

ORDINANCE NO. 14-04

AN ORDINANCE PROMOTING A 100% SMOKE-FREE ENVIRONMENT IN SAN CARLOS CITY, NEGROS OCCIDENTAL, BANNING OF TOBACCO ADVERTISEMENT, RESTRICTING ACCESS TO TOBACCO PRODUCTS, IMPOSING PENALTIES FOR VIOLATIONS THEREOF, AND FOR OTHER PURPOSES

Introduced by Hons. BAGUIORO, MASCUNANA, CABILI and YU

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

WHEREAS, the Local Government Unit (LGU) has been granted power and authority by Republic Act No. 7160, otherwise known as the Local Government Code of the Philippines to promote the general welfare of its constituents to include, among others, the promotion of health and safety;

WHEREAS, Section 24 of Republic Act No. 8749, otherwise known as the Philippine Clean Air Act of 1999, prohibits smoking inside enclosed public places, including public vehicles, and LGUs are directed by law to implement these provisions;

WHEREAS, Section 5 of Republic Act No. 9211, otherwise known as the Tobacco Regulation Act of 2003, prohibits smoking in certain public places, whether enclosed or outdoors; imposes bans on tobacco advertising and access restrictions by banning sales in places frequented by minors and prohibiting the purchase from and sales to minors of tobacco products, and LGUs are directed by law to implement these provisions;

WHEREAS, scientific evidence has unequivocally established: that secondhand smoke kills; that there is no safe level of exposure to secondhand smoke; that even brief periods of exposure are harmful; and that ventilation/air filtration systems and indoor designated smoking areas are not effective in protecting people from second hand smoke;

WHEREAS, an increasing number of Filipinos/our constituents die each year due to tobacco-related illnesses caused by smoking and secondhand smoke, such as stroke, heart diseases, lung diseases and various forms of cancers, among others;

WHEREAS, the increase in prevalence of tobacco smoking among the youth necessitates enforcement of measures to protect them from being initiated to cigarette smoking and tobacco use by prohibiting advertising and restricting access to tobacco products by minors;

WHEREAS, the Civil Service Commission and 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, Land Transportation Franchising & Regulatory Board Memorandum Circular 036, s. 2009, prohibits smoking in all public utility vehicles and public transport terminals and requires holders of certificate of public convenience to prominently post No Smoking signage's in their authorized units and premises;

WHEREAS, the LGU recognizes that the participation of civil society is essential in achieving the objective of this ordinance;

WHEREAS, the Constitution and the Local Government Code provide that local governments have the power to impose reasonable fees and charges, consistent with the basic policy of local autonomy;

NOW, THEREFORE,

Be it ordained by the Sangguniang Panlungsod of the City of San Carlos, Negros Occidental, in regular session assembled, that:

Section 1. Short Title. - This Ordinance shall be known as “**THE COMPREHENSIVE SMOKE FREE ORDINANCE OF SAN CARLOS CITY, NEGROS OCCIDENTAL**”.

Section 2. Purpose - It is the purpose of this Ordinance to safeguard public health and ensure the well being of all its constituents by protecting them from the harmful effects of smoking and tobacco consumption.

Section 3. Coverage - This Ordinance shall apply to all persons, whether natural or juridical, whether resident or not, and in all places, found within the territorial jurisdiction of San Carlos City, who smoke or allow smoking in a public and private utility vehicle, government-owned vehicle or any other means of public transport for passengers, accommodation and entertainment establishment, public building, public place, enclosed public place, or in any enclosed area outside of one’s private residence.

Section 4. Definition of Terms – As used in this Ordinance, the following terms 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) **Cigarettes** – refers to any roll or tubular construction, which, contains tobacco or its derivatives and is intended to be burned, heated, or smoked under ordinary conditions of use.
- b) **Civil society organization (CSO)** — refers to a legally constituted voluntary civic and social organization or institution created with no participation of government, including but not limited to, charities, development non-governmental organizations (NGOs), community groups, women’s organizations, faith-based organizations, professional associations, coalitions and advocacy groups. As used in this Ordinance, CSO do not include organizations or associations related to or connected with the tobacco industry in any way;
- c) **Designated Smoking Area (DSA)** — refers to an outdoor area, where a person is allowed to smoke without violating this Ordinance that strictly meets the following requirements, at the minimum:
 1. it shall be located in an open space with no permanent or temporary roof(s) or wall(s);
 2. it shall not be located within ten (10) meters of entrances, exits, or any place where people usually congregate;
 3. It shall not have an area larger than ten (10) square meters;
 4. No building shall have more than one (1) DSA per building;
 5. No food or drinks shall be served in the designated smoking area;
 6. Minors or persons below the age of 18 shall not be allowed at (or within) DSA;
 7. Every DSA shall have highly visible and prominently displayed “Smoking Area” sign and a graphic depiction with a corresponding explanation of the ill effects of smoking on smokers health, on passive smokers and on third-hand smokers.All DSA shall be covered by a certificate of compliance from the office of the City Mayor through the Local Tobacco Control Board.
- d) **Enclosed or Partially Enclosed-** means being enclosed by one or more walls or sides, whether covered by a roof or not, or even if open on all sides but is covered by a roof, regardless of the type of material used for the roof, walls or sides, and regardless of whether the structure is permanent or temporary in nature.
- e) **Law Enforcement Team-** refers to the body created to spearhead the implementation and enforcement of various ordinances in the city.
- f) **Local Tobacco Control Board-** refers to the body created to have over-all supervision and control in the implementation of this Ordinance.
- g) **Minor-** refers to any person below eighteen (18) years old;
- h) **Outdoor Advertisement-** refers to any sign, model, placard, poster, board, billboard, banner, bunting, light display, device, structure or representation employed outdoors wholly or partially advertise or promote a

tobacco product to the public.

- i) **Person in charge** - refers to any person who has control or responsibility over any place or means of public transport covered by this Ordinance, or any agent or designee of such person, including the proprietor, possessor, manager, or administrator;

In case of public places, public outdoor spaces, or other establishments, it refers to the director, trustee, president, manager, or other officer of a corporation, the manager or partner of a partnership, the owner, proprietor or operator of a sole/single proprietorship, or the administrator of a government property, office or building, as the case may be.

In case of a public transport, it refers to the owner, the driver, the conductor, or the captain of a public transport. In case of workplaces, it refers to the employer, who may be an individual employer, or a sole proprietor, or if the employer is a corporation, the director, trustee, president, manager or other officer of the corporation.

- j) **Point of sale** - refers to any location at which an individual can purchase or otherwise obtain tobacco products;
- k) **Public Transport** - refers to any vehicles, whether mobile or stationary, used in the transport of passengers or available to the public as a mode of transport, such as, but not limited to, jeepneys, buses, taxicabs, trains, ships, airplanes, light rail transits, vans, tricycles, trisicads, motorcycles, and other public utility vehicles, whether covered by a Certificate of Public Transport or not;
- l) **Public places** - refers to 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/stores that provide food, accommodation, drinks, professional services, merchandise, entertainment, or other services, as well as gasoline stations, banks, malls, shopping/business arcades, town squares, terminals, airports, seaports, schools, places of worship, churches, hospitals, cinema houses, gymnasiums, covered courts, funeral parlors, barber shops, cockpits, gaming areas, internet cafes, recreational facilities, pedestrian lanes, overpasses, underpasses, parking areas, waiting sheds, sidewalks, and other places where people usually congregate;
- m) **Public Outdoor Spaces** - refers to outdoor spaces 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, health/hospital compounds, parks, gardens, resorts, markets, streets, sidewalks, walkways, entrance ways, waiting areas, and the like;
- n) **Shisha** – refers to device or instrument, which may have a single or multi-stemmed pipe for smoking, whether or not it delivers nicotine to the user. In which the smoke is passed through a water basin before inhalation. It is also known as waterpipe, sheesha, hoocha, nargeela, argeel, or nargile;
- o) **Second-hand smoke** - refers to the smoke emitted from the burning end or heated tobacco products usually in combination with the smoke exhaled by the smoker.
- p) **Smoking** – refers to being in possession or control of a lighted, emission-producing tobacco product, regardless of whether the smoke is being actively inhaled or exhaled.
- q) **Tobacco Advertising and Promotion** – refers to any form of commercial communication, recommendation or action with the aim, effect or likely effect of promoting a tobacco product or tobacco use, either directly or indirectly, including but not limited to, any message or image promoting smoking, tobacco use, tobacco products, brand names, or tobacco company names or any promotional materials or structure that contains these, such as, but not limited to, posters, streamers, signages, standees, billboards, fliers, umbrellas, parasols, CDs, film, caps, t-shirts, sweatshirts, visors, backpacks, sunglasses, writing implements, towels, mugs, candies, stickers, and the like.
- r) **Tobacco Industry**- refers to organizations, entities, associations, and individuals that work for or in behalf of the tobacco industry, such as, but not limited to, tobacco manufacturers, wholesale distributors, importers of tobacco products, tobacco retailers, front groups and any other Individuals or organizations, including, but not limited to, lawyers, scientists and lobbyists that work to further the interests of the tobacco industry.
- s) **Tobacco Products**- products entirely or partly made of a tobacco leaf as raw material which is

manufactured to be used for smoking, sucking, chewing or snuffing such as but not limited to cigars, cigarettes, and cigarillos.

- t) **Tobacco Product Substitute** – refers to any device or instrument that resembles the outward appearance of a traditional smoking/tobacco product or that is intended to be a substitute for traditional smoking/tobacco products, whether or not used to deliver nicotine to the user, including, but not limited to, electronic nicotine delivery systems, shisha, and other similar devices.
- u) **Workplace** – refers to any place where more than one person, regardless of employment status, performs work. Vehicles used in the course of work are considered workplaces.

Section 5. Prohibited Acts — The following acts shall be prohibited:

- a) Smoking or using any tobacco products in any part of any enclosed or partially enclosed public place, workplace, public transport, or public outdoor space, except in duly approved designated smoking area;
- b) Knowingly allowing, abetting, or tolerating smoking or the use of any tobacco products in any of the places enumerated in the immediately preceding paragraph, except when smoking is done within duly approved designated smoking areas;
- c) Selling, distributing, or advertising tobacco products in a school, public playground, or any other facility frequented by minors, or within one hundred (100) meters from any point of the perimeter of these places.
- d) Purchasing or buying any tobacco products from a minor, or selling or distributing any tobacco product to a minor, or using, buying, selling any tobacco product by a minor;
- e) Placing cinema and outdoor advertisements of tobacco products;
- f) Placing, hanging, posting, distributing any type of tobacco advertisement, such as leaflets, posters and similar materials, outside the premises of point-of-sale establishments;
- g) Selling tobacco products without a permit or license;
- h) Smoking while driving whether public utility vehicle or private utility vehicle with open windows, motorcycle, tricycle, and triscad and pedicabs;
- i) Failure to comply with any of the duties and obligations set forth in Section 6 or in any other provision of this ordinance.

Section 6. Duties and Responsibilities of Persons in Charge — The person in charge of any enclosed or partially enclosed public place, workplace, public transport, or public outdoor space shall:

- a) Post and display prominently “No smoking” signages in the most visible locations in the area where smoking is prohibited:
 - i. For public places, workplaces, and outdoor spaces, at the minimum, a “No smoking” sign must be posted at the entrance of the area. The “No Smoking” signage shall be at least eight (8) inches x 11 inches in size and the international “No Smoking” symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) shall occupy no less than seventy (70%) of the signage. The remaining lower 30% of the signage shall show the following information:

“STRICTLY NO SMOKING” as per ORDINANCE NO. 14-04
Violators can be fined up to P2,500.00
Report violations to the PNP HOTLINE
 - ii. For public transport, the “No Smoking” signage shall be in the form of a three and one-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 facing the passengers;
- b) Remove all ashtrays or any receptacles for disposing of cigarette refuse from places where smoking is prohibited;

- c) For persons-in-charge of schools, public playgrounds or other facilities frequented by minors, post the following statement in a clear and conspicuous manner:

**SELLING OF CIGARETTES OR OTHER
TOBACCO PRODUCTS NOT ALLOWED
WITHIN 100 METERS FROM [SCHOOL/ETC]
PERIMETER**

- d) For person-in-charge of point-of-sale establishments, post the following statement in a clear and conspicuous manner:

**SALE/DISTRIBUTION OF TOBACCO
PRODUCTS TO MINORS IS UNLAWFUL**

- e) Ensure that all the employees in the establishment are aware of this Ordinance and to provide a procedure to warn violators;
- f) Allow inspectors and representatives of the duly designated civil society organization (CSO) and deputized civilians, entry into the establishment on any regular business day and during regular business hours for the purpose of inspecting the premises compliance status;
- g) Undertake all reasonable steps to ensure strict implementation of this Ordinance, and to inform and refrain people from smoking or using any tobacco product in their establishments, except in duly approved designated smoking area. At the minimum, establishments shall ensure compliance with the following procedure:
 - 1. Stop people from smoking or using any tobacco product by warning the violators and/or requesting them to leave the premises.
 - 2. If the violator fails to comply by ceasing to smoke or by leaving the premises, the person in charge or his agent shall immediately report the incident to the proper authorities (e.g., the nearest peace officer or police officer).
- h) Remove all forms of tobacco advertisements other than those found inside the premises of a retail establishment that is authorized or permitted to sell tobacco products;
- i) Remove all tobacco products and related advertisements from establishments and properties located within the one hundred (100)-meter perimeter of a school, public playground or other facility frequented by minors;
- j) Indicate any intention to sell or advertise tobacco products in all its business permits and related applications (including in case of renewal) for permits and licenses;
- k) Secure a permit for the establishment of a designated smoking area in accordance with the specifications provided in Section 4(b) and in this Section 6, and ensure that the designated smoking area remains compliant with such specifications; and
- l) Obtain clearance and secure approval for the sale and/or advertisement of tobacco products, and remove all tobacco products and related advertisements if the permit/license issued pursuant thereto does not allow it.

Section 7. *Persons Liable* — The following persons/individuals are liable under this Ordinance:

- a) Any person who commits the prohibited acts stated in Section 5 hereof;
- b) Persons-in-charge who knowingly allow, abet, or tolerate the prohibited acts enumerated in Section 5 and who otherwise fail to fulfill the duties and obligations as enumerated in Section 6 of this Ordinance;
- c) Any passenger, driver, conductor, or inspector of public transport, government-owned vehicles smoking as stated in section 4 (f);
- d) In addition to or regardless of the liability of the persons in charge, any corporation, partnership, entity or establishment that fails to comply with the requirements under Section 5 and Section 6 in relation to Section 4.

Section 8. Penalties — The following penalties shall be imposed on violators of this Ordinance:

A.1. Violation of Section 5 (a) and Section 6

P 500.00

P1,000.00

Third and Subsequent Offenses **P2,500.00. or imprisonment for a period not exceeding 5 days or both at the discretion of the court.**

2. Violation of Section 5 (b), (c), (d) and (e)

P1,500.00

P3,000.00

Third and Subsequent Offenses **P5,000.00. or imprisonment for a period not exceeding 20 days or both at the discretion of the court. Suspension or revocation of business license or permit (in case of a business entity or establishment), if applicable.**

3. Violation of Section 5 (f), (g) and (h)

First Offense

P2,000.00

Second Offense

P3,000.00

Third and Subsequent Offenses **P5,000.00. or imprisonment for a period not exceeding 20 days or both at the discretion of the court. Suspension or revocation of business license or permit (in case of a business entity or establishment), if applicable.**

In case of establishments which do not opt to declare their establishments as totally free from smoking but fail to provide the appropriate designated smoking areas as certified by the City Health Office and City Engineer's Office within the 60-day period, their business permits may be revoked.

In case where smoking is allowed, abetted or tolerated in an establishment in violation of this Ordinance, a penalty shall be imposed upon the President or Manager in case of corporations, partnerships or associations, or the owner, proprietor or operator in case of single proprietorship, whether tourism-accredited or not as follows:

P3,000.00

P5,000.00

Third Offense or succeeding violations thereof shall be ground for Suspension or revocation of business license or permit or closure.

For drivers/passengers of Public Utility Vehicles (PUVs)

Fine of P 500.00

Fine of P1,000.00

Fine of P2,500.00 or 10 days imprisonment or both at the discretion of the court.

Drivers of public transport are also required to post the following sign inside their vehicle:

“NO SMOKING AS PER CITY ORDINANCE NO. 14-04

Penalty for violation thereof:

Fine of P500.00

Fine of P1, 500.00

Fine of P2, 500.00 or imprisonment for 3 days but not more than 6 days at the discretion of the court.

The penalty or fine, provided above may be imposed administratively through the Citation Ticket System established pursuant to this Ordinance.

B. SUSPENSION OF LICENSE/PERMIT: In addition to the fine or imprisonment, the License or permit to operate any establishment shall be suspended upon:

1. Failure to take corrective action despite notice within ten (10) calendar days from the receipt of notice of violation of this ordinance, which may be in the form of a citation ticket;

2. Failure to pay the fine within ten (10) calendar days from receipt of notice of violation, which may be in the form of a citation ticket, regardless of whether or not such notice or citation ticket was accepted.

C. CANCELLATION OF LICENSE/PERMIT AND CLOSURE ORDER: The license/permit of any business entity or establishment shall be subject to revocation or cancellation by the City Mayor, upon the recommendation of the Local Tobacco Control Board, in the event that the business entity or establishment:

- i. Continues operations despite the suspension of its license/permit;
- ii. Fails to take corrective action despite the receipt of two (2) consecutive notices of violation of the Ordinance, which may be in the form of citation ticket(s), within ten (10) calendar days from receipt of the second notice;
- iii. Re-installs, re-posts, or distributes any removed or confiscated tobacco advertisements; or
- iv. Is found to have committed three (3) or more violations of this Ordinance.

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

E. COMMUNITY SERVICE- If a violator is unable or unwilling to pay the fines imposed, he/she may choose to render community service (e.g. tree planting, clean-ups, receives smoke-free orientation/seminar from the **Smoking Cessation Clinic**, assist in the implementation of smoke-free advocacy activities in the LGU). For every hour of community service rendered, the outstanding fine shall be reduced by an amount equivalent to triple the hourly minimum wage.

Section 9. LIFTING OF THE SUSPENSION/CLOSURE ORDER — An order for the suspension or cancellation of the business permit/license and closure of any business entity or establishment shall be lifted only upon compliance with the following requirements:

- a) submission of a written request to the City Health Office for re-inspection;
- b) payment of re-inspection fee of php500.00;
- c) full compliance with the Ordinance upon re-inspection;
- d) secure from the Local Tobacco Control Board an endorsement to lift the order of suspension or cancellation of business permit/license and closure.

Section 10. Compliance with the Ordinance as Additional Requirement of Sanitation Standards — Compliance to the Ordinance shall form part of the Sanitation Standards of the City Health Office. The City Health Office shall integrate the requirements of this Ordinance with its Sanitation Standards and its requirements for the issuance of a sanitary permit. No sanitary permit shall be issued, unless the City Health Office has verified, upon inspection, compliance with the requirements of this Ordinance.

Section 11. Compliance with the Ordinance as Additional Requirements of Business Permits, License Applications and Renewals — Compliance with the Ordinance shall form part of the requirements for the issuance of business permits and licenses.

- a) No business permit or license to operate shall be issued, unless the applicant business entity or establishment is found to have complied with the requirements of this ordinance;
- b) Business entities or establishments within the one hundred (100) meters from any point of the perimeter of any school, playground or other facility frequented by minors shall not be allowed to sell or advertise tobacco products;
- c) All Business Permits and Licenses shall be stamped or marked with the following notations, where applicable:

“STRICT PROHIBITIONS:

- Smoking
- Selling of Tobacco Products to Minors
- Tobacco Advertisements except inside the premises of an authorized/licensed retail establishment
- Selling or advertising of tobacco products within the 100-Meter Perimeter of any school, playground or facility frequented by minors (or where the establishment is identified to be within the restricted zone, “This establishment is strictly prohibited from selling or advertising tobacco products”).

Section 12. FEES — The following fees to defray the costs of inspections for purposes of monitoring compliance with this Ordinance and of the processing of applications for necessary permits and licenses:

Mayor's Permit Fee- CIGARETTE (Retailer)	-	P150.00/annum
Designated Smoking Area Fee	-	50.00/annum
Re-inspection fee (For Violators)	-	500.00

Fees collected in accordance with this Ordinance shall be earmarked to supplement the operational funds of the Local Tobacco Control Board and the Smoking Cessation program to be established pursuant to this Ordinance. The fees shall be automatically deposited to a separate trust fund for this purpose.

LOCAL TOBACCO CONTROL BOARD

Section 13. Local Tobacco Control Board- A **Local Tobacco Control Board** is hereby created to implement and monitor this Ordinance as well as to conduct educational awareness campaign, information dissemination programs, and capability building programs, for the constituents and enforcers.

The Local Tobacco Control Board shall be composed of the following:

- a) **City Mayor** - **Chairman**
- b) **City Legal Officer** - **Vice Chairman**
- c) City Health Officer
- d) City Administrator or Representative from the Office of the City Mayor
- e) City Building/Engineering Officer
- f) Business Permits and Licenses Officer
- g) Representative of the Civil Society Organization (CSO) designated by the City Mayor under section 21 hereof
- h) Representative of the Philippine National Police (PNP), or

Such other persons as may be deputized by the City Mayor:

- i) Representative from the Department of Education (DepEd)
- j) Representative from the Department of Social Welfare and Development (DSWD)
- k) Representative from the City Environment Management Office (CEMO)

The **Local Tobacco Control Board** shall not include as a member any person or entity who works for or on behalf of the tobacco industry, or who works to further the interests of the tobacco industry. No member of the **Local Tobacco Control Board** shall represent or receive any contribution or compensation, directly or indirectly, whether financial or otherwise, from the tobacco industry. The Local Tobacco Control Board and its members 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. These measures are necessary to protect the primary health objectives of this Ordinance and avoid conflict of interest for its enforcers.

Section 14. Civil Society Participation— Within thirty (30) calendar days from the effectivity of this Ordinance, the City Health Office shall designate, with the approval of the Office of the Mayor, a representative(s) of one or more CSOs, with no tobacco industry relationship, affiliation, or membership, to form part of the Local Tobacco Control Board and assist in the implementation of this Ordinance.

Section 15. Powers and Duties of the LTCB— Other than (1) receiving, reviewing and processing reports of the complaints for violations of this Ordinance and (2) deputizing enforcers under sections 12 to 16 hereof, the **Local Tobacco Control Board** shall have the following respective duties and responsibilities:

- a. **The City Mayor shall**
 - 1) Act as Chairman of the Local Tobacco Control Board
- b. **The City Legal Office shall:**

- 1) Act as Vice Chairman of the Local Tobacco Control Board
- 2) Act as Chair of the Local Enforcement Team (LET) and Over-all coordinator in the implementation and enforcement of this Ordinance.
- 3) Coordinate with the PNP in assigning a hotline or any other number to which violations of this Ordinance maybe reported by telephone call or by SMS and a person to operate the line and record reports.
- 4) Develop and conduct orientation seminars for enforcers.

c. The City Health Officer shall:

- 1) Act as Over-all in-charge in the city-wide information and education campaign of this Ordinance and other activities such as:
 - a) preliminary inspections and in monitoring violations of this Ordinance
 - b) developing and promoting a smoking cessation program
 - c) promoting awareness of this Ordinance and in encouraging public support and participation in its implementation and enforcement
 - d) developing and conducting orientation, seminars and trainings for enforcers
 - e) evaluating the performance of the Local Tobacco Control Board and the effectiveness of the implementation and enforcement of this Ordinance.

d. The City Administrator or Representative from the Mayor's Office shall:

- 1) Facilitate mobilization of resources, authorization and deputization process, inspection and monitoring initiatives and closure orders.

e. The City Building/Engineering Officer shall:

- 1) Conduct, together with the City Health Office or on its own, inspection activities as provided in this Ordinance.
- 2) Determine whether or not enclosed or partially enclosed public places, workplaces or other public places, and point-of-sale establishments, comply with the requirements of this Ordinance.

f. The CSO Representative shall:

- 1) Assist in preliminary inspections and in monitoring violations of this Ordinance
- 2) Assist in developing and promoting a Smoking Cessation Program
- 3) Assist in promoting awareness of this Ordinance and in encouraging public support and participation in its implementation and enforcement
- 4) Assist in developing and conducting orientation, seminars and trainings for enforcers
- 5) Assist in evaluating the performance of the Local Tobacco Control Board and the effectiveness of the implementation and enforcement of this Ordinance.

g. The Philippine National Police (PNP) Representative shall:

- 1) Apprehend violators in accordance with the provisions of this ordinance
- 2) Assist San Carlos City Officials and deputized civilians in apprehending violators and in filing the appropriate complaints

h. DepEd REPRESENTATIVES shall:

- 1) Assist in preliminary inspections and in monitoring violations of this Ordinance
- 2) Assist in developing and promoting a smoking cessation program
- 3) Assist in promoting awareness of this Ordinance and in encouraging public support and participation in its implementation and enforcement
- 4) Assist in developing and conducting orientation, seminars and trainings for enforcers
- 5) Assist in evaluating the performance of the Local Tobacco Control Board and the effectiveness of the implementation and enforcement of this Ordinance.

i. Department of Social Welfare and Development (DSWD) shall:

- 1) Assist in preliminary inspections and in monitoring violations of this Ordinance

- 2) Assist in developing and promoting a smoking cessation program
- 3) Assist in promoting awareness of this Ordinance and in encouraging public support and participation in its implementation and enforcement
- 4) Assist in developing and conducting orientation, seminars and trainings for enforcers
- 5) Assist in evaluating the performance of the Local Tobacco Control Board and the effectiveness of the implementation and enforcement of this Ordinance
- 6) Assist in reviewing reports of and complaints for minors who violate the Ordinance and in determining liability.

j. City Environment Management Office (CEMO) shall:

- 1) Assist in preliminary inspections and in monitoring violations of this Ordinance
- 2) Assist in developing and promoting a Smoking Cessation Program
- 3) Assist in promoting awareness of this Ordinance and in encouraging public support and participation in its implementation and enforcement
- 4) Assist in developing and conducting orientation, seminars and trainings for enforcers
- 5) Assist in evaluating the performance of the Local Tobacco Control Board and the effectiveness of the implementation and enforcement of this Ordinance.

ENFORCEMENT

Section 16. *Enforcement on Individuals.* — Members of the PNP shall apprehend and issue Citation Tickets against persons caught smoking in places where such is prohibited. They shall forward copies of the tickets they issued to violators to the City Treasurer’s Office regularly, at least thrice a week.

Section 17. *Enforcement On Public Transport.* — Members of the PNP and/or persons duly deputized by the Local Tobacco Control Board shall inspect public conveyances during their regular hours of operation and shall issue Citation Tickets upon discovery of any violation of this Ordinance. They shall forward copies of the tickets they issue to violators to the City Treasurer’s Office regularly, at least thrice a week.

Section 18. *Enforcement on Establishments.* — Sixty (60) calendar days after the effectivity of this Ordinance, an inspection team composed of representatives from the Law Enforcement Team, City Health Office, the City Engineer’s Office, and the City Business Permits and Licensing Office, shall conduct inspections of establishments and buildings to determine their compliance with the provisions of this Ordinance and certify the appropriateness of the designated smoking areas, taking into consideration the purpose of the law which is to protect non-smokers from the pernicious effects of tobacco smoke. Payment of required fees shall also be inspected, monitored and reported.

Regular inspection shall thereafter be conducted at least once every month or simultaneously with other regular inspections done by the City, whichever is more frequent, during normal hours of operation of the establishment.

A period of thirty (30) days shall be given to the management of the establishment to comply with the requirements of this Ordinance. Non-compliance with the requirements set forth in this section shall be a ground for cancellation of the business permit by the City Mayor’s Office.

In the course of inspection, the inspection team may apprehend individual violators and request the assistance of the PNP in doing so.

The inspection team shall issue a Citation Ticket against the establishment upon finding of non-compliance with or of any violation of this Ordinance. A Citation Ticket may be issued for each day that the establishment is found to be non-compliant.

Re-inspection of the establishment shall be done on any day after the issuance of the Citation Ticket, but in no case, not less than ten (10) calendar days after such issuance. If the establishment fails to comply with the obligations stated in the Citation Ticket upon re-inspection, the inspection team shall recommend the suspension of the license to operate of the establishment, consistent with Section 9 (a) hereof.

Section 19. *Civilian Participation in Enforcement* – Within thirty (30) calendar days from the effectivity of this Ordinance, the Local Tobacco Control Board shall designate a Civil Society Organization (CSO) to discharge the duties and responsibilities enumerated in Section 15 (f) thereof.

The Local Tobacco Control Board may deputized qualified civilians as enforcers for any violation of this Ordinance.

Any person can file with the Local Tobacco Control Board a report of or complaint for any violation of this Ordinance.

Section 20. Functions of Deputized Enforcers.


- a. Monitor and inspect the public places covered by this Ordinance;
- b. Report violations, issue citation tickets, and submit reports of compliance to the Local Tobacco Control Board;
- c. Act as a complainant or witness in a criminal or administrative proceeding against violators of this Ordinance;
- d. Conduct a citizen’s arrest pursuant to Rule 113; section 9 of the Rules of criminal procedure when an individual violator refuses to cease smoking in a prohibited area even after fair warning has been given; and seek assistance from the PNP’s in conducting an arrest.

HOTLINE AND CITATION TICKET SYSTEM

Section 21. HOTLINE- There shall be established a local hotline to which violations of this Ordinance may be reported, either by phone call, short message service (SMS), email, or other forms of communication. A hotline coordinator will be designated to receive information reported in the hotline so that appropriate action may be taken.

Section 22. Citation Ticket System- Any and all violators of this Ordinance shall be informed of their violation and the penalty corresponding thereto by means of a Citation Ticket System.

- a. A citation ticket shall be issued to persons liable for any violation under the Ordinance. It shall contain, among others, the name and address of the violator, date, time and place of violation, name of the deputized enforcer, specific violation committed, the corresponding administrative penalty, and the due date for compliance in accordance with the ordinance.

<div style="text-align: center;">  <p>REPUBLIC OF THE PHILIPPINES <i>Province of Negros Occidental</i></p> <p>City of San Carlos</p> <p>SANGGUNIANG PANLUNGSOD</p> <p>SMOKE-FREE ORDINANCE</p> <p>CITATION TICKET No. _____</p> <p>For violation of Ordinance No. 14-04 entitled “THE COMPREHENSIVE SMOKE FREE ORDINANCE OF SAN CARLOS CITY, NEGROS OCCIDENTAL”, you are hereby directed to pay to the City Treasurer the prescribed fines/penalties.</p> <p><input type="checkbox"/> offense</p> <p><input type="checkbox"/> offense</p> <p><input type="checkbox"/> and subsequent offenses</p> </div>	<table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left; border-bottom: 1px solid black;">VIOLATIONS:</th> <th style="text-align: left; border-bottom: 1px solid black;">PENALTIES (Section 8)</th> </tr> </thead> <tbody> <tr> <td colspan="2">1. Sec. 5(a) and Sec. 6</td> </tr> <tr> <td>1st Offense</td> <td><input type="checkbox"/> P 500.00</td> </tr> <tr> <td>2nd Offense</td> <td><input type="checkbox"/> P1,000.00</td> </tr> <tr> <td>3rd & subsequent Offenses</td> <td><input type="checkbox"/> P2,500.00 or imprisonment for a period not exceeding 5 days or both at the discretion of the court.</td> </tr> <tr> <td colspan="2">2. Sec. 5(b), (c), (d) and (e)</td> </tr> <tr> <td>1st Offense</td> <td><input type="checkbox"/> P1, 500.00</td> </tr> <tr> <td>2nd Offense</td> <td><input type="checkbox"/> P3,000.00</td> </tr> <tr> <td>3rd & subsequent Offenses</td> <td><input type="checkbox"/> P5,000.00 or imprisonment for a period not exceeding 20 days or both at the discretion of the court. Suspension or revocation of business license or permit (in case of a business entity or establishment).</td> </tr> <tr> <td colspan="2">3. Sec. 5(f), (g) and (h)</td> </tr> <tr> <td>1st Offense</td> <td><input type="checkbox"/> P2,000.00</td> </tr> <tr> <td>2nd Offense</td> <td><input type="checkbox"/> P3,000.00</td> </tr> <tr> <td>3rd & subsequent Offenses</td> <td><input type="checkbox"/> P5,000.00 or imprisonment for a period not exceeding 5 days or both at the discretion of the court. Suspension or revocation of business license or permit (in case of a business entity or establishment).</td> </tr> <tr> <td colspan="2">For President/Manager/Owner of corp./ entity</td> </tr> <tr> <td>1st Offense</td> <td><input type="checkbox"/> P3,000.00</td> </tr> <tr> <td>2nd Offense</td> <td><input type="checkbox"/> P5,000.00</td> </tr> <tr> <td>3rd & subsequent Offenses</td> <td>Suspension or revocation of</td> </tr> </tbody> </table>	VIOLATIONS:	PENALTIES (Section 8)	1. Sec. 5(a) and Sec. 6		1 st Offense	<input type="checkbox"/> P 500.00	2 nd Offense	<input type="checkbox"/> P1,000.00	3 rd & subsequent Offenses	<input type="checkbox"/> P2,500.00 or imprisonment for a period not exceeding 5 days or both at the discretion of the court.	2. Sec. 5(b), (c), (d) and (e)		1 st Offense	<input type="checkbox"/> P1, 500.00	2 nd Offense	<input type="checkbox"/> P3,000.00	3 rd & subsequent Offenses	<input type="checkbox"/> P5,000.00 or imprisonment for a period not exceeding 20 days or both at the discretion of the court. Suspension or revocation of business license or permit (in case of a business entity or establishment).	3. Sec. 5(f), (g) and (h)		1 st Offense	<input type="checkbox"/> P2,000.00	2 nd Offense	<input type="checkbox"/> P3,000.00	3 rd & subsequent Offenses	<input type="checkbox"/> P5,000.00 or imprisonment for a period not exceeding 5 days or both at the discretion of the court. Suspension or revocation of business license or permit (in case of a business entity or establishment).	For President/Manager/Owner of corp./ entity		1 st Offense	<input type="checkbox"/> P3,000.00	2 nd Offense	<input type="checkbox"/> P5,000.00	3 rd & subsequent Offenses	Suspension or revocation of
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<p>_____ Date & Time of Violation</p> <p>_____ Address of the Violator</p> <p>_____ Place of the Violation</p> <p>_____ Due Date</p> <p>_____ Name/Signature of the Deputized Enforcer</p> <p>_____ Fines/Penalties & Date of Payment</p> <p>_____ City Treasurer</p>	<p>3rd & subsequent Offenses <input type="checkbox"/> P2,500.00 or 10 days imprisonment or both at the discretion of the court.</p> <p>Failure of Drivers of Public Transport to post NO SMOKING SIGN</p> <p>1st Offense <input type="checkbox"/> P 500.00</p> <p>2nd Offense <input type="checkbox"/> P1,500.00</p> <p>3rd & subsequent Offenses <input type="checkbox"/> P2,500.00 or imprisonment for 3 days but not more than 6 days at the discretion of the court.</p> <p>FEES (Section 12)</p> <p>Mayor's Permit Fee- CIGARETTE (Retailer) <input type="checkbox"/> P 150.00</p> <p>Designated Smoking Area Fee <input type="checkbox"/> P 50.00</p> <p>Re-inspection Fee <input type="checkbox"/> P 500.00</p>
<p>Failure to settle the fines/penalties within five (5) working days in violation of this Ordinance, appropriate charges will be filed in court.</p>	

- b. When a citation ticket is issued to a violator, the violator shall report to the City Treasurer on or before the due date stated in the citation ticket, which shall in no case be more than five (5) business days from the date of apprehension and issuance, in order to pay the fine imposed.
- c. Members of the PNP and other enforcers duly commissioned or deputized by the Local Tobacco Control Board shall have the power to apprehend violators of the Ordinance and issue citation tickets.
- d. PNP and deputized enforcers shall submit duplicates of the citation tickets issued to the City Treasurer within three (3) business days. The City Treasurer shall keep duplicates of all citation tickets issued to violators, and other records of violations of the Ordinance reported through other means, such as the hotline.
- e. The citation ticket booklet shall be issued by the City Treasurer and distributed to enforcers and all other persons in charge with the enforcement of the Ordinance.

SMOKING CESSATION PROGRAM

Section 23. Smoking Cessation Program- The City Health Officer, with the assistance of the City Health Education and Promotion Officer, City Information Officer, and Civil Society Organization (CSO) Representative/s, shall develop and promote a Smoking Cessation Program, and encourage the participation of public and private institutions and facilities in this program so that smokers who are found violating this ordinance may be referred to said facilities.

INFORMATION DRIVE

Section 24. Information Drive—within sixty (60) calendar days of the effectivity of this Ordinance, the City Legal Office, together with the City Health Office, City Information Officer and the City Health Education and Promotion Officer, shall:

- a. in coordination with the Office of the City Mayor
 - i. Provide at least two (2) copies of this Ordinance to every PNP station or precinct in San Carlos City;
 - ii. Provide a primer in this Ordinance for every member of the PNP member in San Carlos City; and
 - iii. Conduct lectures and brief all Local Tobacco Control Board Enforcers of the provisions of this Ordinance of their responsibilities with respect to its enforcement.
- b. In coordination with the City Engineer’s Office, put up billboards in conspicuous places in San Carlos City to notify the public of the restriction and sanctions provided in the Ordinance;

- c. In coordination with the City Business Permits and Licensing Office, provide a copy of this Ordinance and its primer to all existing establishments that are currently licensed to operate and to every establishment applying for a new license to operate;
- d. In coordination with the City Information Office, provide a copy of this Ordinance and its primers to all operators of the public transport in San Carlos City.
- e. In coordination with the Local Tobacco Control Board, undertake an information and education campaign to raise awareness on and ensure compliance with this Ordinance. The Local Tobacco Control Board shall assist the barangays on the local orientation, seminars, and trainings, at least once for each barangay including but not limited to their local deputized enforcers like barangay health workers and barangay tanods.

GENERAL PROVISIONS

Section 25. *Financial Mechanisms* – To defray the costs and expenses necessary for or incidental to the implementation of this Ordinance and the operation of the Local Tobacco Control Board:

- a. **SEED FUNDING.** An initial funding in the amount of php200,000.00 shall be included in the annual budget of the Local Tobacco Control Board and every year thereafter for the implementation and enforcement of this Ordinance, based on annual plans and programs.
- b. **Trust Fund.** Proceeds of the fees and administrative fines (penalties) collected pursuant to this Ordinance shall be earmarked exclusively for the continued implementation of this Ordinance and the operation of the Local Tobacco Control Board in relation thereto.

Section 26. *Implementing Rules and Regulations* – The Local Tobacco Control Board shall formulate and recommend, for the approval of the City Mayor, such rules and regulations if necessary to ensure the effective implementation of this Ordinance. The rules and regulations shall include a schedule of administrative fines in accordance with Section 8 of this Ordinance.

Section 27. *Repealing Clause* —All ordinances, rules and regulations or part thereof, in conflict with or inconsistent with the provision of this ordinance are hereby repealed or modified accordingly.

Section 28. *Separability Clause* — If any provision of this Ordinance is declared unconstitutional or illegal, the same shall not affect the validity and effectivity of the other provisions hereof.

Section 29. *Effectivity Clause* — This Ordinance shall take effect after fifteen (15) days following its full publication in a newspaper of local or general circulation or posting in at least two (2) conspicuous places in the city.

ENACTED: January 23, 2014, by the affirmative votes of Hons. DEBULGADO, CARMONA, ANTONIO, YU, APUHIN, MASCUÑANA, BAGUIORO, MANSUETO and GEOPANO. Negative: None.