mothers of infants any gifts or articles or utensils which may promote the use of breastmilk substitutes or bottle feeding, nor shall any other groups to the general public and mothers;
- e. Marketing personnel shall be prohibited from advertising or promoting in any other manner the products covered by this Code, either directly or indirectly, to pregnant women or with mother of infants, except as otherwise provided.

Nothing herein contained shall prevent donations, from manufacturers and distributors of products within the scope of this Code upon request by or with the approval of the Department of Health.

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TITLE FOUR: APPLICABLE PENALTIES

SECTION 10. PENALTIES – *The following shall be the applicable penalty for violation of this ordinance:*

a. *If violated by a natural person:*

FIRST OFFENSE: *Fine of One Thousand Pesos (Php1,000.00);*

SECOND OFFENSE: *Fine of Three Thousand Pesos (Php3,000.00) or imprisonment of Ten (10) days, at the discretion of the court;*

THIRD OFFENSE: *Fine of Five Thousand Pesos (Php5,000) or imprisonment of Thirty (30) days, at the discretion of the court.*

b. *If violated by a juridical person/corporation;*

FIRST OFFENSE: *Fine of Three Thousand Pesos (Php3,000.00);*

SECOND OFFENSE: *Fine of Five Thousand Pesos (Php5,000.00) and suspension of business license;*

THIRD OFFENSE: *Fine of Five Thousand Pesos (Php5,000) and revocation of business license.*

TITLE SIX: MISCELLANEOUS PROVISIONS

SECTION 11. IMPLEMENTING RULES AND REGULATIONS – *The implementing rules and regulations shall be created immediately upon the approval of this Ordinance subject to the approval of the City Council.*

SECTION 12. APPLICABILITY CLAUSE – *The provisions of existing ordinances dealing on the same subject matter which are not in conflict with, or contrary to, the provisions of this Ordinance are hereby adopted and made an integral part of this Ordinance.*

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SECTION 13. SEPARABILITY CLAUSE – If for any reason, any part or provision of this Code shall be held to be unconstitutional or invalid, other parts or provisions hereof which are not affected shall continue to be in full force and effect.

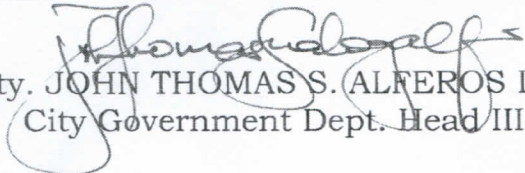
SECTION 14. REPEALING CLAUSE – All Ordinances, administrative regulations, or parts thereof which are inconsistent with any provisions of this Ordinance are hereby repealed, amended or modified accordingly.

SECTION 15. EFFECTIVITY – This Ordinance shall take effect thirty (30) days upon approval.

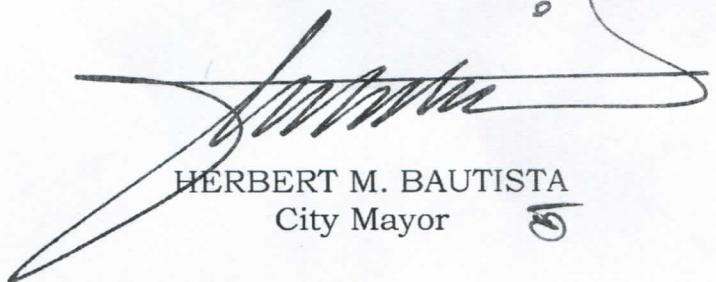

ENACTED: March 4, 2019.


MA. JOSEFINA G. BELMONTE
City Vice Mayor
Presiding Officer

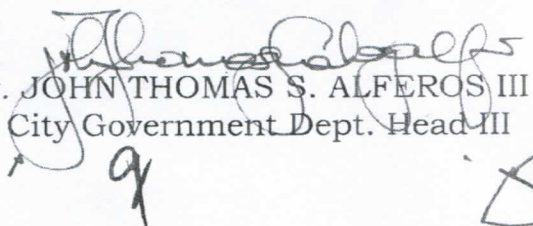
ATTESTED:


Atty. JOHN THOMAS S. ALFEROS III
City Government Dept. Head III

APPROVED: 29 APR 2019


HERBERT M. BAUTISTA
City Mayor 
CERTIFICATION

This is to certify that this Ordinance was APPROVED by the City Council on Second Reading on March 4, 2019 and was PASSED on Third/Final Reading on March 11, 2019.


Atty. JOHN THOMAS S. ALFEROS III
City Government Dept. Head III