

ORDINANCE NO. 2009-005

**THE COMPREHENSIVE ANTI-SMOKING ORDINANCE OF THE
CITY OF NAGA, CEBU**

WHEREAS, it is the policy of the City of Naga to promote the health and welfare of its citizens, safeguard public health and ensure the physical well being of all Naganians;

WHEREAS, scientific studies and statistical findings reveal that smoking and the effects of second-hand smoke pose serious health hazards to persons who are in the presence of smokers;

WHEREAS, the right of the general public to a cigarette and tobacco smoke-free environment shall be ensured by a ban on smoking in public conveyances, in all public buildings and enclosed public places;

NOW THEREFORE, Be it enacted, as it is hereby enacted by the Sangguniang Panlungsod of Naga, Cebu, in session assembled that:

SECTION 1. TITLE. This Ordinance shall be known as the "THE COMPREHENSIVE ANTI-SMOKING ORDINANCE OF THE CITY OF NAGA, CEBU".

SECTION 2. COVERAGE. It shall be unlawful for any person to smoke or allow smoking in a public building, public utility vehicle, government-owned or any other means; of public transport for passengers, accommodation and entertainment establishment, enclosed public places as defined hereunder or any enclosed area outside of one's private residence, cars owned by the government, within the territorial jurisdiction of the City of Naga, Cebu.

SECTION 3. DEFINITION OF TERMS:

a) **Smoking** refers to the lighting and/or puffing of any lighted cigarette, cigar, tobacco or any other kind for or type. Possession of any lighted cigarette, tobacco and the like within the prohibited areas for smoking shall constitute a prima facie evidence as an act of smoking prohibited under this Ordinance.

b) **Public Utility Vehicle** refers to Public Utility Jeeps (PUJs), Public Utility Buses (PUBs), taxis, tricycles and other public utility vehicles used in the transport of passengers and goods.

c) **Accommodation & Entertainment Establishment** refers to restaurants, fast foods, cateries, hotels, motels, lodges, inns, boarding houses, disco houses, videoke bars, resto bars and movie houses, or any other place with pleasant environment and atmosphere conducive to comfort, healthful relaxation and rest offering foods, sleeping accommodation and recreation facilities to the public for a fee

d) **Public Building** refers to any of the following:

- A building structure owned by the government or owned by a private person but used, rented or occupied by the government or any of its instrumentalities.

- Any building or structure used or controlled exclusively for public purposes by any department or branch of government, local government unit or barangay without references to the ownership of the building.

e) **Enclosed Public Place** refers to a building or any other enclosed structure, whether government or privately owned, that is open to the public by general invitation or otherwise, such as but not limited to private work places, offices, schools, hospitals, medical clinics, department stores, malls, markets, supermarkets, restaurants, bars, clubs, nightclubs, comfort rooms, auditoriums, private clubhouses, session hall, bus terminals, hotels, coliseums, libraries, courtrooms, grocery stores, churches, gasoline stations, banks, town squares, cinema houses, gymnasiums, funeral parlors, barber shops, salons ship terminals and other similar places where smoking may expose a person other than the smoker to tobacco smoke.

f) **Designated Smoking Room** refers to a delineated room inside the accommodation establishment or public place or enclosed public place, which is totally enclosed where a person is allowed to smoke without violating this Ordinance. Any duly designated room/area in accommodation and entertainment establishments or enclosed public places, whether tourism accredited or not, within the territorial jurisdiction of the City of Naga as hereinabove defined, provided, the following conditions are met:

- f.1. If the accommodation and entertainment establishment or enclosed public place is air-conditioned, it must establish and designate a smoking room which shall not be more than $\frac{1}{4}$ of the total accommodation area of the establishment, that is air-conditioned and equipped with an exhaust fan and totally enclosed on all sides and separated from the rest of the premises where smoking is prohibited.
- f.2. If the accommodation and entertainment establishment or enclosed public place is not air-conditioned, it must establish and designate a smoking area which shall not be more than $\frac{1}{4}$ of the total accommodation area of the establishment that is fully ventilated and separated from the rest of the premises where smoking is prohibited.

g) **Minor** – a person under 18 years old.

SECTION 4. PROHIBITED ACTS. The following acts shall be prohibited:

a) **Smoking** in any of the places enumerated in Section 2 hereof, except in duly designated smoking areas;

b) Knowingly allowing or tolerating smoking in any enclosed public places, accommodation & entertainment establishments, whether tourism accredited or not, except when smoking is done inside or within the duly designated smoking areas referred to in this Ordinance;

c) Smoking while inside a government-owned or public utility vehicle whether moving or stationary or while solicitation of passengers is going on or while the vehicle is waiting for passengers;

d) Allowing or sending minors on an errand to buy or sell cigarettes, cigar, tobacco or any similar kind.

SECTION 5. PERSONS LIABLE. The following persons/individuals are deemed liable under this Ordinance:

a) Any person smoking within the prohibited rooms, buildings, areas, establishments mentioned in Section 2 hereof.

b) Any passenger, driver, conductor or inspector of government-owned vehicles and public utility vehicles smoking as stated in Section 4 © hereof;

c) The President or Manager in case of a company, corporation or association or the owner/proprietor or operator in case of single proprietorship of enclosed public places, accommodation and entertainment establishments, whether tourism-accredited or not, who knowingly allows, tolerates and/or fails to warn, advise or report violators of this Ordinance to any Policeman or nearest Police Station, City and Barangay Officials and Tanods within three (3) hours after the violation.

d) Any person who sends or sends a minor on an errand to buy or sell cigarettes, cigars or tobacco or any similar stuff and the merchant who sells or person who gives cigarettes, cigars or tobacco or any similar stuff to a minor.

SECTION 6. IMPLEMENTATION AND MONITORING.

a) The City Health Office and the City Engineer's Office are tasked to inspect and certify the appropriateness of the designated smoking areas provided by accommodation and entertainment establishments and enclosed public places.

Note: A period of sixty (60) days shall be given to the management of accommodation and entertainment establishments to comply with the requirements of this Ordinance.

b) Sixty (60) days after the effectivity of this Ordinance, the City Health Office in coordination with the Permits and Licensing Office shall conduct an ocular inspection of all establishments in the City of Naga, Cebu to determine compliance with the requirements of this Ordinance.

c) The Philippine National Police, City and Barangay Officials and Tanods shall enforce and implement the provisions of this Ordinance. Likewise, business establishments, religious and educational institutions, civic organizations and associations are enjoined to monitor and report violations of this Ordinance to the Police authorities and/or City and Barangay Officials and Tanods, as the case may be.

d) Establishments, offices and entities shall be required to put up "No Smoking" signs or notice and promulgate necessary policies, rules and regulations in their respective premises or areas pursuant to the enforcement of this Ordinance.

SECTION 7. FINES and PENALTY. Violators of any of the provisions of this Ordinance shall be dealt with accordingly, subject to the following fines:

	<u>1st Offense</u>	<u>2nd Offense</u>	<u>3rd Offense</u>
- For individual violators	P 100.00	P 150.00	P200.00
- For business establishments (to be shouldered by the Manager, Supervisor or Head of Office)	P 500.00	P 1,000.00	P 2,000.00

The fines stated above shall be coupled with imprisonment of not more than ten (10) days at the discretion of the Court, suspension of the Business Permit (1-30 days) at the discretion of the Local Chief Executive. Fourth and subsequent offenses shall already be dealt with revocation of business permit in case of establishments.

Government officials/employees are subject to the fines aforesaid and shall be charged with administratively, in accordance with Civil Service Rules and Regulations.

The Barangay Government is hereby mandated to enforce implementation of this Ordinance. Payments of fines shall be paid to the Barangay Treasurer where the offense is committed or to the City Treasurer, in case the violation is committed at the City Hall Building and other adjacent government buildings.

SECTION 8. NO CONTEST PROVISION. Any person, individual or entity apprehended or cited for violation who does not wish to contest the violations and is willing to pay voluntarily the fines herein stated prior to the filing of formal charges with the proper court shall be allowed to pay said fine with the Barangay or City Treasurer to avoid being criminally prosecuted within six hours from apprehension, otherwise, the case shall be filed appropriately. For proper implementation, the Barangay or City Treasurer is hereby directed to serve or provide/deputize a personnel who will accept payment of fines 24 hours a day, everyday, so as not to jeopardize the right of the offender to avail of the 6 hours period within which to pay the fines/penalties under this Ordinance.


SECTION 9. SEPARABILITY CLAUSE. If for any reason or reasons, any parts or provision of this Ordinance shall be declared unconstitutional or invalid, other parts or provisions thereof not affected shall continue to be in full force and effect.

SECTION 10. REPEALING CLAUSE. All existing Anti-smoking Ordinances are hereby repealed.

SECTION 11. EFFECTIVITY CLAUSE. This Ordinance shall take effect thirty (30) days after the approval of the Sangguniang Panlungsod provided, that posting period and publication of this Ordinance in accordance with Republic Act 7160 shall be complied with.

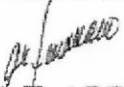
UNANIMOUSLY APPROVED this 19th day of October 2009, on motion of Hon. Dolorita T. Nietes.

CERTIFIED CORRECT:


DELFIN R. SENOR

Vice Mayor/Presiding Officer

ATTESTED BY:


DELZA T. ARELLANO

Secretary to the Sanggunian

APPROVED BY:


VALDEMAR M. CHIONG

Mayor