



Republic of the Philippines
SANGGUNIANG PANLUNGSOD
City of Mandaluyong

ORDINANCE NO. 513, S-2013

**ORDINANCE AMENDING ORDINANCE NO. 467, S-2011, OTHERWISE
KNOWN AS "ORDINANCE REGULATING SMOKING IN PUBLIC
PLACES, INCLUDING PUBLIC CONVEYANCES, PRO-
MOTIONS AND SPONSORSHIPS OF TOBACCO
AND PRESCRIBING PENALTIES FOR VIOLATION THEREOF"**

WHEREAS, Section 16, Article II of the 1987 Constitution of the Republic of the Philippines provides that, the state shall protect and promote the right to health of the people and instill health consciousness among them;

WHEREAS, the Republic of the Philippines, being a Party to the Framework Convention on Tobacco Control (FCTC) is 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, has agreed to implement the measures provided in the treaty;

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

WHEREAS, the Philippine Clean Air Act of 1999 (Republic Act No. 8749) declares the right of every citizen to 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; purchase and sale of cigarettes and other tobacco products from and to 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; and provides specific requirements as to measurement of designated smoking areas;

WHEREAS, the Land Transportation Franchising and Regulatory Board (LTFRB) Memorandum Circular 2009-036 requires drivers and operators of public utility vehicles to post "*No Smoking*" signs in their vehicles;

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

WHEREAS, Republic Act 10351 (Sin Tax Reform Bill 2012) signed into law on December 20, 2012 that took effect on January 1, 2013 was designed and intended to curb smoking by way of increasing the taxes on tobacco products;

WHEREAS, the City Government of Mandaluyong recognizes that local governments must act with urgency and dispatch to denormalize the culture of smoking and tobacco consumption through comprehensive and proven effective tobacco control measures; and in recognition of the fundamental and irreconcilable conflict between the tobacco industry's interests and public health policy, realizes the need to be alert to and informed of any efforts by the tobacco industry to undermine or subvert its tobacco control efforts;

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

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

WHEREAS, it has been indubitably shown that there is no safe level of exposure to tobacco smoke; that effective measures to protect from exposure to it requires the total elimination of smoking and tobacco smoke; and that approaches other than 100% smoke-free environments, including ventilation, air filtration and the use of designated smoking areas, whether or not with separate ventilation systems, have repeatedly been shown to be ineffective;

NOW, THEREFORE, BE IT ORDAINED by the Sangguniang Panlungsod of the City of Mandaluyong, in session assembled:

- SECTION 1. TITLE. This Ordinance shall be known as the "*2013 Smoke Free Ordinance of the City of Mandaluyong*".
- SECTION 2. PURPOSE. It is the primary objective and purpose of this Ordinance to safeguard public health and ensure the well being of all its constituents by protecting them from the hazardous and harmful effects of smoking and tobacco consumption.
- SECTION 3. COVERAGE. This Ordinance shall apply to all persons, whether natural or juridical, in all places within the territorial jurisdiction of the City of Mandaluyong.
- SECTION 4. DEFINITION OF TERMS. As used in this Ordinance, the terms below shall have the meanings ascribed to them in this section. Any 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. ADVERTISEMENT – any form of commercial communication, recommendation or action with the aim, effect or likely effect of promoting a tobacco product or tobacco use directly or indirectly, including but not limited to any message or image promoting smoking tobacco products, tobacco products, brand names or tobacco company names or any promotional materials or structure that contains these, such as posters, streamers, signages, standees, billboards, mobile/banana ads, fliers, umbrellas/parasols, CDs, films, t-shirt, caps, sweatshirts, visors, backpacks, sunglasses, writing implements, towels, mugs, candies, stickers, and the like. For the purpose of this ordinance, advertisement shall be understood as tobacco advertisement.

- b. **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 tobacco advertising. This shall specifically refer to messages and images promoting smoking; the purchase or use of cigarettes or tobacco products; and cigarette or tobacco trademarks, brand names, design and manufacturer's names;
- c. **CIGARETTE** – refers to any roll or tubular constructions, which contains tobacco or its derivatives and is intended to be burned or heated under ordinary conditions of use;
- d. **DESIGNATED SMOKING AREA** – refers to an outdoor space which may be designated by an establishment upon approval of the building official, that meets the following requirements:
 - 1. It is not located in or within ten (10) meters from entrances, exits, or any place where people pass or congregate.
 - 2. It shall not have an area larger than ten (10) square meters.
 - 3. Food or drinks shall not be served in the designated smoking area.
 - 4. No building shall have more than one designated smoking area
 - 5. Minors or persons below the age of 18 shall not be allowed inside.
 - 6. The designated smoking area has the following signages highly visible and prominently displayed:
 - a. *"Smoking Area" signage with message showing "Minors not allowed within these premises".*
 - b. Graphic health warnings.
- e. **DISTRIBUTOR** – refers to any person to whom a tobacco 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;
- f. **ENCLOSED or PARTIALLY ENCLOSED PUBLIC PLACE** – any space covered by a roof or enclosed by one or more walls or sides, regardless of the type of materials used and regardless of whether the structure is permanent or temporary whether government or privately owned, that is open to the public by general invitation or otherwise, such as but not limited to private workplaces, offices, schools, hospitals, medical and dental clinics, department stores, malls, markets, supermarkets, food establishments, bars, dance halls, night clubs, lounges, comfort rooms/rest areas, auditoriums, private clubhouses, sessions halls, ship, jeep, bus, fx and airport terminals, stairwells, hotels/motels, coliseum, libraries, courtrooms, grocery, bookstores, movie houses, gymnasiums, tonsorial and beauty establishments, physical fitness and slimmer's salon, and other similar places where smoking may expose a person other than the smoker to tobacco smoke;
- g. **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, magazines, and publications; broadcast mass media such as but not limited to, radio, television, and cinema; electronic media such as but not limited to, the internet, among others;

- h. **MINOR** – refers to any person below eighteen (18) years old;
- i. **OUTDOOR ADVERTISEMENT** – refers to any sign, model, placard, board, billboard, banner, bunting, poster, streamer, light display, device, structure or representation employed outdoors wholly or partially to advertise or promote a tobacco product to the public;
- j. **PERIMETER** – any point in the boundaries as indicated in the certificate of title of a tract of land that is actually used or occupied by a school, church, playground, building and other facility whether or not said tract of land is separated from adjacent tracts by a wall or fence; it also includes areas such as roofs, tents, awnings and canopies;
- k. **PERSON-IN-CHARGE** – refers to: in case of public places, public outdoor spaces and workplaces, the president/manager in case of a company, corporation or association, the owner/proprietor/operator in case of a single proprietorship, or the administrator in case of government property, office or building; in case of public conveyances, the owner, driver, operator, conductor, or the captain of the public conveyance; in case of schools, the provincial/municipal/city schools superintendent or the principal;
- l. **POINT-OF-SALE** – refers to any location at which an individual can purchase or otherwise obtain cigarette/tobacco products, it does not include itinerant/ambulant vendors and to be considered as such, has paid the necessary fees, business permit as well as permit to sell cigarette/tobacco products;
- m. **PROMOTION** – refers to an event or activity organized by or on behalf of a tobacco manufacturer, distributor or retailer with the aim of promoting a brand of tobacco product, which event or activity would not occur but for the support given to it by or on behalf of the tobacco manufacturer, distributor or retailer. It may also refer to the display of a tobacco product or manufacturer's name, trademark, logo, etc. on non-tobacco products. This includes the paid use of tobacco products bearing the brand names, trademarks, logos, etc. in movies, television and other forms of entertainment. For the purpose of this Ordinance, promotion shall be understood as tobacco promotion;
- n. **PUBLIC CONVEYANCE** – any vehicle whether mobile or stationary available to the public as a mode of transport, such as but not limited to, airplanes, buses, taxicabs, ships, jeepneys, fx, shuttles, river boats, lightrail transits, tricycles, pedicabs, e-trike and other similar vehicles;
- o. **PUBLIC PLACES** – all places that are accessible or open to the public, whether or not by invitation or by payment, or all places for collective use, regardless of ownership or right to access, including but not limited to establishments that provide food, accommodations, drinks, professional services, merchandise, entertainment, or other services such as, but not limited to hospitals, residential and non-residential health care facilities, child care facilities, stores, markets, cultural facilities, indoor stadiums/auditorium, coliseums, cockpits/arenas, restaurants, bars beer houses, night clubs, hotel/motel, lodging houses and prison/detention facilities and similar establishments;

- p. PUBLIC OUTDOOR SPACES – outdoor space that are open to the public or places 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 or places of worship, health/hospital compounds, parks, gardens, resorts, stores, markets, outdoor bazaars, hallways, walkways, porches, entrance/exit ways, waiting areas, and the like;
- q. RETAILER/s – any person who sells cigarette/ tobacco products to individuals for personal consumption and to be considered as such, has paid the necessary fees, business permit as well as permit to sell cigarettes/tobacco products such as but not limited to sari-sari/ convenience stores, vending machines, ambulant and side walk vendors;
- r. SMOKE FREE AIR – is air that is 100% smoke free. This definition includes, but is not limited to, air in which tobacco smoke cannot be seen, smelled, sensed or measured;
- s. SMOKING – refers to the act of carrying a lighted cigarette, cigar or a pipe or other tobacco products, whether or not it is being inhaled or smoked;
- t. TOBACCO – refers to agricultural components derived from tobacco plant, which are processed for use in the manufacture of cigarettes and other tobacco products;
- u. TOBACCO PRODUCT – products entirely or partially made of tobacco as raw material which are manufactured to be used for smoking, sucking, chewing or snuffing such as but not limited to cigars, cigarettes and cigarillos;
- v. TOBACCO INDUSTRY – refers to tobacco manufacturers, wholesale distributors and importers of tobacco products or industry allies and commissioned third parties who benefit from the sale of tobacco products or from tobacco sponsorship that have interests that compete with those of tobacco control;
- w. 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;
- x. WORKPLACES – 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 work (for example; corridor, elevators, stairwells, toilets/comfort rooms, lobbies, lounges). Vehicles used in the course of work are considered workplaces.

HEALTHFUL ENVIRONMENT

SECTION 5. ABSOLUTELY SMOKE FREE AREAS. The following public places are hereby declared as "*Absolutely Smoke Free Areas*" (ASFA):

- a. Centers of youth activity such as playschools, preparatory schools, elementary schools, high schools, colleges and universities, youth hostels and recreational facilities for persons under eighteen (18) years old. Such recreational facilities for person under 18 years old shall include, but are not limited to, playgrounds;

- b. Elevator and stairwells;
- c. Locations in which fire hazards are present, including gas stations and storage areas for flammable liquids, gas, explosives or combustible materials;
- d. Within the buildings and premises of public and private hospitals, medical, dental, and optical clinics, health centers, nursing homes, dispensaries, and laboratories;
- e. Public Conveyances and public facilities including train terminals and bus stations, restaurants, conference halls, except on designated smoking areas; and
- f. Food preparation areas which shall mean those areas where food or beverage is actually prepared.
- g. All parts of enclosed public places including indoor workplaces;
- h. City Hall Complex and all government buildings and premises.

SECTION 6. DESIGNATION OF SMOKING AND NON-SMOKING AREAS. In all enclosed places that are open to the general public, public and private workplaces, and other places not covered by Section 5 of this Ordinance, where smoking may expose a person other than the smoker to tobacco smoke, the owners, proprietors, operators, possessors, managers or administrators of such places shall establish smoking and non-smoking areas. Such areas may include a designated smoking 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 non-smoking area.

SECTION 7. STANDARDS FOR DESIGNATED SMOKING AREA. The owners, proprietors, operators, possessors, managers, or administrators of establishments not covered by Section 5 of this Ordinance shall determine the size and specifications of the smoking or non-smoking area: provided, that the following standards shall be observed:

- a. The designated smoking area, other than in an open space, shall be completely enclosed or physically separated from the rest of the premises and equipped with adequate ventilation in conformity with the provisions of Presidential Decree 1096, otherwise known as the "*National Building Code*", and the Philippines Society of Mechanical Engineers Code;
- b. Separation of the designated smoking area, other than in an open space, shall be effected through any of the following means:
 - 1. The designated smoking area must be fully separated from smoke-free area by continuous floor-to-ceiling or floor-to-floor solid partitions which are interrupted only by doors equipped with door closers, and which must be constantly closed except when a person is entering or exiting the area; or
 - 2. The designated smoking area must be set apart, enclosed or confined by means other than those described in Section 7(b)(1) above: provided, that said means comply with air quality standards set forth in the National Building Code and the Philippine Society of Mechanical Engineers Code.

SECTION 8. SIGNAGE FOR DESIGNATED SMOKING AND NON-SMOKING AREAS. All designated smoking areas shall have at least one (1) legible and visible sign posted saying "SMOKING AREA", in English or Filipino, for the information and guidance of all concerned.

The sign shall be placed conspicuously at the entrance of the designated smoking area and shall be in accordance with the specifications set forth, as follows:

Overall size of sign	297 x 210 mm
Font and size for "NO SMOKING AREA" or "SMOKING AREA"	Arial Black, 122 pt.
Font and size for "GOVERNMENT WARNING"	Arial Black, 48 pt.
Font and size for "Tobacco Regulation Act"	Arial Black, 32 pt.

In addition, the sign or notice shall include a warning in English or Filipino about the ill effects of both direct and secondary exposure to tobacco smoke. Said warning may be any of the following:

- a. "GOVERNMENT WARNING: Cigarette Smoking is Dangerous to Your Health" (BABALA: "Ang Paninigarilyo ay Mapanganib sa Iyong Kalusugan.");
- b. "GOVERNMENT WARNING: Cigarettes are Addictive" (BABALA: Ang Sigarilyo ay Nakaka-adik);
- c. "GOVERNMENT WARNING: Tobacco Smoke Can Harm Your Children" (BABALA: Ang Usok ng Sigarilyo ay Mapanganib sa mga Bata);
- d. "GOVERNMENT WARNING: Smoking Kills" (BABALA: Nakamamatay ang Paninigarilyo).

Under no circumstance shall any mark, device, word, or image associated with any tobacco company or product be included in any of these signs and materials. Non-smoking areas shall likewise have at least one (1) legible and visible sign posted saying "NON-SMOKING AREA" or "NO SMOKING".

SECTION 9. BAN ON TOBACCO ADVERTISEMENTS. All cinema and outdoor advertisements shall be prohibited, including those located in taxis, buses, trains or other public conveyances or in stations, terminals or platforms thereof.

SECTION 10. EXCEPTION TO THE BAN. Notwithstanding the foregoing, advertisements in mass media shall not be prohibited when placed within the premises of point-of-sale retail establishments, whether or not the same are visible outside the premises.

No leaflets, posters and similar outdoor advertising materials may be posted, except when placed within the premises of point-of-sale retail establishments. This exception shall likewise apply to stations, terminals or platforms when the advertising materials are placed within the premises of point-of-sale establishments.

Outdoor and mass media advertisement allowed under this Section must nonetheless comply with the following requirements:

- a. No outdoor or mass media advertisement shall be aimed at or particularly made to appeal to persons under eighteen (18) years of age;
- b. No outdoor or mass media advertisement shall feature a celebrity or contain an endorsement, whether implied or express, by a celebrity;
- c. No outdoor or mass media advertisement shall 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;
- d. No outdoor or mass media advertisement shall show, portray, or depict scenes where the actual use of, or the act of using, puffing, lighting or carrying lighted cigarettes or other tobacco products is presented to the public.

All outdoor or mass media advertising allowed under this Section must also contain either in English or Filipino the following health warning; "GOVERNMENT WARNING: Cigarette Smoking is Dangerous to your Health". For outdoor advertising, the warning frame shall be centered across the bottom of the advertisement and occupy a total area of not less than fifteen percent (15%) of such advertisement including any border or frame. The health warning shall occupy a total area of not less than fifty percent (50%) of the total warning frame. The text of the health warning shall be clearly visible and legible, printed in a prominent color as appropriate and shall appear in contrast by color, typography or layout with all other printed materials in the advertisement. The warning shall not be hidden or obscured by other printed information or images in the advertisement; Provided that such outdoor or mass media advertisement, only the fonts Helvetica or Arial may be used for the health warning required under this Section; Provided finally, that such outdoor or mass media advertisement shall not, either individually or when placed in deliberate combination with other outdoor tobacco advertising, exceed seventy (70) meters in total size.

SECTION 11. RESTRICTED ZONE FOR OUTDOOR ADVERTISEMENTS. Notwithstanding the exception provided in Section 10 of this Ordinance, outdoor advertisements shall not be allowed within the premises of point-of-sale retail establishments if the same is within one hundred (100) meters from any point of the perimeter of a 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 of such facility.

SECTION 12. DISPOSITION OF NON-COMPLIANT OUTDOOR ADVERTISEMENTS. The City Building Official, or his duly-authorized representative, shall be responsible for determining whether outdoor advertisements comply with the requirements set forth in Section 7 of this Ordinance. Any outdoor advertisement established to be non-compliant with said Section 7 of this Ordinance, shall be disposed of in the following manner:

- a. The removal of the non-compliant outdoor advertisement shall be done only after due notice by the City Building Official, or his duly authorized representative, to the owner or administrator of the point-of-sale establishment concerned;
- b. The owner or administrator of the point-of-sale establishment shall be responsible for the removal or shall cause the removal of said non-compliant outdoor advertising within three (3) days from receipt of notice from the City Building Official, or his representative. The final disposition of the outdoor advertising so removed shall be subject to the terms and conditions stipulated in the lease contract for the advertising space between the owner or administrator of the advertising space and other advertiser or the advertising agency as the case may be; and
- c. Failure to remove the non-compliant outdoor advertisement notwithstanding the foregoing notice shall render the owner or administrator of the point-of-sale establishment liable under this Ordinance.

SECTION 13. RESTRICTION ON TOBACCO PROMOTIONS. The following restrictions shall apply to all tobacco promotions within the territorial jurisdiction of the City of Mandaluyong:

- a. Promotions must be directed only to persons at least eighteen (18) years old;

No person below eighteen (18) years old or who appear to be below eighteen (18) years old may participate in such promotions. The participants in promotion must be required to provide proof of age.
- b. Communications to consumers about tobacco promotions shall comply with the provisions of this Ordinance governing tobacco advertising. In addition to the required health warning, the age requirement for participation in any promotion must be clearly marked on the program materials distributed to consumers;
- c. All stalls, booths, and other displays concerning tobacco promotions must be limited to point-of-sale locations or adult-only facilities;
- d. Telephone communications concerning promotional offers, programs or events must include a recorded health warning message in English or Filipino consistent with the warnings specified in this Ordinance;
- e. The name, logo, or other indicia of a brand of a tobacco product may appear on cigarette lighters, ashtrays, or other smoking related items. If such name, logo or other indicia of a cigarette brand is larger than fifty (50) square centimeters, the item must carry a health warning consistent with the warnings specified in the Act as well as in this Ordinance;
- f. No merchandise such as, but not limited to, t-shirts, caps, sweatshirts, visors, backpacks, sunglasses, writing implements and umbrellas, may be distributed, sold or offered, directly or indirectly, with the name, logo or other indicia of a brand of a tobacco product displayed so as to be visible to others when worn or used. Clothing items with the name, logo or other indicia of a brand of a tobacco product may be allowed: Provided, That said name, logo or other indicia is not visible to others when the clothing item is worn: Provided further, that said clothing items are in adult sizes only;

- g. No name, logo, or other indicia of a brand of a tobacco product or element of a brand-related marketing activity, may appear on items that are marketed to or likely to be used by minors such as, but not limited to, sports equipment, toys, dolls, miniature replicas of racing vehicles, video games, and food. The manufacturer or company must take all available measures to prevent third parties from using the company's brand names, logos, or other propriety material on products that are directed toward minors;
- h. No tobacco advertisements, including the name, logo or other indicia of a brand of a tobacco product, may be placed on shopping bags.

SECTION 14. PUNISHABLE ACTS. The following acts are punishable under this Ordinance.

- a. Smoking in public places where smoking is prohibited;
- b. Non-compliance by the owners, proprietors, possessors, managers or administrators of enclosed places open to the general public, public and private workplaces and other similar places to establish smoking and non-smoking areas required under Section 6 of this Ordinance;
- c. Sale of tobacco products within one hundred (100) meters from any point of the perimeter of a school, public playground owned by the government or other facility frequented particularly by minors who are intended to be the principal users or patrons of such facilities;
- d. Non-compliance with the required signage in point-of-sale establishments;
- e. Non-compliance with the restrictions on tobacco advertising, print media advertising, outdoor advertising; cinema advertising; television and radio advertising; advertising in audio, video and computer cassettes/discs and similar medium; and advertising in the Internet;
- f. Selling, distributing and advertising tobacco products in a school, public playground or any other facility frequented by minors, offices of the Department of Health (DOH) and attached agencies, hospitals and health facilities or within one hundred (100) meters from any point in the perimeter of these places;
- g. Repacking of cigars/cigarettes to smaller packs other than the regular one pack of 20 sticks of cigarettes or one ream of 10 packs;
- h. Selling or distributing tobacco products to minors;
- i. Purchasing/buying tobacco products from minors;
- j. Placing, posting, or distributing advertising materials of tobacco products, such as leaflets, buntings, posters and similar materials, even if inside the premises of point-of-sale establishments, when the establishments are not allowed to sell or distribute tobacco products;
- k. Sale or distribution of tobacco products by means of vending machine or self-service facilities, unless the vending machine or similar contraption has a mechanism for age verification;
- l. Non-compliance with the restrictions on sponsorships and ban on sponsorships;
- m. Selling cigarettes/tobacco products without a permit or license.

SECTION 15. CREATION OF LOCAL TOBACCO CONTROL COUNCIL AND ANTI-SMOKING TASK FORCE. For purposes of ensuring stringent implementation of this Ordinance, a Sector Wide Anti-Tobacco Council and Anti Smoking Task Force shall be created to aid in the implementation, monitoring and enforcement of this Ordinance as well as to undertake educational awareness campaigns, information dissemination, and capacity building programs for the constituents and enforcement officers.

The Sector Wide Tobacco Council and the Anti-Task Force shall not include as its member any person or entity upholding or accommodating tobacco industry interests or is connected in any way to the tobacco industry in order to protect the primary health objectives of this Ordinance from any and all interests prejudicial to tobacco control policies and to preserve its integrity. No member of the Task Force shall also receive any contribution or compensation, directly or indirectly, whether financial or otherwise, from the tobacco industry.

The Sector Wide Tobacco Council shall be chaired by the Mayor and shall be composed of the following:

- a. Councilor Chairing the Committee on Health;
- b. City Health Department Head;
- c. City Legal Officer;
- d. Business Permits and License Department;
- e. Building Official; and
- f. President, Liga ng Mga Barangay

SECTION 16. 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 Five Thousand Pesos (P5,000.00) or imprisonment of not less than one (1) month but not more than six (6) months, or both, at the discretion of the court, shall be imposed upon the offender.

On the second and subsequent offenses, a fine of not less than One Thousand Five Hundred Pesos (P1,500.00) but not more than Five Thousand Pesos (P5,000.00) or imprisonment for not less than two (2) months but not more than six (6) months and the revocation and cancellation of the permit and license to operate of the erring establishment.

If the violator is a corporation or a partnership, the penalty herein prescribed shall be imposed upon the President and/or General Manager or Managing Partner, as the case may be, of the erring entity.

SECTION 17. NO CONTEST PROVISION. Any person apprehended for violation of any of the provisions of this Ordinance who do not wish to contest the apprehension may pay the minimum fine with the City Treasurer before institution of formal charges.

SECTION 18. ADMINISTRATION AND AUTHORITY TO INSTITUTE ACTION. The City Building Official is tasked to inspect and certify the appropriateness of smoking and non-smoking areas provided by service establishments. To effectively enforce this Ordinance, the Mayor, upon recommendation of the City Building Official, is authorized to institute appropriate proceedings against violations of the requirements on the designation of smoking and non-smoking areas.

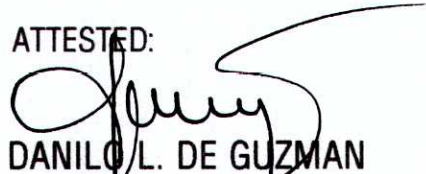
- SECTION 19. REPEALING CLAUSE. Existing Ordinances inconsistent with the provisions of this Ordinance are hereby repealed.
- SECTION 20. SEPARABILITY CLAUSE. Should any provision of this Ordinance be subsequently declared unconstitutional or invalid, the other provisions not affected by such declaration shall remain in full force and effect.
- SECTION 21. EFFECTIVITY. This Ordinance shall take effect fifteen (15) days after its publication at least once (1) in a newspaper of general circulation in the City of Mandaluyong.

ENACTED on this 11th day of March, 2013, in the City of Mandaluyong.

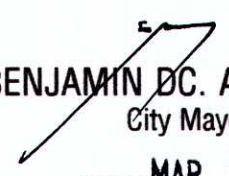
I HEREBY CERTIFY THAT THE FOREGOING ORDINANCE
WAS ENACTED AND APPROVED BY THE SANGGUNIANG
PANLUNGSOD OF MANDALUYONG IN REGULAR SESSION
HELD ON THE DATE AND PLACE FIRST ABOVE GIVEN.


JIMMY D. LACEBAL
Sanggunian Secretary

ATTESTED:


DANILO L. DE GUZMAN
City Vice Mayor &
Presiding Officer

APPROVED:


BENJAMIN D.C. ABALOS, JR.
City Mayor

Date MAR 19 2013

IMPLEMENTING RULES AND REGULATIONS OF ORDINANCE NO. 513, S-2013
"AN ORDINANCE REGULATING SMOKING IN PUBLIC PLACES, INCLUDING PUBLIC
CONVEYANCES, PROMOTIONS AND SPONSORSHIP OF TOBACCO PRODUCTS, AND
PRESCRIBING PENALTIES FOR VIOLATION THEREOF".

RULE 1. – GENERAL PROVISIONS

Section 1. Title – These Rules shall be known as the Implementing Rules and Regulations of Ordinance No. 513, S.-2013, otherwise known as the *"2013 Smoke Free Ordinance of the City of Mandaluyong."*

Section 2. Purpose – These Rules are hereby promulgated to prescribe the manner, procedures and guidelines for the implementation of Ordinance No. 513, S-2013, to facilitate compliance therewith, and achieve the objectives thereof.

RULE 2. – DEFINITION OF TERMS

Section 1. – As used in these Rules, the following shall be understood:

a. **ADVERTISEMENT** - any form of commercial communication, recommendation or action with the aim, effect or likely effect of promoting a tobacco product or tobacco use directly or indirectly, including but not limited to any message or image promoting smoking tobacco products, brand names or tobacco company names or any promotional materials or structure that contains these, such as posters, streamers, signages, standees, billboards, mobile/banana ads, fliers, umbrellas/ parasols, CDs, films, t-shirt, caps, sweatshirts, visors, backpacks, sunglasses, writing implements, towels, mugs, candies, stickers, and the like. For the purpose of this ordinance, advertisement shall be understood as tobacco advertisement.

b. **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 tobacco advertising. This shall specifically refer to messages and images promoting smoking; the purchase or use of cigarettes or tobacco products; and cigarette or tobacco trademarks, brand names, design and manufacturer's names.

c. **CIGARETTE** – refers to any roll or tubular constructions, which contains tobacco or its derivatives and is intended to be burned or heated under ordinary conditions of use;

d. **DESIGNATED SMOKING AREA** – refers to an outdoor space which may be designated by an establishment upon approval of the building official, that meets the following requirements:

1. It is not located in or within ten (10) meters from entrances, exits, or any place where people pass or congregate;
2. It shall not have an area larger than ten (10) square meters;
3. Food or drinks shall not be served in the designated smoking area.
4. No building shall have more than one designated smoking area.
5. Minors or persons below the age of 18 shall not be allowed within the designated smoking area.
6. The designated smoking area has the following signages highly visible and prominently displayed.

a. "Smoking Area" signage with message showing *"Minors not allowed within these premises"*

b. Graphic health warnings.

e. **DISTRIBUTOR** – refers to any person to whom a tobacco 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.

f. **ENCLOSED or PARTIALLY ENCLOSED PUBLIC PLACE** – any space covered by a roof or enclosed by one or more walls or sides, regardless of the type of materials used and regardless of whether the structure is permanent or temporary whether government or privately owned, that is open to the public by general invitation or otherwise, such as but not limited to private workplaces, offices, schools, hospitals, medical and dental clinics, department stores, malls, markets, supermarkets, food establishments, bars, dance halls, night clubs, lounges, comfort rooms/rest areas, auditoriums, private clubhouses, sessions halls, ship, jeep, bus, fx and airport terminals, stairwells, hotels/motels, condominiums, coliseum, libraries, courtrooms, grocery, bookstores, movie houses, gymnasiums, tonsorials and beauty establishments, physical fitness and slimmer's salon, waiting sheds and other similar places where smoking may expose a person other than the smoker to tobacco smoke.

g. **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, magazines, and publications; broadcast mass media such as but not limited to, radio, television, and cinema; electronic media such as but not limited to, the internet, among others.

h. **MINOR** – refers to any person below eighteen (18) years old.

i. **OUTDOOR ADVERTISEMENT** – refers to any sign, model, placard, board, billboard, banner, bunting, poster, tarpaulins, streamer, light display, device, structure or representation employed outdoors wholly or partially to advertise or promote a tobacco product to the public.

j. **PERIMETER** – any point in the boundaries as indicated in the certificate of title of a tract of land that is actually used or occupied by a school, church, playground, building and other facility whether or not said tract of land is separated from adjacent tracts by a wall or fence; it also includes areas such as roofs, tents, awnings and canopies. alteration

k. **PERSONS IN CHARGE** – refers to: in case of public places, public outdoor spaces and work places, the president/manager in case of a company, corporation or association, the owner/proprietor/operator in case of single proprietorship, or the administrator in case of government property, office or building; in case of a public conveyance, the owner, the driver, the conductor, or the captain of a public conveyance. In case of schools, the provincial/city schools superintendent or the principal.

l. **PREMISES** – refer to the entire perimeter of land where the point-of-sale establishment is located. It includes the buildings and open spaces located within the same perimeter.

m. **POINT-OF-SALE** – refers to any location at which an individual can purchase or otherwise obtain cigarette/tobacco products, it does not include itinerant/ambulant vendors and to be considered as such, has paid the necessary fees, business permit as well as permit to sell cigarette/tobacco products.

n. **PROMOTION** – refers to an event or activity organized by or on behalf of a tobacco manufacturer, distributor or retailer with the aim of promoting a brand of tobacco product, which event or activity would not occur but for the support given to it by or on behalf of the tobacco manufacturer, distributor or retailer. It may also refer to the display of a tobacco product or manufacturer's name, trademark, logo, etc., on non-tobacco products. This includes the paid use of tobacco products bearing the brand names, trademarks, logos, etc., in movies, television and other forms of entertainment. For the purpose of this Ordinance, promotion shall be understood as tobacco promotion.

o. **PUBLIC CONVEYANCE** – any vehicle whether mobile or stationary available to the public as a mode of transport, such as but not limited to, airplanes, buses, taxicabs, ships, jeepneys, fx, shuttles, river boats, lightrail transits, tricycles, pedicabs, e-trike, *calesa*, and other similar means of transportation.

p. **PUBLIC PLACES** - all places that are accessible or open to the public, whether or not by invitation or by payment, or all places for collective use, regardless of ownership or right to access, including but not limited to establishments that provide foods, accommodations, drinks, professional services, merchandise, entertainment, or other services such as but not limited to hospitals, residential and non-residential health care facilities, child care facilities, stores, markets, cultural facilities, indoor stadiums/auditorium, coliseums, cockpits/ arenas, restaurants, bars, beer houses, night clubs, hotel/motel, lodging houses and prison/detention facilities and similar establishments.

q. **PUBLIC OUTDOOR SPACES** - outdoor space that are open to the public or places 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 or places of worships, health/hospital compounds, parks, gardens, resorts, markets, outdoor bazaars, hallways, walkways, porches, entrance/exit ways, waiting areas, and the like.

r. **RETAILER/s** – any person who sells cigarette/tobacco products to individuals for personal consumption and to be considered as such, has paid the necessary fees, business permit as well as permit to sell cigarettes/tobacco products such as but not limited to sari-sari/convenience stores, vending machines, ambulant and side walk vendors.

s. **SMOKE FREE AIR** – is air that is 100% smoke free. This definition includes, but is not limited to, air in which tobacco smoke cannot be seen, smelled, sensed or measured.

t. **SMOKING** – refers to the act of carrying a lighted cigarette, cigar or a pipe or other tobacco products, whether or not it is being inhaled or smoked.

u. **TOBACCO** – refers to agricultural components derived from tobacco plant, which are processed for use in the manufacture of cigarettes and other tobacco products;

v. **TOBACCO PRODUCT** – products entirely or partially made of tobacco as raw material which are manufactured to be used for smoking, sucking, chewing or snuffing such as but not limited to cigars, cigarettes and cigarillos.

w. **TOBACCO INDUSTRY** – refers to tobacco manufacturers, wholesale distributors and importers of tobacco products or industry allies and commissioned third parties who benefit from the sale of tobacco products or from tobacco sponsorships that have interests that compete with those of tobacco control.

x. **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.

y. **WORKPLACES** – 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 work (*for example*: corridor, elevators, stairwells, toilets/ comfort rooms, lobbies, lounges). Vehicles used in the course of work are considered workplaces.

RULE 3. – HEALTHFUL ENVIRONMENT

Section 1. – ABSOLUTELY SMOKE FREE AREAS. The following public places are hereby declared as “*Absolutely Smoke Free Areas*” (ASFA) within the territorial jurisdiction of the City of Mandaluyong:

- a. In all parts of enclosed public places,
- b. In all public outdoor spaces,
- c. On all means of public conveyances (*whether mobile or stationary*) and public facilities,
- d. In all parts of all workplaces,
- e. Locations in which fire hazards are present, including gas stations and storage areas for flammable liquids, gas, explosives or combustible materials,
- f. City Hall complex and all government buildings and premises.

In relation to the above section, any person having ownership, possession or control of a public place, not otherwise declared as absolutely smoke-free area may designate separate smoking areas that conform to the requirements of this Ordinance and its IRR. In the absence of designated smoking area, such public place shall be declared totally a non-smoking area.

RULE 4. – DESIGNATION OF SMOKING AND NON-SMOKING AREAS

Section 1. – In all enclosed places that are open to the general public, public and private workplaces, and other places not covered by Section 5 of the Ordinance, where smoking may expose a person other than the smoker to tobacco smoke, the owners, proprietors, operators, possessors, managers or administrators of such places shall establish smoking and non-smoking areas. Such areas may include a designated smoking 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 non-smoking area.

Section 2. – Pursuant to this policy, it shall be unlawful for any person, owner, operator, administrator, manager or person-in-charge of operation of restaurants, eateries and other similar establishments to allow children below eighteen (18) years of age to loiter, stay or be seated at designated smoking areas of the establishments.

Section 3. – The owner, operator, administrator, manager or person-in-charge are likewise directed to display, in conspicuous places within the establishments, signage containing the following words in bold letters:

**“PURSUANT TO CITY ORDINANCE NO. 513, S-2013
CHILDREN BELOW EIGHTEEN (18) YEARS OLD ARE NOT
ALLOWED TO LOITER, STAY OR BE SEATED IN SMOKING AREAS.”**

RULE 5. – STANDARDS FOR DESIGNATED SMOKING AREA

Section 1. – The owners, proprietors, operators, possessors, managers, or administrators of establishments not covered by Section 5 of the Ordinance, shall determine the size and specifications of the smoking on non-smoking area: provided, that the following standards shall be observed:

- a. The designated smoking area, other than in an open space, shall be completely enclosed or physically separated from the rest of the premises and equipped with adequate ventilation in conformity with the provisions of Presidential Decree No. 1096, otherwise known as the “National Building Code of the Philippines”, and the “Philippines Society of Mechanical Engineering Code”;

- b. Separation of the designated smoking area, other than in an open space, shall be effected through any of the following means:

1. The designated smoking area must be fully separated from smoke-free area by continuous floor-to-ceiling or floor-to-floor solid partitions which are interrupted only by doors, equipped with door closers, and which must be constantly closed except when a person is entering or exiting the area; or

2. The designated smoking area must be set apart, enclosed or confined by means other than those described in Rule 5, Section 1 (b) (1) above: provided, that said means comply with air quality standards set forth in the National Building Code of the Philippines and the Philippine Society of Mechanical Engineering Code.

RULE 6. – SIGNAGE FOR DESIGNATED SMOKING AND NON-SMOKING AREAS

Section 1. – All designated smoking areas shall have at least one (1) legible and visible sign posted saying “SMOKING AREA”, in English or Filipino, for the information and guidance of all concerned. The sign shall be placed conspicuously at the entrance of the designated smoking area and shall be in accordance with the specifications set forth, as follows:

Overall size of sign	297 x 210mm
Font and size for “NO SMOKING AREA” or “SMOKING AREA”	Arial Black, 122 pt.
Font and size for “GOVERNMENT WARNING”	Arial Black, 48 pt.
Font and size for “Tobacco Regulation Act”	Arial Black, 32 pt.

Section 2. – In addition, the sign or notice shall include a warning in English or Filipino about the ill effects of both direct and secondary exposure to tobacco smoke. Said warning may be any of the following:

- a. “GOVERNMENT WARNING: Cigarette Smoking is Dangerous to Your Health” (BABALA: “Ang paninigarilyo ay Mapanganib sa Iyong Kalusugan”).
- b. “GOVERNMENT WARNING: Cigarettes are Addictive” (BABALA: “Ang Sigarilyo ay Nakaka- adik.”)
- c. “GOVERNMENT WARNING: Tobacco Smoke Can Harm Your Children” (BABALA: “Ang Usok ng Sigarilyo ay Mapanganib sa mga Bata.”)
- d. “GOVERNMENT WARNING: Smoking Kills” (BABALA: “Nakamamatay ang Paninigarilyo.”)

Section 3. – Under no circumstances shall any mark, device, work, or image associated with any tobacco company or product be included in any of these signs and materials. Non-smoking areas shall likewise have at least one (1) legible and visible sign posted saying “NON-SMOKING AREA” or “NO SMOKING”.

RULE 7. – REQUIREMENTS FOR RENEWAL OF EXISTING DESIGNATED SMOKING AREAS

Section 1. – The owners of enclosed public places not otherwise declared as totally non-smoking areas under City Ordinance No. 513, S-2013 may designate a separate smoking area and apply thereof with the City Health Department, and pay for the following fees:

- a) Filing fee of Five Thousand Pesos (**Php 5,000.00**) to be paid upon the filing of the application;
- b) Inspection fee of Two Hundred Pesos (**Php 200.00**) to be paid prior to inspection;
- c) Processing fee of Five Thousand Pesos (**Php 5,000.00**) to be paid upon the approval of the application and release of pertinent documents such as the Certificate of Approval of the duly approved architectural design of the designated smoking area.

Section 2. – Only applications with the following complete requirements shall be evaluated:

- a) Five (5) sets of the Floor Plan of the entire establishment showing the actual location of its non-smoking area and the proposed location of its smoking area, as well as the respective sizes of these areas.
- b) Business Permit.
- c) Certificate of Occupancy
- d) Sanitary Permit.

Section 3. – RENEWAL OF PERMIT – The establishments wishing to renew their Certification to Operate a Designated Smoking Area shall undergo inspection and evaluation by the City Engineering Office and that the fees for the renewal of Certificate to Operate a Designated Smoking Area will be Five Thousand Pesos (Php 5,000.00) and that the renewal certificate will be a requirement for the issuance of annual Sanitary Permit.

RULE 8. – FLOOR AREA RATIO

Section 1. – The maximum size of a designated smoking area for respective establishments shall conform to the following smoking/non-smoking floor area ratio:

- 1) Restaurants, cafeterias, and other dining establishments: fifteen percent **(15%)** of the total dining area, including function rooms.
- 2) Day and night clubs, bars, cocktail lounges, beer gardens, karaoke bars and similar establishments: twenty-five percent **(25%)** of the total dining or drinking area, including function rooms.
- 3) Disco pads, dance halls, and similar establishments: twenty-five percent **(25%)** of the dancing and drinking area.
- 4) Billiard halls, pool rooms, and similar establishments: twenty-five percent **(25%)** of the pool or billiard area.
- 5) Bowling alleys: fifteen percent **(15%)** of the bowling area.

Other enclosed public places not mentioned in the immediately preceding provision shall conform to a maximum of five percent **(5%)** of total floor area per floor level for their designated smoking area.

RULE 9. - VENTILATION REQUIREMENTS.

The City Engineering Department/City Building Official shall also require designated smoking areas to be equipped with effective and strong ventilation so that smoke emanating from them does not drift, permeate or re-circulate into any smoke-free area. Moreover, it requires the quality of air used to ventilate that area during occupancy to be always sufficient to maintain the standards of air temperature, air quality motion and air distribution.

- **VENTILATION AND EXHAUST EQUIPMENT STANDARDS.** Designated smoking areas must be equipped with exhaust systems and ventilation equipment that conform to the provisions of the National Building Code and the Philippine Society of Mechanical Engineering (PSME) Code, to wit:

- A complete exhaust system shall include an air device, hood, ducts, fans, objectors, separator receptacles, and all other parts necessary for its installation.

- All exhaust systems shall discharge to the outside atmosphere provided; however, that air may be re-circulated, if it is passed through a suitable cleaning device and is safe and wholesome.
- The point of discharge of an exhaust system shall be so located so that the discharge materials shall not re-enter non-smoking areas, nor create hazard to the public, nor cause any general nuisance.
- Air circulated in designated smoking areas shall be supplied through air inlets arranged, located and equipped so that persons occupying the said areas are not subjected to air velocities, as specified in the Philippine Society of Mechanical Engineering (PSME) Code.
- The discharge from any exhaust system of a designated smoking area shall be such that no air contaminants will enter any window, door, air duct system, or other openings at designated smoke-free areas, in quantities sufficient to create health hazards therein or nuisance to surrounding areas.
- Air ducts and piping shall be so located as to be accessible for inspection and maintenance.
- Collected materials shall be collected and disposed of at intervals frequent enough to ensure that the exhaust system meets the requirements.

RULE 10. - ACCESS RESTRICTIONS

A. **VENDING MACHINE AND SELF-SERVICE FACILITIES** – The sale or distribution of tobacco products by means of vending machine or any self-service facility or similar contraption or device is prohibited.

B. **RETAILER COMPLIANCE WITH RESPECT TO SELF SERVICE FACILITIES** – Each retailer shall ensure that all tobacco-related self-service displays or facilities, advertising, labeling and other items that are located in the establishment of the retailer and do not comply with the requirement of this ordinance are removed.

C. **SIGNAGE AT POINT-OF-SALE** – Point-of-Sale establishments offering, distributing or selling tobacco products to consumers shall post the following statement in a clear and conspicuous manner, in English:

**“SALE/DISTRIBUTION TO OR PURCHASE BY MINORS OF
CIGARETTES AND TOBACCO PRODUCTS IS UNLAWFUL”**

CIGARETTE SMOKING IS DANGEROUS TO YOUR HEALTH AND TO OTHERS

MANDALUYONG CITY ORDINANCE No. _____

To Report Violators, Text or Call _____

Or in Pilipino:

**“ANG PAGBEBENTA/PAGBIBIGAY NG SIGARILYO/ PRODUKTONG TABAKO
SA MGA MENOR DE EDAD AY LABAG SA BATAS”.**

“ANG PANINIGARILYO AY MAPAMINSALA SA KALUSUGAN NG LAHAT”

ORDINANSANG PANLUNGSOD NG MANDALUYONG BLG. _____

Isuplong ang Lumalabag. Itext o Tumawag sa _____

RULE 11. – RESTRICTED ACTS VIS-A-VIS MINORS

The sale or distribution to, as well as the purchase from any minor of cigarettes or other tobacco products is absolutely prohibited. As such it shall be unlawful:

a. For any manufacturer, distributor or retailer including sidewalk or itinerant vendors of cigarettes/tobacco products to promote, give or convey, sell or distribute any cigarette/ tobacco product or in the form of sweets, snacks, toys or any objects in the form of tobacco products or other merchandise or

items bearing the name, logo, or other indicia of tobacco products including its representations or imitations to minors by all persons natural or judicial.

- b. For any person to purchase cigarettes/ tobacco products from a minor:
- c. For any minor to distribute, sell or buy cigarettes/ tobacco products.
- d. For a minor to carry or smoke cigarettes/ tobacco products.
- e. For sending into errand or co-opting a minor to buy, distribute or sell cigarettes/ tobacco products.

It shall not be a defense for the person distributing, conveying, selling or buying cigarettes or tobacco products that he/she did not know or was not aware of the real age of the minor. Neither, it shall be a defense that he/she did not know or had no reason to believe that the cigarettes/ tobacco products was for the consumption of the minor to whom it was sold.

RULE 12. – BAN ON TOBACCO ADVERTISEMENTS

Section 1. – All forms of tobacco advertisements in Mandaluyong City shall be prohibited except inside the point-of-sale establishment/s. The ban on tobacco advertisements shall cover, among others, all cinema and outdoor advertisements, advertisements in mass media and/or in posters, flyers, brochures, pamphlets, leaflets, and similar items in all places, including those placed in comfort rooms, taxis, buses, trains, and/or other public conveyances, and their stations, terminals, or platforms. The foregoing list is only for illustrative purposes and shall not, in any way, be construed or interpreted to be an exclusive or exhaustive list of the forms of tobacco advertisements covered by the ban.

RULE 13. – EXCEPTION TO THE BAN

Section 1. – Notwithstanding the foregoing, advertisements in mass media shall not be prohibited when placed inside the point-of-sale retail establishments, whether or not the same are visible outside the premises.

Section 2. – No leaflets, posters and similar outdoor advertising materials may be posted, except when placed inside the point-of-sale retail establishments. This exception shall likewise apply to stations, terminals or platforms when the advertising materials are placed within the premises of point-of-sale establishments.

Section 3. – Outdoor and mass media advertisement allowed under this Rule must nonetheless comply with the following requirements:

- a. No outdoor or mass media advertisement shall be aimed at or particularly made to appeal to persons under eighteen (18) years of age;
- b. No outdoor or mass media advertisement shall feature a celebrity or contain an endorsement, whether implied or express, by a celebrity;
- c. No outdoor or mass media advertisement shall 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;
- d. No outdoor or mass media advertisement shall show, portray, or depict scenes where the actual use of, or the act of using, puffing, lighting or carrying lighted cigarettes or other tobacco products is presented to the public.

Section 4. – All outdoor or mass media advertising allowed under this Rule must also contain either in English or Filipino the following health warning; ***“GOVERNMENT WARNING: Cigarette Smoking is Dangerous to your Health”***. For outdoor advertising, the warning frame shall be centered across the bottom of the advertisement and occupy a total area of not less than fifteen percent (15%) of the total warning frame. The text of the health warning shall be clearly visible and legible, printed in a prominent

color as appropriate and shall appear in contrast color, typography or layout with all other printed materials in the advertisement. The warning shall not be hidden or obscured by other printed information or images in the advertisement; Provided that such outdoor or mass media advertisement, only the fonts Helvetica or Arial may be used for the health warning required under this Rule; Provided finally, that such outdoor or mass media advertisement shall not, either individually or when placed in deliberate combination with other outdoor tobacco advertising, exceed seventy (70) meters in total size.

RULE 14. – RESTRICTED ZONE FOR OUTDOOR ADVERTISEMENTS

Section 1. – Notwithstanding the exception provided in Section 10 of the Ordinance, outdoor advertisement shall not be allowed within the premises of point-of-sale retail establishments if the same is within one hundred (100) meters from any point of the perimeter of a school, public playground owned by the government or other facility frequented particularly by persons below (18) years of age who are or are intended to be the principal users of such facility.

RULE 15. – DISPOSITION OF NON-COMPLIANT OUTDOOR ADVERTISEMENT

The City Building Official/Engineering Department Head or his duly-authorized representative shall be responsible for determining whether outdoor advertisements comply with the requirements set forth in Rule 10 of these Rules. Any advertisement which was determined non-compliant with said Rule 8 of this Rule shall be disposed of in the following manner:

- a. The removal of the non-compliant outdoor advertisement shall be done only after due notice by the City Building Official, or his duly authorized representative, to the owner or administrator of the point-of-sale establishment concerned;
- b. The owner or administrator of the point-of-sale establishment shall be responsible for the removal or shall cause the removal of said non-compliant outdoor advertising within three (3) working days from receipt of notice from the City Building Official, or his representative. The final disposition of the outdoor advertising so removed shall be subject to the terms and conditions stipulated in the lease contract for the advertising space and other advertiser or the advertising agency as the case may be; and
- c. Failure to remove the non-compliant outdoor advertisement notwithstanding the foregoing notice shall render the owner or administrator of the point-of-sale establishment liable under Ordinance No. 513, S-2013.

RULE 16. – RESTRICTION ON TOBACCO PROMOTIONS

Section 1. – The following restrictions shall apply to all tobacco promotion within the territorial jurisdiction of the City of Mandaluyong:

- a. Promotions must be directed only to persons at least eighteen (18) years old.
No person below eighteen (18) years old or who appear to be below eighteen (18) years old may participate in such promotions. The participants in promotion must be required to provide proof of age by presenting an NSO-authenticated birth certificate, a government issued identification card, and/or other related authenticated public documents;
- b. Communications to consumers about tobacco promotions shall comply with the provisions of this Rules governing tobacco advertising. In addition to the required warning, the age requirement for participation in any promotion must be clearly marked on the program materials distributed to consumers;
- c. All stalls, booths and other displays concerning tobacco promotions must be limited to point-of-sale locations or adult-only facilities;

d. Telephone communications concerning promotional offers, programs or events must include a recorded health warning message in English or Filipino consistent with the warnings specified in these Rules.

e. The name, logo, or other indicia of a brand of a tobacco product may appear on cigarette lighters, ashtrays, or other smoking related items. If such name, logo or other indicia of a cigarette brand is larger than fifty (50) square centimeters, the item must carry a health warning consistent with the warnings specified in the Rules;

f. No merchandise such as, but not limited to, t-shirts, caps, sweatshirts, visors, backpacks, sunglasses, writing implements and umbrellas, may be distributed, sold or offered, directly or indirectly, with the name, logo or other indicia of a brand of a tobacco product displayed so as to be visible to others when worn or used. Provided, that said name, logo or other indicia is not visible to others when the clothing item is worn: Provided further, that said clothing items are in adult sizes only;

g. No name, logo, or other indicia of a brand of a tobacco product or element of a brand-related marketing activity, may appear on items that are marketed to or likely to be used by minors such as, but not limited to, sports equipment, toys, dolls, miniature replicas of racing vehicles, video games and food. The manufacturer or company must take all available measures to prevent third parties from using the company's brand names, logos or other propriety material on products that are directed towards minors;

h. No tobacco advertisements, including the name, logo or other indicia of a brand of a tobacco product, may be placed on shopping bags.

RULE 17. – PUNISHABLE ACTS

Section 1. – The following acts are punishable under this Ordinance:

a. Smoking in any part of any enclosed or partially enclosed public place, public outdoor spaces and public conveyances (whether mobile or stationary), in all parts of all indoor workplaces and other public places.

b. Non-compliance by the owners, proprietors, possessors, managers or administrators of enclosed places open to the general public, public and private workplaces and other similar places to establish smoking and non-smoking areas required under this Rule.

c. Sale of tobacco products within one hundred (100) meters from any point of the perimeter of a school, public playground owned by the government or other facility frequented particularly by minors who are intended to be the principal users or patrons of such facilities.

d. Non-compliance with the required signage in point-of-sale establishment or designated smoking areas.

e. Non-compliance with the restrictions on tobacco advertising, print media advertising, outdoor advertising, cinema advertising, television and radio advertising, advertising in audio, video and computer cassettes/discs and similar medium; and advertising in the internet.

f. Selling, distributing and advertising tobacco products in a school, public playground or any other facility frequented by minors, offices of the Department of Health (DOH) and attached agencies, hospitals and health facilities or within one hundred (100) meters from any point in the perimeter of these places.

g. Repacking of cigarettes/ tobacco, product by the stick, or in packs containing less than twenty (20) sticks per pack, or into reams containing less than ten (10) packs per ream, each pack of which contains twenty (20) sticks.

h. Selling or distributing cigarette/tobacco products to minors.

- i. Purchasing/Buying cigarette/s/ tobacco products from minors.
- j. Placing, posting or distributing advertising materials of tobacco products, such as leaflets, buntings, posters and similar materials, even if inside the premises of point-of-sale establishments, when the establishments are not allowed to sell or distribute tobacco products.
- k. Sale or distribution of tobacco products by means of vending machines or self service facilities, unless the vending machine or similar contraption has a mechanism for age verification.
- l. Non compliance in any manner with the ban on tobacco advertisements, promotions or sponsorships;
- m. Selling cigarettes/tobacco products without a permit or license.
- n. Violation of or non-compliance with any other provision of the Ordinance that are not covered by any of the preceding sub-paragraphs.

Persons-in-charge shall be held similarly liable for the above acts if they are found to have allowed, abetted, or tolerated the same.

RULE 18. – DUTIES AND OBLIGATIONS OF PERSONS IN CHARGE.

In all enclosed or partially enclosed public place, workplace, public conveyance, public outdoor space, or other public place, the person-in-charge shall:

1. Prominently post and display "No Smoking" signages in the locations most visible to the public in the areas where smoking is prohibited. At the very least, a "No Smoking" sign must be posted at the entrance to the area. The "No Smoking" sign shall be at least *x11 inches in size and the International "No Smoking" symbol shall occupy no less than 70% of the signage. The remaining lower 30% of the signage shall show the following information:

(International No Smoking Symbol)

STRICTLY NO SMOKING
As per Mandaluyong City ORDINANCE NO. _____
Violators can be fined up to _____
Report violations to _____

- a. For public conveyances, the No Smoking signage shall be in the form of a three and a half (3.5) square inch-sized sticker to be placed on the windshield in addition to a ten (10) square inch-sized "No Smoking" sign in the most conspicuous location within the vehicle;
2. Remove all ashtrays or any receptacles for disposing of cigarette refuse from places where smoking is prohibited;
3. Remove all forms of tobacco advertisement other than those found inside the premises of a retail establishment that is authorized/ permitted to sell tobacco products;
4. Remove all tobacco products and related advertisements from establishments and properties located within the 100-meter perimeter of a school, playgrounds or other facility frequented by minors;
5. Allow authorized enforcers as well as deputized member of the civil society entry into the establishment at any regular business day and during regular business hours for the purpose of inspecting the premises' compliance status;

6. Secure approval/permit for the establishment of such an outdoor Designated Smoking Area that is compliant with specifications defined in Rule 4 and ensures that the Designated Smoking Area remains compliant;

In addition, for establishments in the hospitality, entertainment, and other service-related industries, such as but not limited to restaurant, bars, malls, retail / convenient stores, food and/or beverage stalls or kiosks, shops, etc., the persons in charge shall:

7. Ensure that all the employees in the establishment are aware of the Ordinance and to provide a procedure for them to warn violators;

8. Undertake all reasonable steps to ensure strict implementation of this Ordinance.

RULE 19. – PERSONS LIABLE.

The following persons/individuals are deemed liable under this Ordinance:

1. Any person who commits the prohibited acts stated in this ordinance
2. Persons in charge who knowingly allow, abet, or tolerate the prohibited acts enumerated in Rule 17 or who otherwise fail to fulfill the duties and obligations as enumerated in Rule 18 of this Ordinance; and
3. In addition to or regardless of the liability of the persons in charge, establishments that fail to comply or found to be non-compliant with the requirements under Rule 18 in relation to Rule 2 of this Ordinance are also liable, unless the persons-in-charge and the establishment have only one legal personality.

RULE 20. – PENALTIES

The following penalties shall be imposed on violators of this Ordinance:

Violation/s	Penalties	
SMOKING IN PUBLIC PLACES		
Section 14 (a), Ord. No. 513, S-2013	First Offense	Php 500.00
	Second Offense	Php 1,000.00
	Third and Subsequent Offenses	Php 3,000.00, or imprisonment for a period not exceeding 6 months or both at the discretion of the court.
	Community Service - If a violator is unable or unwilling to pay the fines imposed, he may choose to render community service to the city. For every hour of community service rendered, his outstanding fine shall be reduced by an amount equivalent to triple the hourly minimum wage of Mandaluyong City. The penalty of community service shall be implemented by the Barangay where the violation was committed.	
	If a minor is caught selling, buying or smoking cigarettes or any tobacco products, the provisions of Article 189 of Presidential Decree No. 603 otherwise known as "The Child and Youth Welfare Code, as amended and Republic Act No. 9344, the Juvenile Justice and Welfare Act of 2006" and City Ordinance No. 538, S-2014 otherwise known as the "Code of Parental Responsibility", shall apply.	
FAILURE OF PERSON-IN-CHARGE TO PERFORM DUTIES AND RESPONSIBILITIES		
Section 14 (b) (d) (e) (g) (k) and (m), Ord. No. 513, S-2013	First Offense	Php 1,000.00
	Second Offense	Php 3,000.00
	Third and Subsequent Offenses	Php 5,000.00, or imprisonment for a period not exceeding 6 months or both at the discretion of the court.

		Revocation or suspension of business license or permit (in case of a business entity or establishment), if applicable.
SALE/ DISTRIBUTION OF TOBACCO PRODUCTS TO MINORS		
Section 14 (c) (f) (h) and (i), Ord. No. 513, S-2013	First Offense	Php 1,000.00
	Second Offense	Php 3,000.00
	Third and Subsequent Offenses	Php 5,000.00 or imprisonment for a period not exceeding 6 months or both at the discretion of the court
		Revocation or suspension of business license or permit (in case of a business entity or establishment)
TOBACCO ADVERTISEMENT, PROMOTION AND SPONSORSHIP		
Section 14 (j) and (l) Ord. No. 513, S-2013	First Offense	Php 1,000.00
	Second Offense	Php 3,000.00
	Third and Subsequent Offenses	Php 5,000.00 or imprisonment for a period not exceeding 6 months or both at the discretion of the court.
		Revocation or suspension of business license or permit (in case of a business entity or establishment)

SUSPENSION OF LICENSE/PERMIT. In addition to the fine/ imprisonment, the license/permit to operate of any establishment will be suspended upon:

- a. Failure to take corrective action within ten (10) calendar days from receipt of notice;
- b. Failure to pay the fine indicated in a Citation Ticket within ten (10) calendar days of notification, regardless of whether or not the Citation Ticket was accepted.

CONFISCATION/REMOVAL OF TOBACCO ADVERTISEMENTS. In addition to other penalties imposed, any tobacco advertisement found in violation of this Ordinance shall be removed/ confiscated and destroyed by the deputized authorities concerned after due notice.

CLOSURE ORDER. The Health Department shall recommend to the City Mayor through the Business Permits and Licensing Department immediate closure of establishments that:

- a. Continue operations despite the suspension of their license/permit;
- b. Fail to take corrective action despite the receipt of two (2) notices in the form of warnings or citation tickets, within ten (10) calendar days from the receipt of the second notice;
- c. Reinstall or re-post/distribute removed or confiscated tobacco advertisements.

LIFTING OF THE SUSPENSION/CLOSURE ORDER. Such order shall be lifted only after the erring establishment has complied with the following requirements:

- a. Submission of a written request to the Health Department for re-inspection;
- b. Payment of re-inspection fee of Php 500. 00;
- c. Full compliance with the Ordinance upon re-inspection;
- d. Secure from the Health Department an endorsement to lift the suspension/ closure order to be forwarded to the proper office for approval.

RULE 21. – NO CONTEST PROVISION.

Section 1. – Any person, individual or entity who is apprehended or cited for violation and who does not wish to contest the violation and is willing to pay voluntarily the minimum fine imposed upon

him/her prior to the filing of a formal charges with the proper court shall be allowed to pay said fine with the City Treasurer to avoid being criminally prosecuted within six (6) hours from apprehension otherwise, the case shall be prosecuted.

The City Treasurer, subject to Civil Service Laws, Rules and Regulation, is hereby directed to provide personnel or to deputize personnel who will accept payment of fines twenty-four (24) hours a day so as not to jeopardize the right of the offender to avail of the six-hour period within which to pay under this Ordinance.

RULE 22. – ENFORCEMENT.

Section 1. – Ordinance No. 513, S-2013 and its Implementing Rules and Regulations (IRR) shall be enforced by the Local Chief Executive (Mayor) through his authorized deputies/enforcers.

Section 2. – Apprehension shall be done in accordance with the usual rules and procedures adopted by concerned law enforcement agencies/offices in the apprehension of local Ordinances.

Section 3. – THE CITATION TICKET SYSTEM – Any and all violators of this Ordinance shall be informed of their violation and the penalty corresponding to the violation by means of a Citation Ticket System with the following guidelines:

- a. The Citation Ticket Booklet shall be issued by the City Health Department to duly authorized enforcers in charge of enforcing this Ordinance.
- b. A Citation Ticket is issued to persons liable for any violation under the Ordinance.
- c. The Citation Ticket should contain a checklist of the various violations under this Ordinance and the penalties corresponding to them.
- d. A Citation Ticket shall contain the following information:
 1. A checklist of the violations under this ordinance;
 2. The fines associated with each violation; and
 3. Due date for compliance with the obligations imposed by the ticket

Enforcers and deputies authorized to issue citation tickets shall submit duplicates of the issuances to their Anti-Smoking Task Force Coordinator within two (2) business days.

The Health Office shall keep a duplicate of all Citation Tickets issued for violations of this Ordinance.

Section 4. – INCENTIVES FOR ENFORCERS OF THIS ORDINANCE – Fifteen percent (15%) of the fine paid by the apprehended violator of this ordinance shall accrue to the deputized enforcer who made the said apprehension as an incentive.

RULE 23. – CREATION OF LOCAL TOBACCO CONTROL COUNCIL AND ANTI-SMOKING TASK FORCE

For purposes of ensuring stringent implementation of this Ordinance, a Local Tobacco Control Council and Anti-Smoking Task Force shall be created to aid in the implementation, monitoring and enforcement of this Ordinance as well as to undertake educational awareness campaigns, information dissemination, and capacity building programs for the constituents and enforcement officers. The Task Force shall submit a Progress Report on the enforcement of the Ordinance to the Office of the Mayor and the City Council every six (6) months.

Section 1. – Composition. No member of the Local Tobacco Control Council shall represent or receive any contribution or compensation, directly or indirectly, whether financial or otherwise, from the tobacco industry. The Local Tobacco Control Council shall be composed of the following:

1. Mayor
2. Councilor on Health
3. City Health Officer
4. City Administrator or representative from the Mayor's Office
5. Health Education and Promotion Officer
6. Building Official / City Engineer
7. Business Permits and License Officer
8. Public Information Officer
9. A representative of the Philippine National Police (PNP)
10. A representative of the Civil Society Organization (CSO) designated by the Health Officer
11. Legal Officer
12. Human Resource and Development Management Officer
13. A representative from the Department of Education
14. A representative from the accredited People's Organization

Section 2. – The Local Tobacco Control Council shall exercise the following powers and functions:

- a) To authorize the Barangay Officials to form their own anti-smoking task force, whose members shall be duly deputized by the Local Tobacco Control Council, to apprehend violators and collect corresponding fines within the territorial jurisdiction of their respective Barangays.
- b) To closely coordinate with the management of business, commercial and entertainment establishments in the City to effectively monitor their strict compliance with the ordinance.
- c) To establish a computerized database, through the City Treasury's Miscellaneous Division, that would facilitate the monitoring and recording of violations, to ensure the imposition of sanctions appropriate to the frequency of violations.

Section 3. – The Task force shall be headed by a person appointed by the Mayor and its members shall be appointed from and among the ranks of city government employees provided that they possess the necessary qualifications and training to the positions to which they are appointed.

Section 4. – The members of the Task Force shall ensure the effective enforcement of the Ordinance through exercising the following powers and functions:

- a) To conduct anti-smoking campaigns and programs, apprehend violators of the anti-smoking ordinance together with or aside from the police, Public Order and Safety (POS), City Health and Building official personnel.
- b) To conduct special operations to apprehend violators through a composite team composed of its deputies and members of the Mandaluyong City Police and Public and Order and Safety (POS) Personnel.
- c) To establish links with transport-based organizations, in order to promote awareness of the Ordinance among drivers of public conveyances and ensure their full cooperation.
- d) To conduct random, unannounced ocular inspections on concerned establishments and impose corresponding penalties on those found to be in violation of the Ordinance.

The council and the task force shall not deal with the tobacco industry or individuals or entities that work to further the interests of the tobacco industry, except to the extent strictly necessary to effectively regulate, supervise, or control the tobacco industry and tobacco products.

Section 5. – Upon determination of sufficiency of funds by the Office of the Local Chief Executive, an annual appropriation for the Local Tobacco Control Council and the Anti-Smoking Task Force shall be

included in the regular budgeting procedures to cover operational and management expenses as well as other expenses necessary for proper, responsive and full operation of the LTCC and the Task Force.

RULE 24. – ADMINISTRATION AND AUTHORITY TO INSTITUTE ACTION

Section 1. – The City Building Official is tasked to inspect and certify the appropriateness of smoking and non-smoking areas provided by service establishments. To effectively enforce Ordinance No. 513, S-2013, the Mayor, upon recommendation of the City Building Official, is authorized to institute appropriate proceedings against violators of the requirements on the designation of smoking and non-smoking areas.

RULE 25. – INTERPRETATION

Section 1. – Any request for interpretation of the provisions of the Ordinance or these Implementing Rules shall be referred to the City Legal Officer. In cases of conflict between the provisions of the Ordinance or Implementing Rules and Republic Act No. 9211, otherwise known as the Tobacco Regulation Act of 2003 and its Implementing Rules and Regulations, the latter shall prevail being the national law enacted for the purpose of regulating the use, sale, distribution and advertisement of tobacco products.

RULE 26. – SUCCEEDING AMENDMENTS OF THE IMPLEMENTING RULES AND REGULATIONS

Section 1. – The Mandaluyong City Health Department, with the approval of the Mayor, may amend specific provisions of this Implementing Rules and Regulations (IRR) or revise the entire contents thereof from time to time.

RULE 27. – EFFECTIVITY CLAUSE

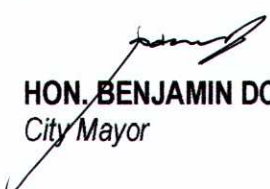
Section 1. – This Implementing Rules and Regulations (IRR) shall be effective upon signing of the City Health Officer and approval of the Mayor.

ENACTED on this SEP 01 2014 day of _____, 2014 in the City of Mandaluyong.

PROMULGATED BY :

APPROVED BY:


DR. PECOS CAMARINES
City Health Officer
City of Mandaluyong


HON. BENJAMIN DC. ABALOS, JR.
City Mayor