



The Premier Tourist Destination

Republic of the Philippines
Province of Aklan
MUNICIPALITY OF MALAY

Office of the Sangguniang Bayan



EXCERPT FROM THE MINUTES OF THE 21ST REGULAR SESSION OF THE SANGGUNIANG BAYAN OF MALAY, AKLAN (2007-2010) HELD AT THE SB SESSION HALL ON JULY 8, 2009.

Present:

- SB Member Esel L. Flores, Presiding Officer Pro-Tempore
- Hon. John P. Yap, Municipal Vice Mayor
- SB Member Gideon T. Siñel
- SB Member Rowen T. Aguirre
- SB Member Cristina C. Prado
- SB Member Dante C. Pagsuguiron
- SB Member Mateo A. Tayco
- SB Member Roldan M. Casidsid, Liga President
- SB Member Niño Elpe D. De Sullan, SK Federation President

Absent:

- SB Member Wilbec M. Gelito
- SB Member Charlie D. Villanueva

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MUNICIPAL ORDINANCE NO. 272
Series of 2009

THE COMPREHENSIVE ANTI-SMOKING ORDINANCE OF THE MUNICIPALITY OF MALAY, AKLAN.

(SPONSOR: HON. ROWEN T. AGUIRRE)

SECTION 1. - **TITLE.** Be it ordained that this ordinance shall be known as "THE COMPREHENSIVE ANTI-SMOKING ORDINANCE OF THE MUNICIPALITY OF MALAY, AKLAN."

SECTION 2. - **COVERAGE.** It shall be unlawful for any person to smoke or allow smoking in any public utility vehicle, government-owned vehicle or any other means of public transport for passengers, accommodation and entertainment establishment, public building, public place, as defined in Section 3(e) hereunder, enclosed public place, or in any enclosed area outside of one's private residence, private place of work, or duly designated smoking areas, within the jurisdiction of the Municipality of Malay.

SECTION 3. - **DEFINITION OF TERMS.**

- A.) **SMOKING** - refers to the lighting and/or puffing of any lighted cigarette, cigar, tobacco or any other kind, form or type. Possession of any lighted cigarette, cigar, tobacco and the like within the prohibited area for smoking shall constitute a prima facie evidence as an act of smoking prohibited under this ordinance;
- B.) **PUBLIC UTILITY VEHICLES** - refers to Public Utility Jeepneys (PUJs), Public Utility Buses (PUBs), vans, taxis, tricycles, motorized bancas and other public utility vehicles used in the transport of passengers;

- C.) **ACCOMMODATION AND ENTERTAINMENT ESTABLISHMENT** - refers to restaurants, fast foods, eateries, hotels, motels, lodging houses, inns, boarding houses, disco houses, videoke bars, resto bars, and movie houses, or any other place with pleasant environment and atmosphere conducive to comfort, healthful relaxation and rest, offering foods, sleeping accommodation and recreation facilities to the public for a fee;
- D.) **PUBLIC BUILDING** - refers to any of the following:
- 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 structure used, or controlled exclusively for public purposes by any department or branch of government, local government unit or barangay without references to the ownership of the building;
- E.) **PUBLIC PLACE** - refers to gasoline stations, banks, malls, town squares/public plaza, terminals, shopping/business arcades, schools, churches, hospitals, cinema houses, gymnasiums, funeral parlors, barber shops, and other similar places where people usually congregate either to while away their time or to listen or attend concerts, rallies, programs and shall include Municipal Ecopark and the like;
- F.) **DESIGNATED SMOKING ROOM** - refers to a delineated room inside the accommodation establishment, or public place or enclosed public place, which is totally enclosed where a person is allowed to smoke without violating this Ordinance;

Any duly designated room/area in accommodation and entertainment establishments whether tourism accredited or not, within the territorial jurisdiction of the Municipality of Malay as herein above defined, provided, the following conditions are met;

- 1.) If the accommodation and entertainment establishment is air-conditioned, it must establish and designate a smoking room which shall not be more than 1/4 of the total accommodation area of the establishment, that is air-conditioned and equipped with an exhaust fan and totally enclosed on all sides and separated from the rest of the premise where smoking is prohibited, and
 - 2.) If the accommodation and entertainment establishment is not air-conditioned, it must establish and designate a smoking area which shall not be more than 1/4 of the total accommodation area of the establishment that is fully ventilated and separated from the rest of the premises where smoking is prohibited.
- G.) **ENCLOSED AREA** - refers to an area which is closed whether totally or partially at the sides and is roofed to make use of the flow above it as ceiling, or even if open at all sides but is covered by a roof, permanent or temporary in nature.
- H.) **ENCLOSED PUBLIC PLACE** - refers to a room, building, structure or edifice that is constructed with a shelter or covered by a roof with panels or concrete wall, which structure is open to the public.

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

- a) Smoking in any of the places enumerated in Section 2 hereof, except in duly designated smoking areas;
- b) Knowingly allowing, abetting, or tolerating smoking in accommodation establishments, whether tourism accredited or not, except when smoking is done inside or within duly designated smoking areas referred to in this Ordinance.
- c) Smoking while inside a government-owned or public utility vehicle whether moving or stationery or while solicitation of passengers is going on or while the vehicle is waiting for passengers.

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

- a) Any person smoking within the prohibited rooms, areas/individuals mentioned in Section 2 hereof;
- b) Any passenger, driver, conductor, or inspector of government-owned vehicles or Public Utility Vehicles (PUVs) smoking as stated in Section 5 © hereof;
- c) The President or Manager in case of a company, corporation, or association or the owner/proprietor or operator in case of single proprietorship, of accommodation and entertainment establishments, whether tourism-accredited or not, who knowingly allows, abets or tolerates and/or fails to warn, advise or report violators of this Ordinance to any policeman or nearest station within three (3) hours of the violation.

SECTION 6. - **THE MUNICIPAL HEALTH OFFICE AND THE MUNICIPAL ENGINEER'S OFFICE** are tasked to inspect and certify to the appropriateness of the designated smoking areas provided by accommodation establishments whether tourism-accredited or not, taking into consideration the purpose of the law which is to protect non-smokers from the pernicious effects of tobacco smoke.

Sixty (60) days after the effectivity of this Ordinance, the Municipal Health Office in coordination with the Licensing Office, shall conduct an ocular inspection of all non-accredited tourism establishments in the Municipality of Malay to determine compliance with the requirements of this ordinance.

For tourism-accredited accommodation and entertainment establishments, the ocular inspections shall be conducted by the Municipal Health Office in coordination with the Municipal Tourism Office and the Licensing Office.

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

SECTION 7. - **PENALTIES.** Violators of this Ordinance shall be subject of a fine of not less than ₱500.00 nor more than ₱2,500.00 or imprisonment of not less than one (1) month nor more than six (6) months or both, at the discretion of the Court, except for Paragraphs 2 & 3 hereunder.

- 1) In case of establishments which do not opt to declare their establishment as totally free from smoking but fails to provide the appropriate designated smoking areas as certified by the Municipal Health Office and Municipal Engineer's Office within the 60-day period specified in Section 6 hereof, their business permit may be revoked;
- 2) In case where there is failure to warn or advise would-be violators of this ordinance, or failure to report violators as required in Section 5 hereof or smoking is allowed, abetted or tolerated in the 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:

FIRST OFFENSE - a fine of ₱500.00 or one (1) month imprisonment or both at the discretion of the Court;

SECOND OFFENSE - A fine of ₱1,000.00 or two (2) months imprisonment or both at the discretion of the Court;

THIRD AND SUBSEQUENT OFFENSES - A fine of ₱1,500.00 or three (3) months imprisonment or both at the discretion of the Court.
- 3) For drivers/passengers of Public Utility Vehicles (PUVs)

FIRST OFFENSE - a fine of ₱300.00 or one (1) month imprisonment or both at the discretion of the Court;

SECOND OFFENSE - A fine of ₱600.00 or two (2) months imprisonment or both at the discretion of the Court;

THIRD OFFENSES - A fine of ₱1,000.00 or three (3) months imprisonment or both at the discretion of the Court.
- 4) Three (3) violations of this Ordinance shall be a ground for the revocation and cancellation of the establishment's business permit.

SECTION 8. - **POSTING OF BILLBOARD.** The Municipal Engineer's Office is hereby tasked to put up billboards in conspicuous places in the Municipality to notify the public of the restrictions, sanctions and penalties provided in the Ordinance.

SECTION 9. - **THE PHILIPPINE NATIONAL POLICE (PNP)** is tasked with the proper and vigorous implementation of this Ordinance.

SECTION 10. - **SEPARABILITY CLAUSE.** If for any reason or reasons, any part or provision of this ordinance shall be declared unconstitutional or invalid, other parts or provisions thereof not affected shall continue to be in full force and effect.

SECTION 11. - **REPEALING CLAUSE.** All existing Anti-Smoking Ordinance is hereby repealed.

SECTION 12. - **EFFECTIVITY CLAUSE.** The ordinance shall take effect fifteen (15) days after its approval and publication in a newspaper of local circulation consistent with the provision of the Local Government Code, as amended.

ENACTED. MAY 27, 2009.

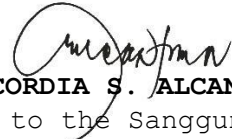
APPROVED. JULY 8, 2009.

APPROVED. SP RESOLUTION NO. 2009-230, dtd. 9-3-09

(Amended by MO No. 309, s. 2012, dtd. 3-27-12)

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I HEREBY CERTIFY to the correctness of the afore-quoted Municipal Ordinance.



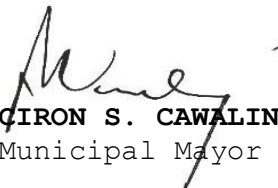
CONCORDIA S. ALCANTARA
Secretary to the Sangguniang Bayan

ATTESTED:



ESEL L. FLORES
SB Member
Presiding Officer Pro-Tempore

APPROVED:



CECIRON S. CAWALING
Municipal Mayor