



Republic of the Philippines
Province of Davao del Norte
Municipality of Braulio E. Dujali
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BEFORE THE SANGGUNIANG BAYAN

EXCERPT FROM THE MINUTES OF THE 25TH REGULAR SESSION OF THE SANGGUNIANG BAYAN OF BRAULIO E. DUJALI, DAVAO DEL NORTE AND HELD AT THE SANGGUNIANG BAYAN SESSION HALL ON JULY 3, 2017.

PRESENT:

HON. DONNA MAE B. BERNADAS, Ed. D.	Vice Mayor & Presiding Officer
HON. GREGORIO S. FACULA, MDMG	Sangguniang Bayan Member
HON. MELFAR C. AGUILUZ	Sangguniang Bayan Member
HON. ATTY. YASMIN V. CAMPION, REA, REB	Sangguniang Bayan Member
HON. ADHEM F. FUNA	Sangguniang Bayan Member
HON. GERALD J. ABIERA	Sangguniang Bayan Member
HON. RICKY T. DELCO	Sangguniang Bayan Member
HON. NELSON C. BAER, RA	Sangguniang Bayan Member
HON. ANNA C. CAGULADA	Sangguniang Bayan Member
HON. ANGELITO P. ORILLOSA	ABC Pres/Ex-Officio Member
HON. FRANCISCO D. BUCADON	IPMR/Ex-Officio Member

ABSENT:

None

EXPLANATORY NOTE

The purpose of this ordinance is for the Municipality of Braulio E. Dujali to become one of the country's totally smoking-free localities and for the over-all health benefit of its constituents.

MUNICIPAL ORDINANCE NO. 2017-197

Author: Hon. Nelson C. Baer, RA

THE NEW COMPREHENSIVE ANTI-SMOKING ORDINANCE OF THE MUNICIPALITY OF BRAULIO E. DUJALI, DAVAO DEL NORTE

SECTION 1. TITLE. Be it ordained that this Ordinance shall be known as "**THE NEW COMPREHENSIVE ANTI-SMOKING ORDINANCE OF THE MUNICIPALITY OF BRAULIO E. DUJALI**".

SECTION 2. COVERAGE. It shall be unlawful for any person to smoke or allow smoking of any tobacco or use Electronic Device System, Shisha and the like of all forms in Public Conveyance, Government-owned Vehicle, Accommodation and Entertainment Establishments, Work Places, Enclosed or Partially Enclosed Public Places, Public Buildings and Public Places, Outdoor Spaces, except in duly designated smoking areas as defined in Section 3 hereunder, within the territorial jurisdiction of Braulio E. Dujali.

SECTION 3. DEFINITION OF TERMS.

A. Accommodation and Entertainment Establishments - refer to establishments that provide food, accommodation, drinks, merchandise, entertainment or other professional services, including, but not limited to, fast

food, eateries, hotels, motels, lodges, inns, boarding houses, disco houses, videoke bars, movie houses, or any other place with pleasant atmosphere conducive to comfort, healthful relaxation and rest, offering food, and or drinks, sleeping accommodation and recreation facilities, to the public for free.

B. Designated Smoking Areas - refers to an outdoor space where a person is allowed to smoke without violating this Ordinance that meets the following requirement, at the minimum:

1. It shall be located in an open- space, with no permanent or temporary roof or walls in outdoor area;
2. It shall not be located within 10 meters of entrance, exit or any place where people pass or where people congregate;
3. It shall not have an area larger than 5 square meters;
4. It shall not have more than one designated area for smoking;
5. No food or drinks shall be served in the designated smoking area;
6. Every smoking area shall have highly visible and prominently displayed "Smoking Area" sign and a graphic depiction and corresponding explanation of ill effects to the smoker's health or exposure to secondhand smoke. Under no circumstances shall any mark, device, word or image associated with any tobacco company or product be included in any of these signs and materials.

All designated areas shall be covered by a certificate of compliance from the Office of the Municipal Mayor thru the Anti-Smoking Task Force.

C. Electronic Device System - refers to any device such as electronic nicotine device systems, electronic cigarette and other similar devices, whether or not it is used to deliver nicotine to the user, that resembles the outward appearance of real smoking products;

D. Enclosed or Partially Enclosed Public Places - refer to all places, which are enclosed by one or more walls or side whether covered by a roof or not, or even if open on all side but is covered by a roof, regardless of whether the structure is permanent or temporary in nature, 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 gasoline stations, banks, malls, shopping/business arcades, town squares, terminals, airport, seaports, schools, places of worship/churches, hospitals, cinema houses, gymnasiums/covered courts, funeral parlors, barber shops, cockpits, gaming areas, recreational facilities, pedestrian overpass, indoor car parks, waiting sheds, sidewalks and other places where people usually congregate;

E. Public Conveyances - refer to any vehicle, 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 jeeps, buses, trains, vans, taxis, airplanes, ships and other modes of water transportation, tricycles, motorcycles and other public utility vehicles whether covered by a Certificate of Public Convenience or not;

F. 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 references to the ownership of the building.

G. Public Outdoor Spaces - refer to outdoor spaces that are open to the public or places where facilities are available for the public or where a crowd of people gather or congregate regardless of ownership or right to access such as but not limited to parks, playgrounds, sports grounds or centers, gaming areas, cockfighting areas, healthcare/hospital compounds, cemeteries, gardens, resorts, beach, pools, markets, streets, sidewalks, parking areas, walkways, entrance ways, waiting areas, stairwells, and the like;

H. Shisha - refers to a device or instruments 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, hookah, nargeela, Argeel and Nargile;

I. Smoking - refers to the lighting and/or puffing of any cigarette, cigar, tobacco product of any kind, form or type, electronic device systems, Shisha and the like. Possession of any lighted cigarette, cigar, or any tobacco product, or an actually operated electronic device system, shisha and the like within the prohibited areas for smoking shall constitute *prima facie* evidence of smoking prohibited under this ordinance;

J. Tobacco Product - any product that consists of loose tobacco that contains nicotine and is intended for use in a cigarette, including any product containing tobacco and intended for smoking or oral or nasal use;

K. Workplaces - an area, permanent or temporary, in which a person performs duties of employment or work, regardless of whether the work is done for compensation or on a voluntary basis, and includes private offices, common area and any area which generally is used or frequented during the course of employment or work. Company-owned vehicles used for transporting employees and guests or any vehicle used in the course of work are considered workplaces.

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

A. Smoking any tobacco product or using Electronic Device Systems, Shisha and the like in any of the places enumerated in Section 2 hereof, except in duly approved designated smoking areas;

B. Knowingly allowing, abetting or tolerating smoking any tobacco product or using Electronic Device Systems, Shisha and the like in any of the places enumerated in Section 2 hereof, except when smoking is done within the duly approved designated smoking areas;

C. Refusal to allow the entry of the members of the Anti-Smoking Task Force or its duly deputized enforcers into places mentioned in Section 2 of this Ordinance for the purpose of implementing, monitoring, inspecting and enforcing the provisions of this Ordinance as provided for in Section 7 hereof;

D. Failure to comply with the mandatory duties and obligations as enumerated in Section 5 as well as any other provisions of this Ordinance.

SECTION 5. MANDATORY DUTIES AND OBLIGATIONS.

The person in-charge, which refers to the President or Manager in cases of a company, Corporation, or Association, or Partnership or the Owner/Proprietor or Operator in case of single proprietorship, of accommodation and entertainment establishments, whether tourism-accredited or not, workplaces, enclosed or partially enclosed public places, public buildings, public outdoor spaces shall:

1. Post and display an 8X16 inches: "**THIS IS A NON-SMOKING ESTABLISHMENT**" sign at all entrances. Prominently display "**NO SMOKING**" signs in the most visible locations in the area where smoking is prohibited (main accommodation area, function rooms, bars, cashiers, VIP rooms, Comfort rooms) in order to ensure that the public can easily views such signs and be notified. The "NO SMOKING" sign for new establishments shall be at least 8X18 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 50% of said signage. The remaining lower 50% of the signage shall show the following warning prominently:



NO SMOKING

2. Remove all ashtrays or any receptacles for dispensing cigarette refuse from Accommodation and Entertainment Establishments, Workplaces, Enclosed or Partially Enclosed Public Places, Public Buildings and other Public Outdoor Spaces.
3. Ensure that all employees in the establishment are aware of the Ordinance and to provide a procedure for informing customers or clients of the provisions of this Ordinance.
4. Undertake all reasonable steps to ensure strict implementation of this Ordinance and to inform and refrain people from smoking any tobacco product or using Electronic Device Systems, Shisha and the like within their establishments except in duly approved designated smoking area. The person-in-charge or his/her duly authorized representatives including the employees concerned shall immediately inform the Anti-Smoking Task Force or its duly deputized enforcers, or any law enforcer or the nearest police station of the violations and the violator/s thereof.
5. Selling of cigarettes or any tobacco product shall not be allowed inside the accommodation and entertainment establishments and public buildings. Owners, operators and drivers of Public Conveyances, government-owned and company-owned vehicles used to transport employees and guests are mandated to prominently display "NO SMOKING" signs as follows:
 - a. For jeepneys, the "NO SMOKING" sign of at least 3.5 sq. inch shall be placed at the back of the windshield and another sign of at least 10 sq. inch shall be placed at the back of the front row seats;

- b. For taxis, vans or other similar vehicles, the "NO SMOKING" sign of at least 3.5 sq. inch shall be placed on the glove compartment at the front right side of the taxi windshield and another sign of at least 10 sq. inch shall be placed at the back of the driver's seat;
- c. For buses, the "NO SMOKING" sign of at least 3.5 sq. inch shall be placed at the back of the windshield and another sign of at least 14 sq. inch shall be placed at the back of the driver's seat facing the passengers or a similarly prominent area of the bus;
- d. For other types of vehicles, the "NO SMOKING" sign of at least 3.5 sq. inch shall be placed at the back of the windshield and another sign of at least 10 sq. inch shall be at prominent location facing the passengers or a similarly prominent area of the vehicles;

SECTION 6. PERSONS LIABLE. The following persons/individuals are liable under this ordinance:

- A. Any person smoking any tobacco product or using Electronic Device Systems, Shisha or the like within any of the prohibited places enumerated in Section 2 hereof, except in duly approved designated smoking areas;
- B. The President or Manager in case of a company, Corporation, Association or Partnership or the Owner/Proprietor or Operator in case of Single Proprietorship, of Accommodation and Entertainment establishments, whether tourism -accredited or not, Workplaces, Enclosed or Partially Enclosed Public Places, Public Buildings or Public Outdoor Spaces who knowingly allows, abets or tolerates and/or fails to report violators of this Ordinance to any member of the Anti-Smoking Task Force or its duly deputized enforcers, or any law enforcer or the nearest police station immediately upon commission of the violation or who otherwise fail to fulfill the mandatory duties and obligations as enumerated in section 5 of this Ordinance;
- C. The operator, driver, conductor or inspector of Public Conveyances, government-owned or company-owned vehicles, who knowingly allows, abets or tolerates and/or fails to warn, advise or report violators of this Ordinance to any member of the Anti-Smoking Task Force or its duly deputized enforcers, or any law enforcer or nearest police station immediately upon commission of the violation or who otherwise fail to fulfill the mandatory duties and obligations as enumerated in section 5 of this Ordinance;

SECTION 7. ANTI-SMOKING TASK FORCE. The Anti-Smoking Task Force shall be created by the Municipal Mayor to aid in the implementation, monitoring and enforcement of this Ordinance. It shall be composed of the following:

Municipal Mayor:	Honorary Chairperson
Municipal Administrator:	Chairperson
Representative duly appointed by the Municipal Mayor:	Co-Chairperson
Municipal Legal Officer:	Vice Co-Chairperson

Members:

The Municipal Health Office/His/Her duly authorized representative
The Business Bureau
The Building Official
The Municipal Tourism Office
The Municipal Information Office
The General Services Office
The Municipal Environment and Natural Resources Office
Philippine National Police
The Representative of the Private Sector

For this purpose, the Anti-Smoking Task Force is tasked to inspect and monitor compliance of all places covered by this Ordinance, certify the appropriateness of the designated smoking areas, apprehend violators and recommend closure of non-compliant establishments taking into consideration the provisions of existing laws and the purpose of smoking regulations which is to protect non-smokers from the pernicious effects of exposure to tobacco smoke.

With the approval of the Municipal Mayor, the Anti-Smoking Task Force shall also have the power to recommend amendments or revisions of any provision of this ordinance.

Sixty (60) days after this Ordinance took effect; the Anti-Smoking Task Force in coordination with the Office of the Business Bureau shall conduct an ocular inspection of all non-accredited tourism establishments in Braulio E. Dujali to determine compliance with the requirements of this ordinance.

For tourism-accredited accommodation and entertainment establishments, an ocular inspection shall be conducted by the Anti-Smoking Task Force in coordination with Municipal Tourism Office and the Office of the Business Bureau.

The Anti-Smoking Task Force in coordination with the Municipal Health Office shall undertake educational awareness campaigns on the ill effects of smoking and exposure to secondhand smoke, information dissemination programs and capacity building programs and smoking cessation clinics.

The Anti-Smoking Task Force in coordination with the Municipal Information Office shall inform the public of the provisions of this Ordinance thru an intensified tri-media campaign.

The Anti-Smoking Task Force in coordination with the Traffic Management Center shall inspect the presence of "No Smoking" signs in all public utility vehicles and strictly monitor its compliance.

SECTION 8. PENALTIES. The following penalties shall be imposed on violators of this Ordinance:

- First Offense: Conduct lecture on violators pertaining to health hazards caused by smoking.
- Second Offense: Php 500.00 or 2 months imprisonment or both at the discretion of the court.
- Third and succeeding Offenses: Php 1,000.00 or 4 months imprisonment or both at the discretion of the court.

Places mentioned in Section 2 of this ordinance violating for the first time will be placed under strict monitoring by the Business Bureau.

Third (3) and subsequent violations of this Ordinance shall be ground for cancellation of the establishment's business permit.

In case of a minor, the Municipal Social Welfare and Development Officer shall meet with the child and his/her parents or guardians for proper smoking cessation counseling and the development of the appropriate diversion and rehabilitation program, in coordination with the Barangay Council for the Protection of Children and the Municipal Health Office.

SECTION 9. CITATION TICKETS. A citation ticket shall be issued to violators of provisions of this ordinance. The citation ticket shall state, among others, the name and address of the violators the specific violation committed and the corresponding administrative penalty.

The Philippine National Police and such other appropriate enforcers as commissioned by the Municipal Mayor through the Anti-Smoking Task Force shall have the power to apprehend violators of this Ordinance and issue citation tickets.

The Municipal Mayor through Anti-Smoking Task Force may deputize barangay officials or representatives of the private sector, non-government organizations and government organizations in the strict implementation of this Ordinance, as the need arises.

Any person may give information as to the violation of this ordinance or may conduct citizen's arrest of violators who is actually committing or has just committed the acts. The person who gave information or conducted the citizen's arrest may be given a reward of 20% of the amount of the penalty as stated in Section 8.

SECTION 10. NO CONTEST PROVISION. Person liable mentioned in Section 6A of this Ordinance who is apprehended or cited for violation and who does not wish to contest the violation and is willing to pay voluntarily the administrative penalty imposed upon him/her prior to the filing of formal charges with the proper court shall be allowed to pay a penalty in the amount of P 500.00 to the Municipal Treasurer's Office to avoid being criminally prosecuted within three (3) days from apprehension. Otherwise, the case shall be prosecuted in court. All proceeds from payment of the herein penalty shall be accrued to the General Funds.

Smoking cessation counseling in accredited clinics is required after the penalty has been paid.

SECTION 11. IMPLEMENTING RULES AND REGULATIONS. The Anti-Smoking Task Force shall promulgate such rules and regulations, with the approval of the Municipal Mayor, as are necessary to ensure the effective implementation of this Ordinance.

SECTION 12. FUNDING. An amount of One Hundred Thousand Pesos (P 100,000.00) shall be appropriated out of the local treasury not otherwise

appropriated, in order to carry out the purposes of this ordinance for the fiscal 2018 ending on fiscal year 2028.

For the succeeding years, such funds as may be necessary for the continued implementation of this Ordinance shall be appropriated by the municipality either in the Municipal Annual Budget or any of its supplemental budgets, as the case may be.

SECTION 13. REPEALING CLAUSE. All ordinances, rules and regulations or part thereof, in conflict or inconsistent with any provisions of this Ordinance are hereby repealed accordingly.

SECTION 14. SEPARABILITY CLAUSE. If, for any reason or reasons, any parts or provisions of this Ordinance shall be declared unconstitutional or invalid, other parts or provisions thereof not affected shall continue to be in full force and effect.

SECTION 15. EFFECTIVITY CLAUSE. This Ordinance shall take effect immediately after its approval and publication in a newspaper of local circulation.

Republic of the Philippines
Province of Davao del Norte
Municipality of Braulio E. Dujali
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Date

CITATION TICKET

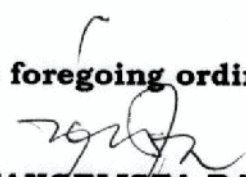
Name of Violator : _____
Address : _____

VIOLATIONS/OFFENSES

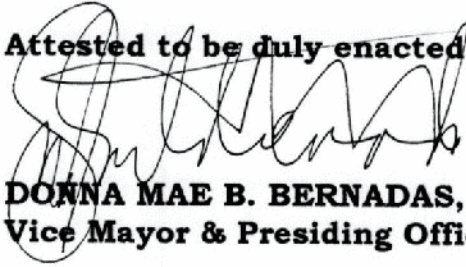
PENALTIES

ENACTED by the Sangguniang Bayan during its 25th Regular Session on July 3, 2017.

I HEREBY CERTIFY to the correctness of the foregoing ordinance.


JULIET EVANGELISTA-DAANTON
Secretary to the Sanggunian
MGDH I

Attested to be duly enacted:



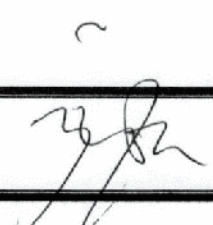
**DONNA MAE B. BERNADAS, Ed. D.
Vice Mayor & Presiding Officer**

Approved:



**ATTY. LEAH MARIE MORAL-ROMANO
Municipal Mayor**

Date signed: July 18, 2017

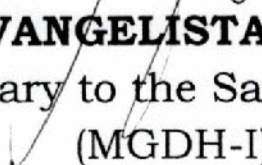


Republic of the Philippines
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Municipality of Braulio E. Dujali
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OFFICE OF THE SECRETARY TO THE SANGGUNIAN

CERTIFICATION

This is to certify that the *Committee on Ordinances and Resolutions, Committee on Health and Committee on Ways and Means*, both conducted a Public hearing on Municipal Ordinance No. 2017-197; **THE NEW COMPREHENSIVE ANTI-SMOKING ORDINANCE OF THE MUNICIPALITY OF BRAULIO E. DUJALI, DAVAO DEL NORTE** held at the Lobby, 2nd Floor, Municipal Building, Braulio E. Dujali, Davao del Norte on **May 30, 2017 at 1:38 in the afternoon.**


JULIET EVANGELISTA- DAANTON
Secretary to the Sanggunian
(MGDH-I)