



Republic of the Philippines
PROVINCE OF NUEVA ECIJA
Provincial Capitol Bldg.
Brgy. Singalat, City of Palayan
Tel. No.: (044) 940-7793

OFFICE OF THE SANGGUNIANG PANLALAWIGAN

EXCERPT FROM THE MINUTES OF THE 40th REGULAR SESSION OF THE SANGGUNIANG
PANLALAWIGAN OF NUEVA ECIJA HELD AT THE SIERRA MADRE SUITES,
PALAYAN CITY, NUEVA ECIJA

NOVEMBER 10, 2020

PRESENT :

VG. EMMANUEL ANTONIO M. UMALI	- Presiding Officer
BM. RAFAEL ANDREW R. VILLANUEVA	- Member
BM. EMARY JOY D. PASCUAL	- Member
BM. JO-MARIO ANGELO E. MATIAS	- Member
BM. NAPOLEON P. INTERIOR, JR.	- Member
BM. EDUARDO JOSE B. JOSON, VII	- Member
BM. TERESITA A. PATIAG	- Member
BM. ERIC DANIEL F. SALAZAR	- Member
BM. ESMERALDO B. ABALOS	- Member
BM. ROSELLER T. DE GUZMAN	- Member
BM. JOSEPH R. ORTIZ	- Member
BM. ARIEL L. MATIAS	- Member (President-LnB)
BM. MARY SWEET LIBERTY N. CRUZ	- Member (SK President)

ABSENT :

BM. BELINDA E. PALILIO	- Member (President-PCL)
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ORDINANCE NO. 74-S-2020

**AN ORDINANCE REGULATING THE USE AND SALE OF
VAPORIZED AND HEATED TOBACCO PRODUCTS IN PUBLIC
PLACES AND PUBLIC CONVEYANCES, ADVERTISEMENTS
AND PROMOTIONS, AND PROVIDING PENALTIES THEREFOR.**

Introduced by: Board Member Jo Mario Angelo E. Matias
Sponsored by: Board Member Napoleon P. Interior, Jr., Board Member Joseph R. Ortiz,
Board Member Eduardo Jose B. Joson VII

WHEREAS, the 1987 Constitution declares it the policy of the State to protect and promote the right to health of the people and instill health consciousness among them;

WHEREAS, a wide range of vapor and heated tobacco products (VHTPs), also known as e-cigarettes, have been introduced in the Philippines and globally. They are handheld products that generate aerosol without combustion;

WHEREAS, President Rodrigo Roa Duterte signed Republic Act No. 11467, which differentiated excise tax rates in recognition of the clear distinction between VHTPs - consisting of vapor products, with or without nicotine, and heated tobacco products, which release an aerosol that can be inhaled without burning or any combustion of the tobacco or liquid solution or gel, and cigarettes which are consumed by burning;

WHEREAS, an emerging body of scientific evidence shows that while not risk-free, VHTPs are far less harmful due to the lack of combustion. Public Health England stated that carcinogenic constituents of cigarette smoke that harm health are either absent in e-cigarette vapor or, if present, they are mostly at levels much below five percent (5%) of smoking doses (mostly below one percent (1%) and far below safety limits for occupational exposure). Thus there is a reduced risk potential based on the reduced level of air pollution where VHTPs are used compared to conventional cigarettes;

WHEREAS, regulating VHTPs in the exact same way as cigarettes, however, would fail to acknowledge the fundamental difference between combustible and non-combustible products and their respective risk profiles. Groups such as Public Health England and the British Lung Foundation have underscored the importance of regulating VHTPs or e-cigarette products differently from cigarettes;

WHEREAS, the proliferation of illicit or non-compliant VHTPs is a serious problem that could deprive the government of potential revenue from excise tax collections and has the effect of flooding the market with cheaper VHTPs, thereby making them more accessible to the public, especially the youth.

WHEREAS, these non-compliant VHTPs, if not eradicated may pose a threat to the health of consumers because of their substandard quality.

WHEREAS, in order to fully protect the health and welfare of the citizens of the province and at the same time safeguard the interests of all stakeholders, including smokers who have the right to choose less harmful alternatives to cigarettes, there is a need to pass an ordinance regulating the use of vapor and heated tobacco products in public places and conveyances, including its advertising and promotion, in line with the latest scientific studies on this class of products.

NOW THEREFORE, BE IT ENACTED, AS IT IS HEREBY ENACTED, BY THE SANGGUNIANG PANLALAWIGAN, IN SESSION DULY ASSEMBLED, BY VIRTUE OF THE POWERS VESTED IN IT BY LAW, THAT:

SECTION 1. *Definition of Terms.* – As used in this Ordinance:

- a. “Vapor and Heated Tobacco Products” (VHTPs) also known as “e-cigarette” refers to a category of products that include vapor products, heated tobacco products and similar products. **Vapor products** shall mean electronic nicotine and non-nicotine delivery systems (ENDS/ENNDS) which are combinations of i) a liquid solution or gel that transforms into an aerosol without combustion through the employment of a mechanical heating element, battery or circuit that can be used to heat such solution or gel, and includes, but is not limited to ii) a cartridge, iii) a tank, and iv) the device without a cartridge or tank. It is commonly known as nicotine salt/salt nicotine, and conventional freebase or classic nicotine, and other similar products, regardless of nicotine content. **Heated tobacco products** refer to tobacco products that may be consumed

through heating tobacco, either electrically or through other means sufficiently to release an aerosol that can be inhaled, without burning or any combustion of the tobacco. Heated tobacco products include liquid solutions and gels that are part of the product and are heated to generate an aerosol. For purposes of this Ordinance, "Vapor product" is used interchangeably with "electronic cigarettes" or "e-cigarettes" while heated tobacco products is used interchangeably with "heat-not-burn" (HNB) products;

- b. "Nicotine receptacle" shall refer to bottles, boxes, cartons, or containers of any kind in which a nicotine-containing solution or non-burning tobacco or product that can be used for the consumption of nicotine-containing vapors or Nicotine Mixtures or any related product is offered for sale to consumers for use with a VHTP system.
- c. "Advertisement" – refers to any visual and/or audible message disseminated to the public about a particular product that promotes and gives publicity by words, designs, images or any other means through broadcast, electronic, print or whatever form of mass media, including outdoor advertisements, such as, but not limited to, signs and billboards. For the purpose of this Ordinance, advertisement shall be understood as VHTP or e-cigarette advertisement;
- d. "Advertiser" – refers to a person or entity on whose account or for whom an advertisement is prepared and disseminated by the advertising agency, which is a service established and operated for the purpose of counseling or creating and producing and/or implementing advertising programs in various forms of media;
- e. "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 e-cigarette advertising. This shall specifically refer to messages and images promoting VHTPs; the purchase or use of VHTPs; and VHTP or e-cigarette trademarks, brand names, design and manufacturer's names;
- f. "Celebrity" – refers to any natural person who, by his accomplishments or fame, or by reason of his profession or calling, gives the public a legitimate interest in his doings, affairs, and character. The term includes anyone who has arrived at a position where public attention is focused upon him as a person, such as, but not limited to, actors, athletes and other sports personalities, war heroes, famous inventors and explorers among others.
- g. "Distributor" – refers to any person to whom a VHTP 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;
- h. "Enclosed area" – refers to an area that is physically separated from adjacent areas by walls or partitions and a roof or ceiling. The walls or partitions must be continuous, interrupted only by doors and windows. The mere presence of a roof or ceiling over the structure, but without walls or partitions surrounding said structure, does not constitute an enclosed area;

- i. "Influencer" – refers to a person who creates content and has 10,000 following;
- j. "Legal-aged user" – refers to a person aged twenty-one (21) years old and above lawfully allowed to purchase, buy, and distribute VHTPs;
- k. "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 media such as, but not limited to, radio, television, cable television, and cinema; electronic media such as but not limited to, the internet. For the purpose of this Ordinance, communications designed to reach persons by private, postal or regular mail, electronic mail (e-mail), and similar means shall not be considered as mass media, except when the said communication or mail is used to promote and entice the recipient to use or try VHTPs.
- l. "Non-compliant VHTPs" – refers to those VHTPs being sold in the domestic market but fail to comply with national laws or regulations; these may be any of the following:
 - (1) Non-tax paid VHTPs (products with no affixed tax stamp or with fake tax stamps);
 - (2) VHTPs without the health warnings on its labels and packages as required under national laws and/or regulations.
- m. "Perimeter" – when used in this Ordinance in relation to sale of, and outdoor advertisements for, VHTPs, the term shall refer to any point in the boundaries as indicated in the Original Certificate of Title or Transfer Certificate of Title of the tract of land that is actually used or occupied by a public 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 or patrons of such facility, whether or not said tract of land is separated by adjacent tracts by a wall or fence;
- n. "Point-of-Sale" - refers to any location at which an individual can purchase or otherwise obtain VHTPs, or their components;
- o. "Premises"– refers to a tract of land and the building or buildings thereon, including the open spaces between the buildings located on the same tract of land and within the perimeter of said tract of land;
- p. "Promotion" – refers to an event or activity organized by or on behalf of a VHTP or e-cigarette manufacturer, distributor or retailer with the aim of promoting a brand of e-cigarette, which event or activity would not occur but for the support given to it by or on behalf of the VHTP manufacturer, distributor or retailer. It may also refer to the display of a VHTP or manufacturer's name, trademark, logo, and the like on non-VHTP goods. This includes the paid use of VHTPs bearing the brand names, trademarks, logos, and the like in movies, television and other forms of entertainment. For the purpose of this Ordinance, promotion shall be understood as VHTP or e-cigarette promotion;

- q. "Public conveyances" – refers to modes of transportation servicing the general population, such as but not limited to, elevators, airplanes, buses, taxicabs, ships, jeepneys, lightrail transits, tricycles, and similar vehicles;
- r. "Public places" – refers to enclosed or confined areas of all hospitals, medical clinics, schools, public transportation terminals and offices, and buildings such as private and public offices, recreational places, shopping malls, movie houses, hotels, restaurants, and the like;
- s. "Vaping" – means in possession or control of a powered ends/ennds or htp, regardless of whether the emission in the form of vapor or aerosol is being actively inhaled or exhaled.

SECTION 2. Public Place Use. – Use of VHTPs shall be prohibited in all enclosed public places except in designated vaping areas.

SECTION 3. Designation of vaping areas. - In all enclosed places that are open to the general public, and private workplaces, and other places not covered by Section 2 of this Ordinance, the owner, proprietor, operator, possessor, manager or administrator of such places shall establish vaping areas in accordance with the following standards:

- 3.1 Designated vaping areas ("DVA") within the building may be in an open space or separate area with proper ventilation, but shall not be located within the same room that has been designated as a smoking area. The DVA shall at all times be separate and distinct from a designated smoking area.
- 3.2 The owner, proprietor, operator, possessor, manager or administrator shall determine the size and specifications of the vaping area and non-vaping area.
- 3.3 The DVA shall not be located within two (2) meters from entrances and exits, and physically delineated from non-vaping areas.
- 3.4 DVAs shall have at least one (1) legible and visible sign posted, namely "VAPING AREA" for the information and guidance of all concerned. In addition, the sign or notice posted shall include a warning about the health effects of vaping in accordance with national laws and regulations. Lastly, DVAs should have a sign that states: "Persons below twenty-one (21) years old are not allowed to use VHTPs."

Vaping shall be allowed in outdoor areas without any need for designation as vaping area provided that vaping shall not be allowed within two (2) meters of entrances, exits and air intake ducts.

Notwithstanding the restrictions provided in this Section 3, temporary use or guided trials of VHTPs shall be allowed within the immediate vicinity of point-of-sale establishments solely for the limited purpose of testing and demonstrating the proper use of VHTPs.

SECTION 4. VHTP/ electronic cigarette ban in public conveyances: exception.

- Notwithstanding the absolute ban on vaping in public conveyances mentioned in

section 2, the prohibition does not apply to inter-island vessels where vaping areas have been designated.

SECTION 5. *Minimum Age Sales.* Under this Ordinance, it shall be unlawful:

- a) For any retailer to sell or distribute VHTPs to any person below twenty-one (21) years old.
- b) To purchase VHTPs from a minor.
- c) For a minor to sell VHTPs.
- d) For any person below twenty-one (21) years old to purchase VHTPs.
- e) For any person below twenty-one (21) years old to use VHTPs.

SECTION 6. *Sale of VHTPs within School Perimeters.* – The sale or distribution of VHTPs is prohibited within one hundred (100) meters from any point of the perimeter of a school, public playground or other facility frequented particularly by minors who are intended to be the principal users of such facility.

SECTION 7. *Point of Sale Display and Signage.* – No point-of-sale establishment shall display VHTPs without ensuring that the unit packets and outside wrapping of Heated Tobacco Products, Vapor Products and other similar products are compliant with the health warnings required under national laws and regulations.

Point-of-sale establishments offering, distributing or selling VHTPs to consumers shall post the following statement in a clear and conspicuous manner:

**“SALE/ DISTRIBUTION TO OR PURCHASE BY ANY PERSON
BELOW TWENTY-ONE (21) YEARS OLD OF VAPOR AND
HEATED TOBACCO PRODUCTS/ ELECTRONIC CIGARETTE IS
UNLAWFUL.”**

SECTION 8. *Proof of Age Verification.* – In case of doubt as to the age of the buyer, retailers shall verify by means of any valid form of photographic identification containing the date of birth of the bearer that the individual purchasing a VHTP is not below twenty-one (21) years of age.

It shall not be a defense for the person selling or distributing that he/she did not know nor had any reason to believe that the VHTP was for the consumption of the person aged below twenty-one (21) to whom it was sold.

SECTION 9. *Advertisement Restrictions.* – Printed and outdoor advertisements shall be allowed only within the premises of point-of-sale establishments regardless of whether it is visible from the outside or not. Advertisements shall likewise be allowed through direct marketing and on the internet. The following restrictions shall apply to all VHTP advertisements:

- (a) Advertisements shall not be aimed at or particularly appeal to persons under twenty-one (21) years of age.

- (b) Advertisements shall not 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.
- (c) Advertisements by adult influencers, key-opinion leaders, experts, celebrities or other similar individuals shall be allowed but advertisements shall only depict persons who are or who appear to be above twenty-five (25) years of age.
- (d) Advertisements shall not show, portray or depict scenes where the actual use of, act of using, vaping or puffing of VHTP is displayed.
- (e) Advertisements should not undermine quit-smoking messages and encourage non-tobacco or non-nicotine users to use the product.
- (f) Advertisements shall not contain any information or element that is untrue or not scientifically substantiated, in particular with regard to product characteristics, health effects, risks or emissions.
- (g) Promotional communications shall allow for adult consumers to learn about the availability of VHTPs, receive information about how to use them or product demonstration/information and to receive samples, try before purchasing, subject to proof of age and certification of smoker or usage status, and receive pre-sale and after-sales support.
- (h) Advertisements shall not appear on mass media television, radio, or cinema. However, for cinema screenings which restrict and verify the age of its audience to at least twenty-one (21) years old, advertisements may be allowed.
- (i) Advertisements shall be allowed in print media; provided that, the publication is not intended for or directed towards minors, and generally has seventy five (75%) adult readership or adult subscriber base.
- (j) Advertisements shall be allowed in electronic media, such as but not limited to digital media, telecommunications, internet websites, social media, social messaging applications and other similar forms to the foregoing; provided that for Advertisements conducted through internet websites, the internet website must be restricted to persons twenty-one (21) years of age or older; and provided, further, that this limitation shall not prevent the use of company internet websites or social media or social media messaging applications or other similar applications or medium to provide information regarding a company, its products and their use, services, sales support, after-sales support and other product-related information. For avoidance of doubt, an internet website or electronic media is deemed restricted if a person cannot obtain access beyond the first page of the website or before actual Communication is made to the user, unless the person has self-declared or otherwise established that he or she is at least twenty-one (21) years of age in accordance with Section 8 of this Ordinance.

- (k) All allowable advertisements and promotional materials for VHTPs shall carry health warnings as required by existing laws and regulations.

SECTION 10. Punishable Acts. – The following acts are punishable under this Ordinance:

- a. Vaping in public places where vaping is expressly prohibited under Section 2 of this Ordinance;
- b. Non-compliance with Section 3 of this Ordinance when an establishment owner requires users of VHTPs to use the same designated smoking areas, unless smoking is allowed in the entire establishment;
- c. Sale of VHTP products to or by a minor;
- d. Purchase of VHTP from a minor;
- e. Any person aged below twenty-one (21) of age to purchase VHTPs;
- f. Distribution of samples of VHTP to a person aged below twenty-one (21);
- g. Non-compliance with Section 6 of this Ordinance on selling restrictions;
- h. Non-compliance with the restrictions on VHTP promotions, advertisements, and required signage's at point-of-sale establishments;
- i. Sale and/or distribution of non-compliant VHTP with fake tax stamp, or without tax stamp, or proof of payment of excise tax, as required by law or regulations.
- j. Sale and/or distribution of non-compliant VHTPs without health warnings, as required by law or regulations.

SECTION 11. Penalties. For violation of this Ordinance:

On the first offense, a fine of Five Hundred Pesos (P500.00) or one (1) day of community service shall be imposed.

On the second offense, a fine of One Thousand Pesos (P1, 000.00) or two and a half (2.5) days of community service shall be imposed.

On the third offense, in addition to a fine of Two Thousand Five Hundred Pesos (P2,500.00) or up to five (5) days of community service, the business permits and licenses to operate of the offender may be cancelled or revoked.

One (1) day of community service shall be equivalent to eight (8) hours.

SECTION 12. Community Service. – The apprehended violator who opts to render community service shall report to the Provincial Health Officer and shall attend a

seminar/ training with topics relating to healthy living and activities such as clean up drives or other community development programs being implemented by the provincial government. The hours rendered in attending the said seminar/training shall be considered in computing the mandatory hours of community service.

SECTION 13. *Minor Offender.* – A minor offender of this Ordinance shall be dealt with in accordance with the provisions of Republic Act No. 9344 or the Juvenile Justice and Welfare Act of 2006.

SECTION 14. *Confiscation.* – VHTPs for sale and/or distribution associated with any violation of the prohibited acts in Sections I and J of this Ordinance shall be subject to confiscation and removal from the possession of the offender, whether natural or juridical person, in accordance with national laws, rules, and/or regulations of the Bureau of Internal Revenue (BIR), Bureau of Customs (BOC), or the regular courts.

A vape-free task force shall be formed to help carry out the provisions of this ordinance. The vape-free task force shall be composed of public officials only. Members of the Philippine National Police (PNP) and the government task force are directed to carry out the provisions of this Ordinance, including the apprehension of violators and the institution of criminal proceedings for violations of this Ordinance, in accordance with relevant laws, rules and regulations, and strictly observing due process.

The task force shall issue a corresponding confiscation receipt to the owner or the retailer of items confiscated. All confiscated VHTPs shall be endorsed to and placed in the custody of the task force for its proper disposal in accordance with applicable laws, rules and regulations. The task force shall coordinate, as the situation warrants, with appropriate national government agencies like the BIR, BOC, or the National Bureau of Investigation (NBI), as to the inventory, custody, confiscation, removal, and/or destruction of the non-compliant VHTPs.

SECTION 15. *Enforcement on Point-of-Sale Establishments.* - Within thirty (30) calendar days after the effectivity of this Ordinance the business permits and licensing office shall conduct inspections of point-of-sale establishments to determine their compliance with the provisions of this Ordinance.

Regular inspections shall thereafter be conducted at least once a month, or at such frequency that is practicable, during normal hours of operation of the point-of-sale establishments.

SECTION 16. *Civilian Participation in Enforcement.* – Any person may file a report or complaint for any violation of this Ordinance which report or complaint will be promptly acted upon within five (5) working days from receipt of such report or complaint.

SECTION 17. *Repealing Clause.* – All existing ordinances inconsistent with this Ordinance are hereby repealed or modified accordingly.

SECTION 18. *Interpretation.* – Any doubt in the interpretation of this Ordinance shall be construed in favor of the promotion of harm reduction.

SECTION 19. *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 20. *Effectivity.* – This Ordinance shall take effect on the day following its publication in a newspaper of general circulation within the territorial jurisdiction of the province.

APPROVED, November 10, 2020.



RAFAEL ANDREW R. VILLANUEVA
Board Member

EMARY JOY D. PASCUAL
Board Member



JO-MARIO ANGELO E. MATIAS
Board Member



NAPOLEON P. INTERIOR, JR.
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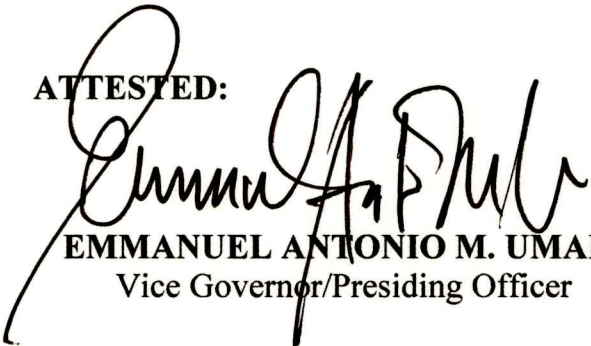
MARY SWEET LIBERTY N. CRUZ
Board Member

I HEREBY certify to the correctness of the foregoing resolution.



ATTY. NORBERTO D. CORONEL
Secretary to the Sangguniang Panlalawigan

ATTESTED:



EMMANUEL ANTONIO M. UMALI
Vice Governor/Presiding Officer

APPROVED:



AURELIO M. UMALI
Governor

Date