

Republika ng Pilipinas

TANGGAPAN NG SANGGUNIANG PANLUNGSOD Lungsod ng Naga

City Hall Compound, J. Miranda Avenue, Naga City, 4400

www.naga.gov.ph /sp@naga.gov.ph

205-2980 local 2060



ORDINANCE NO. 2021-004

AN ORDINANCE ADDING SOME SECTIONS AND AMENDING SOME PROVISIONS IN ORDINANCE NO. 2017-066, ENTITLED: "AN ORDINANCE REVISING ORDINANCE NO. 95-070 BY PROHIBITING THE TOBACCO, CIGAR AND CIGARETTE SMOKING IN PUBLIC PLACES AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF":-

Sponsor: Hon. Jose C. Rañola, M.D.

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; Article II, Section 15 2 Preamble 3 Section 16 4 Section 4 5 Section 24.

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

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, 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 2009-036 provides that drivers and operators of public utility vehicles are responsible for preventing smoking in public conveyances and posting specified "No Smoking" signs in their vehicles;

6)

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

Page - 2 -

and those representing their interests unless strictly necessary to effectively regulate, control, or supervise them;

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 National Internal Revenue Code of 1997 as amended in 2020 (Republic Act No. 11467) directs the Food and Drug Administration (FDA) 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 twenty-one (21) years old, 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 jurisdiction.

WHEREAS, the Executive Order No. 106 series of 2020 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 Naga City Government 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;

Be it ordained by the Sangguniang Panlungsod of the City of Naga, that:

SECTION 1. Title. - This Ordinance shall be known as the "Comprehensive Smoke-Free Ordinance of the City of Naga".

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.





Page - 3 -

SECTION 3. Coverage. — This Ordinance shall apply to all persons, natural or juridical, resident or nonresident, and in all places, found within the territorial jurisdiction of the City of Naga.

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. Designated Smoking/Vaping Area (DSVA) refers to an outdoor space, duly approved by the City 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 10 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 21 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 21 years old 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







Page - 4 -

hostels and recreational facilities for persons under twenty-one (21) years old; 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; 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.
- c. Electronic Nicotine and Non-Nicotine Delivery Systems (ENDS/ENNDS) - refers to a battery-operated device that heat e-liquids or refills which may or may not contain nicotine to produce aerosol, mist, or vapor that users inhale by mimicking the act of smoking. They are also commonly known as electronic cigarettes (e-cigarettes, vapor products, vapes, vape pens, electronic shisha (ehisha), mods and other similar or related devices.
- er curtur
- d. **Enclosed or partially enclosed** means being covered by a roof or other structure serving the purpose of a roof, and having one or more walls or sides, wherein the openings on the walls or sides have an aggregate area that is less than half of the total wall space, regardless of the type of material used for the roof, wall or sides, and regardless of whether the structure is permanent or temporary. Doors and windows that can be opened and shut shall not be considered as openings under this paragraph.
- e. Heated Tobacco Products (HTPs) refers to tobacco products that contain highly-addictive substance nicotine and/or non-tobacco additives and flavorings that produce aerosols, which are inhaled by users through the mouth.
- f. Minimum Legal Age (MLA) refers to twenty-one (21) as the minimum age at which a person is legally allowed to use,



Page - 5 -

sell or purchase tobacco or electronic cigarette products within the territorial jurisdiction of Naga City.

- g. 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.
- h. Outdoor advertisement refers to any sign, model, placard, board, billboard, banner, bunting, poster, streamer, paint-on, light display, video/digital display, apparel, device, structure or representation, used outdoors and wholly or partially visible from the outside to advertise or promote a tobacco product/ENDS/ENNDS/HTPs or their components, or the use thereof, either directly or indirectly to the public.
- i. Non-Smoking Buffer Zone a ventilated area between the door of a DSA not located in an open space and the smoke-free area. There shall be no opening that will allow air to escape from such Non-smoking Buffer Zone to the smoke-free area, except for a single door equipped with an automatic door closer. Such door is distinct from the door of the DSA, which shall be at least two (2) meters away from the other.
- j. Open spaces refers to those areas forming part of a building or conveyance which are not covered by a roof or similar structure.
- k. Person-in-charge refers to the president/manager in case of a company, corporation, partnership or association; the owner/proprietor/operator in case of a single proprietorship; or the administrator in case of government or private property, facility, office or building; the owner/driver/operator/conductor/captain in case of public conveyances; and the city schools superintendent, school president, dean or principal in case of schools or universities.
- Point-of-sale refers to any location at which an individual can purchase or otherwise obtain tobacco products.
- m. Public conveyances refers to modes of transportation servicing the general population, such as, but not limited to, elevators, airplanes, ships, jeepneys, buses, taxicabs, trains, light rail transits, tricycles and other similar vehicles.
- n. **Public places** means all places, fixed or mobile, that are accessible or open to the public or places for collective use, regardless of ownership or right to access,







including, but not limited to, schools, workplaces, government facilities, establishments that provide food and drinks, accommodation, merchandise, professional services, entertainment or other services. It also includes outdoor spaces where facilities are available for the public or where a crowd of people would gather, such as, but not limited to, playgrounds, sports grounds or centers, church grounds, health/hospital compounds, transportation terminals, markets, parks, resorts, walkways, entrance ways, waiting areas, and the like.

- o. 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.
- p. 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.
- q. **Smoking** means being in possession or control of a lit tobacco product regardless of whether or not the smoke is being actively inhaled or exhaled, or the act of inhaling and exhaling the smoke or aerosol produced by a heated tobacco product (HTPs) or other similar devices.
- r. Sponsorship means any form of 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.
- s. **Tobacco Products** means products entirely or partly made of the leaf tobacco as raw material which are manufactured to be used for smoking, sucking, chewing or snuffing, such cigarettes and cigars.
- t. Tobacco Industry refers to organizations, entities, association, and individuals that work for on in 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 individual 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.

coalms





- u. 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.
- v. **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.
- w. 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.
- **SECTION** 5. **Prohibition**. Except as herein otherwise provided, tobacco, cigar and cigarette smoking, in whatever form or manner, is hereby prohibited in the public places enumerated herein-below, to wit:
 - a. Cocktail lounges, bars, nightclubs, disco houses, dance halls, cafes, snack inns, restaurants, similar roofed and enclosed public places, actually used as offering venues and facilities for eating, drinking, singing, dancing and other forms of entertainment activities;
 - b. Cockpits, cultural centers, sports and games centers, gymnasiums, auditoriums, libraries, research centers, and laboratories, theaters and motion picture houses, offering venues and facilities for sports, entertainment education and cultural activities and other similar establishments or places temporarily used for the same purposes;



- c. All national and local government offices;
- d. Department stores, markets, groceries and all kinds of commodity stores, service shops and parlors and all other business or commercial establishments open to the general public;
- e. Elevators, passenger buses and jeepneys, trimobiles, etrikes and other motorized public conveyances operating in or through the streets of the City of Naga;
- f. Warehouses and storage places for flammable or combustible materials, explosives, gasoline and other petroleum products, and within fifty (50) meters from such places or from carriers containing such materials or products;



Page - 8 -

g. All classrooms and school premises of any public or private educational institution, hospital and medical premises, and all churches, mosques and other places of religious worship.

SECTION 6. Prohibited Acts. — The following acts are declared unlawful and prohibited by this Ordinance:

USE, SALE, DISTRIBUTION, ADVERTISING AND PROMOTION

- a. Allowing, abetting, or tolerating smoking and/or vaping in places enumerated in the preceding paragraph, outside of duly approved Designated Smoking/Vaping Area under this ordinance.
- b. Selling, distributing or purchasing tobacco products, electronic cigarette, and heated tobacco products and/or its component to and from persons below age twenty-one (21) years old. (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, electronic cigarette or heated tobacco product is below the age of 21 as per this ordinance)).
- c. 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, except in Designated Smoking/Vaping Areas duly approved and fully compliant with the requirements under Section 4.
- d. Selling or distributing tobacco, electronic cigarette, and heated tobacco products and/or its components in a school, public playground or other facility frequented by persons below age 21, and all hospital and medical premises either public or private or within 100 meters from any point in the perimeter of these places, within premises of a government facility, establishments that serve food and drinks or provide accommodation and entertainment.
- e. Placing cinema or outdoor advertisements of tobacco, electronic cigarette and heated tobacco products and/or its components.
- f. Placing, posting, displaying, wearing or distributing advertisement and promotional materials of tobacco, electronic cigarette, and heated tobacco products and/or their components, such as 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







Page - 9 -

- cigarette, heated tobacco products, and/or their components, and are not adult-only establishments.
- g. Placing any form of tobacco advertisement outside of the premises of point-of-sale retail establishment.
- h. Placing any stall, booth, and other displays concerning tobacco promotions to areas outside the premises of point-of-sale locations or adult-only facilities.
- i. Conducting promotional activities, campaigns, events, product sampling, and other similar activities where the establishment or its location prohibit selling, distributing and purchasing of tobacco, electronic cigarette, heated tobacco products, and/or its components, and where persons below age 21 are allowed entry.
- j. Ordering, instructing or compelling a person below age 21 to use, light up, buy, sell, distribute, deliver, advertise or promote tobacco, electronic cigarette, and heated tobacco products.
- k. Selling tobacco, electronic cigarette and heated tobacco products and/or its components without a valid city business permit and license to sell.
- 1. Manufacturing, distributing, marketing or selling of unregistered or adulterated electronic cigarettes and components thereof in the form of devices, e-liquids, solutions or refills whether physically part of or intended to be used with electronic cigarettes, heated tobacco products and other novel tobacco products.
- m. Selling of e-liquids, solutions or refills forming components of electronic cigarettes or heated tobacco products, without prejudice to the registration requirements that may be set forth by the Food and Drug Administration in accordance with RA Nos. 9711 and 11467;
- n. 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.
- o. Manufacturing, distributing, importing, marketing and selling of electronic cigarettes, heated tobacco products or their components, without prejudice to the licensing requirements that may be set forth by the Food and Drug Administration.
- p. Importing unregistered or adulterated electronic cigarettes, heated tobacco products or components thereof.





Page - 10 -

- q. 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.
- r. Selling tobacco, electronic cigarette, and heated tobacco products and/or its components without the appropriate government-issued health warning;
- s. Selling tobacco, electronic cigarette, and heated tobacco products and/or its components knowingly or inadvertently to persons who have never smoked or vaped;
- t. 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, electronic cigarette, heated tobacco products and/or its their components, including imitations thereof, which may appeal to persons below age 21;
- u. 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

v. Selling, distribution, advertising and promotion of tobacco, electronic cigarette, heated tobacco products and/or related components/products in online platforms/e-commerce subject to pertinent regulation/guidelines of the Food and Drug Administration (FDA) and other concerned agencies.

ENGAGEMENT AND SPONSORSHIP INVOLVING THE TOBACCO/E-CIGARETTE INDUSTRY

w. Facilitation, participation or partnership involving any government official or personnel of [name of LGU] 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 [name of LGU], with the aim, effect or likely effect of promoting a tobacco/electronic cigarette product, its use either directly or indirectly.







Page - 11 -

SECTION 7. 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. Violators can be fined up to______ Report violations to

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 21 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 persons-in-charge of government property, facility, office or building, secure a certification/ permit from the duly authorized officer or representative of the Civil Service Commission after inspection and approval prior to establishing a Designated Smoking/Vaping Area (DSVA);
- d. For person-in-charge of commercial establishments/ buildings or other non- government facilities intending to establish a DSVA, secure a certification/ permit from the City/Municipal Building/Engineering and Health





Page - 12 -

Officers after complying with the requirements for a DSVA, as stated in Section 4 (c);

e. For persons-in-charge of schools, public playgrounds or other facilities frequented by persons below age 21, offices of the DOH and attached agencies, hospitals and health facilities, post the following statement in a clear and conspicuous manner:

SELLING, ADVERTISING AND PROMOTING CIGARETTES,
ELECTRONIC CIGARETTES, HEATED TOBACCO, OTHER TOBACCO
PRODUCTS, AND/OR ITS COMPONENTS NOT ALLOWED WITHIN 100
METERS FROM ANY POINT IN THE PERIMETER OF [NAME OF
SCHOOL / PLAYGROUND / FACILITY FOR PERSONS BELOW 21 /
HEALTH FACILITY / ETC.]

- f. For persons-in-charge of schools, public playgrounds or other facilities frequented by persons below age 21, 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;
- g. 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 city's/municipality's Business Permits and Licensing Office, and shall comply with all essential requirements as directed by other regulatory agencies, if applicable;
- h. For persons-in-charge of approved point-of-sale establishments, post the following notice, together with a graphic/picture-based health warning on the health consequences of tobacco, electronic cigarette, and heated tobacco use and exposure, as prescribed by the City/Municipal Health Office, in a clear and conspicuous manner:



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

- i. 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;
- j. For persons-in-charge of approved point-of-sale establishments, secure approval from the City/Municipal Health Office for storages or containments of





Page - 13 -

tobacco/electronic cigarette/heated tobacco product, and/or any of its components. 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;

- k. 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;
- 1. 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 City/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);
- m. 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;
- n. Allow inspectors acting under Sections 14 and 15 hereof, which may include other members of the Task Force and the designated civil society organization under Section 16, entry into the establishment, public conveyance and government offices and facilities during regular business hours for the purpose of inspecting its compliance with this Ordinance;
- o. For all signage required to be posted under (a), (b),
 (e), and (h) above, provide for versions of them in the
 local language/dialect or in English;

SECTION 7. *Persons Liable.* — The following persons shall be liable under this Ordinance:

9

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



Page - 14 -

be required to comply with disciplinary measures imposed by the school/ university where he/she is enrolled, or endorse to the City Social Welfare and Development Office for appropriate action or intervention pursuant to Republic Act 9344 or the Juvenile Justice and Welfare Act. 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 City 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* 5, or who otherwise fails to fulfill the duties and obligations enumerated in *Section* 6 hereof;

SECTION 8. Minimum Age Sales - Under this ordinance, it shall be unlawful:

- a. For any retailer or tobacco/vaping products to sell, or distribute tobacco/vaping products to any persons below age 21;
- b. For any person to purchase cigarettes or tobacco/vaping products from a persons below age 21;
- c. For a person below age 21 to sell or buy cigarettes or any tobacco/vaping products;

It shall not be a defense for the person selling or distributing that he/she did not know or was not aware of the real age of the minor. Neither shall it be a defense that he/she did not know nor had any reason to believe that the cigarette or any other tobacco/vaping product was for the consumption of the minor to whom it was sold.

SECTION 9. Standards for designated Smoking areas (DSAs) - All DSAs shall comply with the following standards:



- 1. There shall be no opening that will allow air to escape from the DSA to the smoke-free area of the building or conveyance, except for a single door equipped with an automatic door closer, provided that, if the DSA is not located in an open space, such door shall open directly towards a Non-smoking Buffer Zone (Buffer Zone) as defined in Section 4;
- (G)
- 2. The DSA shall not be located in or within 10-meters from entrances, exits, or any place where people pass or congregate, or in front of air intake ducts;
- 3. The combines area of the DSA and the Buffer Zone shall not be larger than 20% of the total floor area of the building

Page - 15 -

or conveyance, provided that in no case shall such area be less than ten 910) square meters;

- 4. No building or conveyance shall have more than one DSA;
- 5. The ventilation system for the DSA other than in an open space and for the Buffer Zone shall be independent of all ventilation systems serving the rest of the building or conveyance;
- 6. Minors shall not be allowed inside the DSA and the Buffer Zone;
- 7. The DSA shall have the following signages highly visible and prominently displayed:
 - (7.1) "smoking Area" signage;
 - (7.2) Graphic health warnings on the effects of tobacco use; and
 - (7.3) Prohibition on the entry of persons below eighteen (18) years old.
- 8. Other standards and specifications to better ensure a smoke-free environment as may be prescribed by the Inter-Agency Committee Tobacco under Republic Act 9211, provided that such standards and specifications are consistent with this ordinance and that persons-in-charge are given sixty (6)) days to comply;

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

- (a) Centers of youth activity, such as playschools, preparatory schools, elementary schools, high schools, colleges and universities, youth hotels and recreational facilities for minors;
- (b) Elevators and stairwell;
- (c) Locations in which fire hazards are present, including gas stations and storage areas for flammable liquids, gas, explosives or combustible materials;
- (d) Within the 100 meters radius of the buildings and premises of public and private hospitals and medical premises; and
- (e) Food preparation areas.

(e) rood preparation areas.

Nothing in this ordinance shall compel persons-in-charge to establish DSAs nor prevent them from instituting more stringent measures in their buildings and establishments to better ensure a smoke-free environment in their premises.





Page - 16 -

SECTION 10. *Penalties.* — The following penalties shall be imposed on violators of this Ordinance:

a. Violation of Section 5 (a) & (b) Smoking/Vaping or Allowing Smoking/Vaping and Section 6 (a) to (o) Duties and Obligations of Persons-In-Charge

First Offense Second Offense Third Offense ₱2,000.00 Fine ₱3,000.00 Fine

₱4,000.00 Fine, or imprisonment for a period not exceeding, or both at the discretion of the court.

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 5 (c) to (u) Sales/Access Restriction and Advertising and Promotions Ban

First Offense Second Offense Third Offenses

₱3,000.00 ₱4,000.00

₱5,000.00, or imprisonment for a period not exceeding, or both at the discretion of the court

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

C. Violation of Section 5 (v) Sponsorship/ Contribution /Partnership with the Tobacco Industry Involving Government Officials/Personnel

code Just

Apply Rules and Sanctions as prescribed in the CSC-DOH Joint Memorandum Circular 2010-01, RA 3019, RA 6713, and/or the Revised Penal Code (1932).

d. 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 be in



violation of 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 City Health Office, 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.

- e. Community Service. If a violator is unable to pay the penalties imposed, he or she may choose to render community service within the city. For every hour of community service rendered, his/her outstanding fine shall be reduced by an amount equivalent to [option 1] triple the hourly minimum wage, or, [option 2] other computations/fixed amount per hour in the city.
- f. No Contest Provision. Persons who violate any provision of this Ordinance except for Section 5 (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 8 a. and b. prior to the filing of a formal complaint with the proper court, shall be allowed to pay the penalty with the City 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 City 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.



- g. Subsidiary Imprisonment Provision. Subsidiary imprisonment may be imposed by the court in the event that the violator is unable to pay the fine which he is sentenced to pay.
- h. 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.
- i. Confiscation or Removal. Tobacco, electronic cigarette, heated tobacco products, related products or components,

Page - 18 -

and their advertising/promotions paraphernalia found violating any of the prohibited acts in this ordinance shall be subject to confiscation and/or removal.

j. Evidence. 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 in order 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.

Section 11. Citation Ticket System. — Violators of this Ordinance shall be informed of their violation and its corresponding penalty by means of a Citation Ticket System with the following guidelines:

- a. Official booklets of Citation Tickets shall be issued by the City 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. A 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 City 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 8 (e) hereof.
- e. The City 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 12. Smoking Cessation and Livelihood Assistance Programs. — A Local Smoking Cessation and Livelihood Assistance programs is hereby established in the City Health Office with the assistance of the Health Education and Promotion Officer or other





Page - 19 -

members of the Task Force, shall develop, promote and implement a Smoking/Vaping Cessation Program and encourage the participation thereof in cooperation with public and private facilities which may be able to provide for the requirements of the program. 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 of this Ordinance, may be referred to the Smoking Cessation program and its 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 enrolment and given assistance in the livelihood programs of the city or by other appropriate agencies.

ENFORCEMENT

Section 13. Smoke/Vape-Free Task Force. — A Task Force shall be created to aid in the implementation, enforcement, and monitoring of this Ordinance as well as to conduct educational awareness campaigns, information dissemination programs, and capacity building programs, that will inform the constituents and train enforcement officers. The Naga City Police Office and the Smoke/Vape-Free Task Force are directed to carry out the provisions of the law, including the apprehension of violators and institution of criminal proceedings for violations of this ordinance in accordance with relevant laws, rules and regulations and strictly observing due process. The Task Force shall be composed of the following:

- a. Health Officer Chairman
- b. Health Education and Promotion Officer Vice-Chairman
- c. Legal Officer;
- d. The City Events, Publication and Promotion office (CEPPIO)
- e. Building/Engineering Officer
- f. Business Permits and Licensing Officer
- g. Representative of the Naga City People's Council
- h. Representative of the Naga City Police Office (NCPO)
- i. President of the Liga ng mga Barangay;
- j. City Environment and Natural Resources Officer (CENRO)
- k. City Treasurer
- 1. City Social Welfare and Development Officer
- m. Representative from DepED, CHED and/or academic institution;
- n. Public Order and Safety Officer;
- o. Human Resources Management Officer
- p. City Administrator/Chief of staff
- q. The Coordinator

The task force shall not include as a member any person or entity connected in any way to the tobacco industry.



Page - 20 -

The duties and responsibilities of the Task Force are basically to receive, review and process reports of and complaints for violations of this ordinance and deputize enforcers.

As the Chairman of the Task Force, the Mayor may designate a vice-chair to serve as an overall coordinator. 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 or for other individuals, beneficiaries or groups, any contribution or compensation, directly 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. If the erring Task Force member is likewise public official or government personnel, he/she shall also be subject to sanctions prescribed under the CSC-DOH Joint Memorandum Circular 2010-001 or other applicable laws/policies.

Section 14. Duties and Responsibilities of the Task Force.—Other than (1) receiving, reviewing and processing reports and complaints, serving of citations and notices, and filing of appropriate charges for violations under this Ordinance (2) attending regular Task Force meetings, and (3) deputizing enforcers under Sections 13 to 16 hereof, and enforcing the other provisions of this Ordinance, the Task Force, headed by the City Mayor, shall have the following respective duties and responsibilities:

a. The Health Officer shall:

- 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;
- 3) 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;
- 4) 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;
- 5) Assign a hotline or any other number and email address to which violations of this Ordinance may be reported

erdunduns





Page - 21 -

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;

- 6) Develop, promote and implement a Smoking Cessation Program, stated in Section 10;
- 7) Assist hospitals and other health facilities including any office of the DOH within the 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 persons below 2 1 and health facilities.
- b. The Health Education and Promotion Officer shall:
 - Develop and produce information, education and communication materials and conduct activities on Tobacco Control, such as the harms of smoking and secondhand 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:
 - 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 City Legal Officer, shall:
 - 1) Assist the Task Force in reviewing reports of and complaints for violations of this Ordinance and in determining liability or appropriate cases to file;
 - 2) Extend any legal assistance and/or file cases on matters pertaining to this Ordinance.
- e. The City Events, Publication and Promotion Office (CEPPIO),
 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;

erduzium

Ø.

Page - 22 -

- 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
 - 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 Representative of the Naga City People's Council, shall:
 - 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;
 - Assist in promoting and, if capable, implementing a Smoking Cessation Program;
 - 4) Assist in developing and conducting orientation and training seminars for enforcers;
 - 5) Assist in evaluating the performance of the Task Force and the effectiveness of the implementation and enforcement of this Ordinance.
- h. The Naga City police Station City Director, shall:
 - 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 City Social Welfare and Development Office and/or to the school authorities where the violator is enrolled;







- 7) Use the Citation Tickets during apprehensions and maintain a record or log of violations/apprehensions made within particular periods, for purposes of reporting.
- i. The City Treasurer, shall:
 - 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.
- j. The City Environment and Natural Resources Officer, shall:
 - 1) Assist in promoting awareness of this Ordinance as a component in the protection and conservation of the environment and in encouraging public support and participation in its implementation and enforcement;
 - 2) Assist in inspection and monitoring violations of the Ordinance on its own or with any other member of the Task Force;
 - 3) Conduct timely monitoring of air, water, soil quality and other studies pertinent to determining levels of exposure to tobacco smoke, e-cigarette aerosol, residues, by-products, 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.
- k. The Representative from DepEd, CHED and/or Academic Institution, shall:
 - 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





Page - 24 -

schools, public playgrounds and facilities frequented by persons below 21;

- 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 persons below 21 and health facilities.
- 1. The President of the Liga ng mga Barangay, 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, Sangguniong Kabataan (SKs) and Tanods and other enforcers 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.
- m. The Public Order and Safety Officer, shall:
 - Assist in promoting awareness of this Ordinance in encouraging public support and participation in its implementation and enforcement;
 - 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, imposition of fines, suspension or revocation of licenses/permits for violations;



- n. The City Social Welfare and Development Officer, shall:
 - Assist in the enforcement of this Ordinance when persons below 21 are involved;
 - 2) Provide the necessary interventions for persons below 21 implicated in violations.
- o. The City Human Resources and Management Officer or equivalent officer/LGU point-person for the Civil Service Commission, shall:
 - Oversee the strict implementation of smoke-free government facilities;
 - 2) Evaluate for approval the proper establishment of Designated Smoking/Vaping Areas in government facilities where it may apply;

Page - 25 -

- 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 pertaining to 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.
- p. The City Administrator/Chief of Staff, shall:
 - 1) Assist the Mayor in overseeing the implementation and enforcement of this Ordinance, in close coordination with other members of the Task Force;
 - 2) Provide regular updates to the Mayor as to the status of implementation and enforcement of the Ordinance.
- q. The Coordinator, in case of a separate Coordinating Unit or Office of the Task Force, under the authority of the Mayor

Section 15. Enforcement on Establishments. - Ninety (90) calendar days after the effectivity of this Ordinance, an inspection team composed of representatives from the Health Office, the Engineer's Office and the Permits and Licenses Office, shall conduct inspections of establishments and buildings to determine their compliance with the provisions of this Ordinance. Regular inspection shall thereafter be conducted at least once every month or simultaneously with other regular inspections done by the city, 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 noncompliant. Re-inspection of the establishment shall be done on any day after the issuance of the Citation Ticket, but in no case more ten (10) calendar days after such issuance. If the than establishment fails to comply with the obligations stated in the Citation Ticket upon re-inspection, the inspection team shall recommend the suspension of the license to operate of the establishment, consistent with the violation of this ordinance.



Section 16. Repealing Clause. — Ordinance no. 93-086, Ordinance No. 95-070 and Ordinance No. 2017-066 and all other ordinances contrary to or inconsistent with any of the provisions of this ordinance are hereby repealed or modified accordingly.



Section 17. 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.

Page - 26 -

Section 23. Effectivity. — This Ordinance shall take effect immediately upon its approval and fifteen (15) days after its publication in a newspaper of local or general circulation or posting in at least two (2) conspicuous places in the City of Naga.

ENACTED. January 19, 2021

Xxx

XXX

XXX

WE HEREBY CERTIFY to the correctness of the foregoing ordinance.

GIL A. DE LA TORRE

Secretary to the Sangguniang Panlungsod

CECILIA B. VELUZ-DE ASIS

City Vice-Mayor & Presiding Officer

APPROVED:

NELSON . LEGACION

Mayor 1/26/2021