



Sangguniang Panglungsod

ORDINANCE NO. 10-110

AN ORDINANCE KNOWN AS THE COMPREHENSIVE ANTI-SMOKING
ORDINANCE OF THE CITY OF MUNTINLUPA.

Sponsored by: Hon. Coun. Ma. Luisa Babaran-Echavez, MD
 Co-sponsored: Hon. Coun. Allen F. Ampaya
 Hon. Coun. Allan Rey A. Camilon
 Hon. Coun. Margarita Amythyst Patdu-Labios, MD
 Hon. Coun. Melchor R. Teves
 Hon. Coun. Atty. Icasiano M. dela Rea
 Hon. Coun. Ermie S. Espeleta
 Hon. Coun. Marita Deang-Calalang, DMD
 Hon. Coun. Francis Ian T. Bagatsing
 Hon. Coun. Joselito V. Arevalo
 Hon. Coun. Luvi P. Constantino
 Hon. Coun. Engr. Marissa Cole-Rongavilla
 Hon. Coun. Engr. Mamerto T. Sevilla, Jr.
 Hon. Coun. Vergel C. Ulanday
 Hon. Coun. Robert A. Abas
 Hon. Coun. Atty. Rey E. Bulay
 Hon. Coun. Celso C. Dioko

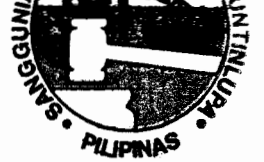
WHEREAS, Section 16 Article II of the 1987 Philippine Constitution provides that, ***“the state shall protect the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature”***;

WHEREAS, the City Government of Muntinlupa passed Kautusang Panlungsod Bilang 99-046, entitled, ***“Kautusan na inaamyendahan ang ordinansa Bilang 90-24 hinggil sa paninigarilyo sa mga kubli o hayag na pampublikong lugar sa Lungsod ng Muntinlupa at ang pagbibigay ng kaukulang parusa para sa paglabag ito”***;

NOW THEREFORE BE IT ORDAINED, AS IT IS HEREBY ORDAINED, by the 5th Sangguniang Panlungsod of Muntinlupa in session assembled that:

SECTION 1. Title. This ordinance shall be known as ***“the Comprehensive Anti-Smoking Ordinance”*** of the City of Muntinlupa.

SECTION 2. Coverage. It shall be unlawful for any person to smoke or allow smoking in public utility vehicle, government-owned vehicle or any other means of public transport for passengers, accommodation and entertainment establishment, public building, public place as defined in Section 3 (e) hereunder, enclosed public place, cars owned by the government or duly designated smoking areas, private buildings/establishments and likewise:



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- a) *It shall be unlawful for any minor to smoke anywhere, within the territorial jurisdiction of Muntinlupa City.*
- b) *It shall be unlawful to sell or distribute tobacco products to minors by any retailer within the territorial jurisdiction of Muntinlupa City.*
- c) *It shall be unlawful to purchase cigarettes or any tobacco products from a minor.*
- d) *It shall be unlawful for minors to sell cigarettes or any tobacco products.*
- e) *It shall be unlawful for minors to purchase cigarettes or any tobacco products.*
- f) *It shall be unlawful to sell or distribute cigarettes or any tobacco products within 100 meters from any point of the perimeter of a school public playground or other facility frequented by minors.*
- g) *It shall be unlawful for any store or business establishments to use cigarette or tobacco sponsored signage for their business name advertisement.*

SECTION 3. Definition of Terms:

- a) **Smoking** – refers to the lighting and/or puffing or any lighted cigarette, cigar, tobacco or any other kind, form or type. Possession of any lighted cigarette, cigar, tobacco and he like within the prohibited areas for smoking shall constitute a prima face evidence as an act of smoking prohibited under this Ordinance.
- b) **Public Utility Vehicle** – refers to public utility jeepneys (PUJ) Public Utility Buses (PUB's), taxi tricycles and public utility vehicles used in the transport of passengers;
- c) **Accommodation & Entertainment Establishments** – restaurants, fast foods, eateries, hotels, motels, lodges, inns, beer 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 food, sleeping accommodation and recreational facilities the public for a fee;
- d) **Public Building** – refers to any of the following:
 - 1) *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;*
 - 2) *Any building or structure used or controlled exclusively for public purposes by any department or branch of government, local government unit or barangay without reference to the ownership of the building;*



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- e) **Public Place** – refers to gasoline station, banks, malls, town squares, terminals, shopping/business arcades, schools, churches, hospitals, cinema houses, gymnasiums, funeral parlors, barber shops, and other similar places where people usually congregate either to while away their time or to listen attend concerts, rallies, programs such as, but not limited to Veterans Park, Rotary Centennial Parks, C4 (park), public markets, waiting sheds and patio.
- f) **Private Buildings/Structures** – refers to any private buildings used as private offices, banks, call centers and other businesses occupied by a private corporation or private persons.
- g) **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 establishment within the territorial jurisdiction of Muntinlupa as herein above defined provided, the following conditions are met:

- 1) If the accommodation and entertainment establishment is air-conditioned, it must establish and designate a smoking area which shall not be more than ¼ 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, and shall include a warning in the smoking area sign about the health effects direct or second hand exposure to tobacco.
- 2) If the accommodation and entertainment of establishment is not air-conditioned it must establish and designate a smoking area, which shall not be more than ¼ of the total accommodation area of the establishment that is fully ventilated and separated from the rest of the premises where smoking is prohibited.
- 3) If the private building is air-conditioned it must establish and designate a smoking area as stated in National Building Code.



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- h) **Enclosed Area** – refers to areas which is closed whether totally or partially at the side and roof or make use of the flow above it as a ceiling, or even if open on all sides but is covered by a roof, permanent or temporary in nature.
- i) **Enclosed Public Place** – refers to a room, building structure, or edifice that is constructed with a shelter or covered by a roof with panels or concrete wall, which structure is open to the public.
- j) **Retailer** – refers to merchant or dealer of any commodities or tobacco products referring to this ordinance.
- k) **Minors** – refers to anybody seventeen (17) years old and below; not yet of legal age.
- l) **Vendor** – refers to seller or peddler of any kind of commodities or tobacco products referring to this ordinance.

SECTION 4. Prohibited Acts. The following acts shall be prohibited.

- a) Smoking is any of the places enumerated in Section 2 hereof, except in duly designated smoking areas;
- b) Knowing allowing, abetting, or tolerating smoking in accommodation establishments, except when smoking is done inside or within the duly designated smoking areas referred to in the Ordinance;
- c) Smoking while inside a government owned or public utility vehicles whether moving or stationery or while solicitation of passengers is going on or while the vehicles is waiting for passengers;

SECTION 5. Person Liable. The following person/s individuals are deemed liable under this Ordinance.

- a) Any person smoking within the prohibited rooms, areas/establishment mentioned in Section 2 hereof;
- b) Any passenger, driver, conductor or inspector of government-owned vehicles or public utility vehicles (PUVs) smoking is stated in Section 4 (c) hereof;

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- 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 accommodation and entertainment establishments, who knowingly allows, abets or tolerates and/or fails to warn adviser, report violators of the Ordinance to any policeman or nearest police station within three (3) hours of the violation;

SECTION 6. The *City Health Officer* and *Engineering Office* are tasked to inspect and certify the appropriateness of the designated, smoking areas provided by accommodation establishments, taking into consideration the purpose of the law which is to protect non-smokers from the pernicious effects of tobacco smoke.

A period of sixty (60) days after the effectivity of this ordinance shall be given to the management of the accommodation and entertainment establishment to comply with the requirements of this Ordinance. Non-compliance with the requirements set forth in the section shall be a ground for cancellation of the business permit by the Business Permit and Licensing Officer.

SECTION 7. TABLE OF VIOLATIONS AND PENALTIES –

SMOKING IN ABSOLUTELY SMOKE 0 FREE AREAS (SEC. 5, RA 9211)		
Offense	Violators	Penalty
Violation by an individual:	Individual violator	<i>First offense:</i> a. a fine of not less than Five Hundred Pesos (Php500.00) but not more than One Thousand (Php1,000.00).
1. There is a person smoking.		<i>Second Offense:</i> a. a fine of not less than One Thousand Pesos (Php1,000.00) but not more than Five Thousand Pesos (Php5,000.00)
2. She/he is smoking in a prohibited public place.		<i>Third Offense:</i> a. a fine of not less than Five Thousand Pesos (PHP5,000.00) but not more than Ten Thousand Pesos (Php10,000.00).

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VIOLATION OF RULES ON DESIGNATED SMOKING AND NON-SMOKING AREAS (Sec. 6, RA 9211)		
Offense	Violators	Penalty
What are the elements of the offense?	Owner;	First offense: a. a fine of not less than Five Hundred Pesos (Php500.00) but not more than One Thousand (Php1,000.00).
1. The place is covered by the rule.	Proprietor;	Second Offense: b. a fine of not less than One Thousand Pesos (Php1,000.00) but not more than Five Thousand Pesos (Php5,000.00)
2. The owner, proprietor, possessor, manager or administrator of the place fails to do any of the following:	Possessor;	Third Offense: b. a fine of not less than Five Thousand Pesos (PHP5,000.00) but not more than Ten Thousand Pesos (Php10,000.00).
a. Designate smoking and non-smoking areas;	Manager; or Administrator of the establishment	
b. Observe standards for designated smoking areas;		
c. Post signage in the designated smoking and non-smoking areas; include a warning in the "SMOKING AREA" sign about the health effects of direct or secondhand exposure to tobacco.		

SALE OR DISTRIBUTION OF TOBACCO PRODUCTS VIA SELF-SERVICE FACILITY WITHOUT MECHANISM FOR AGE VERIFICATION (Sec. 7, RA 9211)		
Offense	Violators	Penalty
What are the elements of the violation?	Owner; President; Manager or The most senior officers of the company	First Offense: a. Fine: At least P5,000, OR b. Imprisonment: maximum of 30 days

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1. There is a vending machine, a self-service facility, or similar device.		<i>Succeeding offenses::</i> a. Fine: At least P5,000, and b. Imprisonment: maximum of 30 days; and c. Revocation of business licenses or permits
2. The machine sells tobacco products. The machine has no mechanism for age verification.		

VIOLATION OF MINIMUM AGE SALES (Sec. 9, RA 9211)

Offense	Violators	Penalty
Sale or distribution of tobacco products to minors by any retailer	Violators who are not minors.	<i>First Offense:</i> a. Fine not less than Five Thousand Pesos (5,000); or b. Imprisonment of not more than thirty (30) days.
<i>What are the elements of the offense?</i>		<i>Succeeding offenses:</i> a. a fine; imprisonment of not more than thirty (30) days
a. The violator is a retailer of tobacco products.	Business entity / establishment	<i>First Offense:</i> a. Fine not less than Five Thousand Pesos (5,000); or b. Imprisonment of not more than thirty (30) days.
c. The retailer sold or distributed tobacco product/s.		<i>Succeeding offenses:</i> a. a fine; b. imprisonment of not more than thirty (30) days; and c. business licenses or permits will also be revoked, in case of a business entity or establishment.
c. The buyer was a person below 18 years of age.		

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REPUBLIKA NG PILIPINAS
PAMAHALAANG LUNGSOD NG MUNTINLUPA
 KALAKHANG MAYNILA



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Offense	Violators	Penalty
2. Purchase of cigarettes or any tobacco product from a minor	Violators who are not minors.	<i>First Offense:</i> a. Fine not less than Five Thousand Pesos (5,000); or b. Imprisonment of not more than thirty (30) days.
<i>What are the elements of the offense?</i>		<i>Succeeding offenses:</i> a. a fine; imprisonment of not more than thirty (30) days
a. The violator is a buyer.		
b. He buys cigarettes or tobacco products from a seller.		
c. The seller is a minor.		
	Business entity / establishment	<i>First Offense:</i> d. Fine not less than Five Thousand Pesos (5,000); or e. Imprisonment of not more than thirty (30) days. <i>Succeeding offenses:</i> d. a fine; e. imprisonment of not more than thirty (30) days; and f. business licenses or permits will also be revoked, in case of a business entity or establishment.

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<p>3. Sale of cigarettes or any tobacco product by a minor;</p> <p><i>What are the elements of the offense?</i></p>	<p>Minors who sell tobacco products</p>	<p>a. If the minor is below fifteen (15) years of age or above fifteen (15) but below eighteen (18) years old who acted without discernment → he is exempt from criminal liability. However, the child shall be subjected to an intervention program pursuant to Section 20 of RA 9344.</p>
<p>a. The violator is a seller. b. He is a minor. c. He sells cigarettes or tobacco products.</p>		<p>b. If the minor is above fifteen (15) years of age but below eighteen (18) years old who acted with discernment → he shall undergo diversion proceedings without undergoing court proceedings as long as the child voluntarily admits to committing the offense and his/her parent or guardian consents to the diversion.</p> <p>However, if the minor offender violates the diversion contract, the offended party may institute legal proceedings against the minor. If the parents or guardian of the minor does not consent to the diversion or no conciliation, mediation, or family conferencing was conducted, an inquest and/or preliminary investigation shall be conducted to determine whether or not the child should remain under custody and correspondingly charged in court.</p>
<p>4. Purchase of cigarettes or any tobacco product by a minor;</p>	<p>Minors who buys tobacco products</p>	<p>a. If the minor is below fifteen (15) years of age or above fifteen (15) but below eighteen (18) years old who acted without discernment → he is exempt from criminal liability. However, the child shall be subjected to an intervention program pursuant to Section 20 of RA 9344.</p>

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<p><i>What are the elements of the offense?</i></p> <p>a. The violator is a buyer. b. He is a minor. c. He buys cigarettes or tobacco products.</p>		<p>b. If the minor is above fifteen (15) years of age but below eighteen (18) years old who acted with discernment → he shall undergo diversion proceedings without undergoing court proceedings as long as the child voluntarily admits to committing the offense and his/her parent or guardian consents to the diversion.</p>
		<p>However, if the minor offender violates the diversion contract, the offended party may institute legal proceedings against the minor.</p>
		<p>If the parents or guardian of the minor does not consent to the diversion or no conciliation, mediation, or family conferencing was conducted, an inquest and/or preliminary investigation shall be conducted to determine whether or not the child should remain under custody and correspondingly charged in court.</p>
<p>5. Smoking of cigarettes or any tobacco product by a minor;</p>	<p>Minors who smoke tobacco products</p>	<p>a. If the minor is below fifteen (15) years of age or above fifteen (15) but below eighteen (18) years old who acted without discernment → he is exempt from criminal liability. However, the child shall be subjected to an intervention program pursuant to Section 20 of RA 9344.</p>
<p><i>What are the elements of the offense?</i></p> <p>a. The violator is a minor. b. He smokes cigarettes or tobacco products.</p>		<p>b. If the minor is above fifteen (15) years of age but below eighteen (18) years old who acted with discernment → he shall undergo diversion proceedings without undergoing court proceedings as long as the child voluntarily admits to committing the offense and his/her parent or guardian consents to the diversion.</p>

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		<p>However, if the minor offender violates the diversion contract, the offended party may institute legal proceedings against the minor. If the parents or guardian of the minor does not consent to the diversion or no conciliation, mediation, or family conferencing was conducted, an inquest and/or preliminary investigation shall be conducted to determine whether or not the child should remain under custody and correspondingly charged in court.</p>
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SALE OF TOBACCO PRODUCTS WITHIN SCHOOL PREMISES (Sec. 10, RA 9211)

Offense	Violators	Penalty
<p><i>What are the elements of the offense?</i></p> <p>1. The violator is the seller or distributor.</p>	<p>Minor who sells tobacco products</p>	<p>a. If the minor is below fifteen (15) years of age or above fifteen (15) but below eighteen (18) years old who acted without discernment → he is exempt from criminal liability. However, the child shall be subjected to an intervention program pursuant to Section 20 of RA 9344.</p>
<p>2. He sells or distributes tobacco products.</p>		<p>b. If the minor is above fifteen (15) years of age but below eighteen (18) years old who acted with discernment → he shall undergo diversion proceedings without undergoing court proceedings as long as the child voluntarily admits to committing the offense and his/her parent or guardian consents to the diversion.</p>
<p>3. Sale or distribution is within 100 meters from any point of the perimeter of a school, public playground or other facility frequented by minors.</p>		<p>However, if the minor offender violates the diversion contract, the offended party may institute legal proceedings against the minor. If the parents or guardian of the minor does not consent to the diversion or no conciliation, mediation, or family conferencing was conducted, an inquest and/or preliminary investigation shall be conducted to determine whether or not the child should remain under custody and correspondingly charged in court.</p>

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	Violators who are not minors	<i>First Offense:</i> a. Fine not less than Five Thousand Pesos (5,000); or b. Imprisonment of not more than thirty (30) days.
		<i>Succeeding offenses:</i> a. a fine; b. imprisonment of not more than thirty (30) days; and c. business licenses or permits will also be revoked, in case of a business entity or establishment.
	Business establishments	<i>First Offense:</i> a. Fine not less than Five Thousand Pesos (5,000); or b. Imprisonment of not more than thirty (30) days.
		<i>Succeeding offenses:</i> a. a fine; b. imprisonment of not more than thirty (30) days; and c. business licenses or permits will also be revoked, in case of a business entity or establishment.

SECTION 9. Posting of Billboards. The Engineering Office is hereby tasked to put up billboards in a conspicuous place in the City of Muntinlupa to notify the public of the restrictions, sanctions and penalties provided in the Ordinance.

SECTION 10. Implementing Agency. The Philippine National Police (PNP) of Muntinlupa City, Muntinlupa Traffic Management Bureau (MTMB), Business Permit and Licensing Office (BPLO) and the Public Order Security Office (POSO) are tasked with the proper and vigorous implementation of this Ordinance.

SECTION 11. The *Office of the City Mayor* is mandated to prescribe the *Implementing Rules and Regulations (IRR)* of this Ordinance and shall furnish the Sanggunian Panlungsod of the same upon approval.

SECTION 12. Separability Clause. If, for any reason or reasons, any part 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.

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SECTION 13. Effectivity Clause. This ordinance shall take effect upon its publication once (1) in a newspaper of general circulation and posted for three (3) consecutive weeks in conspicuous places within the City.

ENACTED, by the 5th Sangguniang Panlungsod of Muntinlupa this 18th day of January 2010, on its 105th Regular Session.

CONCURRED:

DISTRICT I:

COUN. ALLEN F. AMPAYA
Member

COUN. ALLAN REY A. CAMILON
Member

COUN. MA. LUISA BABARAN-ECHAVEZ, MD.
Member

COUN. MARGARITA AMYTHYST PATDU-LABIOS, MD
Member

COUN. MELCHOR R. TEVES
Member

COUN. ATTY. ICASIANO M. DELA REA
Member

COUN. ERMIE S. ESPELETA
Member

COUN. MARITA DEANG-CALALANG, MD
Member

DISTRICT II:

COUN. FRANCIS IAN T. BAGATSING
Member



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COUN. JOSELITO V. AREVALO
Member

COUN. LUVI P. CONSTANTINO
Member


COUN. ENGR. MARISSA COLE-RONGAVILLA
Member

COUN. ENGR. MAMERTO T. SEVILLA, JR.
Member


COUN. VERGEL C. ULANDAY
Member


COUN. ROBERT A. ABAS
Member

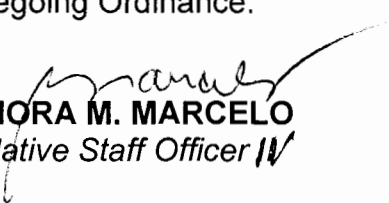

COUN. ATTY. REY E. BULAY
Member

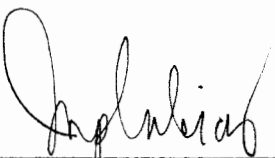

COUN. CELSO C. DIOKO
Sectoral Representative
President
Association of Barangay Captains


ABSENT:

COUN. DANN HENRY G. TEVES
Sectoral Representative
President
Federation of Sangguniang Kabataan

I HEREBY CERTIFY, as to the correctness of the foregoing Ordinance.


LEONORA M. MARCELO
Legislative Staff Officer IV







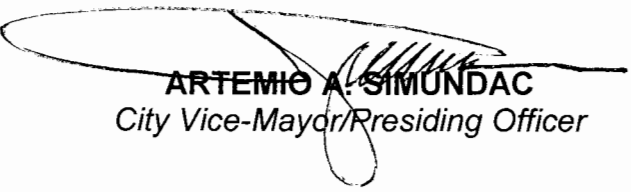
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KALAKHANG MAYNILA**

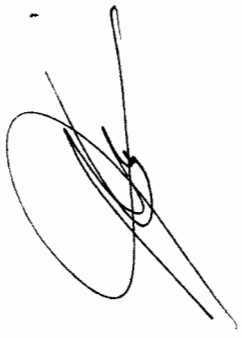


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ATTESTED:


ARTEMIO A. SIMUNDAC
City Vice-Mayor/Presiding Officer



APPROVED:


ALDRIN L. SAN PEDRO
City Mayor
Date: _____

Norie/11810

