Republic of the Philippines
Province of Samar
Municipality of Pinabacdao
OFFICE OF THE SANGGUNIANG BAYAN

MUNICIPAL ORDINANCE NO. 24-003

Series of 2024

AN ORDINANCE PROHIBITING THE USE, SALE, DISTRIBUTION, AND ADVERTISEMENT OF CIGARETTES AND OTHER TOBACCO PRODUCTS, ELECTRONIC NICOTINE AND NON- NICOTINE DELIVERY SYSTEMS, HEATED TOBACCO PRODUCTS AND OTHER NOVEL TOBACCO PRODUCTS, IN CERTAIN PLACES, IMPOSING PENALTIES FOR VIOLATIONS THEREOF AND PROVIDING FUNDS THEREFOR, TO INSTILL HEALTH CONSCIOUSNESS AND FOR OTHER PURPOSES.

WHEREAS, the **1987 CONSTITUTION of the REPUBLIC of the PHILIPPINES** declares 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 as a party to the **World Health Organization Framework Convention on Tobacco Control (FCTC)** gives 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 all the measures provided in the treaty;

WHEREAS, the **Local Government Code of 1991 (Republic Act No. 7160)** accords every local government unit the power and authority to promote general welfare within its territorial jurisdiction, including the promotion of health and safety of its constituents;

WHEREAS, the **Philippine Clean Air Act of 1999 (Republic Act No. 8749)** declares the right of every citizen to breath clean air, prohibits smoking inside enclosed public places including public vehicles and other means of transport, and directs local government units to implement this provision;

WHEREAS, the **Tobacco Regulation Act of 2003 (Republic Act No. 9211)** prohibits smoking in certain public places whether enclosed or outdoors in certain places; prohibits the purchase and sale of cigarettes and other tobacco products to and by minors and in certain places frequented by minors; imposes bans and restrictions on advertising, promotion, and sponsorship activities of tobacco companies; and directs local government units to implement these provisions;

1) It shall be located in an open space outside the building with no permanent or temporary roof or walls.

2) It is not located in or within ten (10) meters from entrances, exits, or any place where people pass or congregate, or in front of air intake ducts.

3) It shall not have an area larger than 10 square meters.

4) Food or drinks are not served.

5) No building shall have more than one designated smoking/vaping area;

6) The entry of persons below the age of 21 shall not be allowed.

7) Highly visible signages with the following messages should be prominently displayed:

   a. "Smoking/Vaping Area" signage with a message showing "Persons below 21 not allowed within these premises"
   b. Graphic health warnings on the effects/harms of tobacco, electronic cigarette and heated tobacco use or exposure
   c. Information on cessation hotline and/or cessation clinic/services

8) It shall not be located in places where absolute smoking/vaping bans are in effect, such as, but not limited to: centers of youth activity such as playschools, preparatory schools, elementary schools, high schools, colleges and universities, youth hotels and recreational facilities for persons under twenty-one (21) years old; elevators and stairwells; locations in which fire hazards are present, including gas stations and storage areas for flammable liquids, gas, explosives or combustible materials; within the buildings and premises of public and private hospitals, medical, dental, and optical clinics, health centers, nursing homes, dispensaries and laboratories; food preparation areas; public conveyances and in enclosed, partially enclosed and outdoor areas of transport terminals that are near entrances and exits or where people pass or congregate; within the buildings of all government facilities and premises of all offices of the Department of Health, Department of Education, Commission on Higher Education, Department of Social Welfare and Development and the Civil Service Commission, and shall likewise include parks, plazas, playgrounds, sports, and recreational facilities, and other facilities where an absolute smoking/vaping ban is imposed under special laws, ordinances, administrative and executive orders, memorandum circulars and related policies.

9) It shall have a receptacle for proper disposal of refuse from tobacco products or disposable components of electronic devices.

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

Section 1. Title. – This Ordinance shall be known as the **"Comprehensive Smoke-Free Ordinance of the LGU of Pinabacdao".**

Section 2. Purpose. – It is the purpose of this Ordinance to safeguard public health and ensure the well-being of all its constituents from the harmful effects of smoking, tobacco consumption, and vaping by decreasing exposure to its marketing and advertising, restricting its use, sale, distribution, and accessibility, and providing a supportive and conducive environment for users to quit.

Section 3. Coverage. – This Ordinance shall apply to all persons, natural or juridical, resident or non-resident, and in all places, found within the territorial jurisdiction of the LGU of Pinabacdao.

Section 4. Definition of Terms. – As used in this Ordinance, the terms below 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. **Advertising and promotion** - means any form of commercial communication, recommendation or action with the aim, effect or likely effect of promoting tobacco products, ENDS/ENNDS, HTPs, or their components, or the use thereof, either directly or indirectly.

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 duly recognized by the Office of the Mayor; provided such organization, institution or association is not directly or indirectly related to, connected and/or electronic cigarette industry.

c. **Designated Smoking/Vaping Area (DSVA)** – refers to an outdoors space, duly approved by the City/Municipal Health Officer where smoking and/or vaping may be allowed without violating this ordinance, subject to specific requirements:

Vehicle Services, trains, light rail transits, tricycles and other means of public transport.

m. **Public place** – means all places, fixed or mobile, that are accessible or open to the public or places for collective use, regardless of ownership or right to access, including but not limited to, schools, workplace, government facilities, establishments that provide food and drinks, accommodation, merchandise, professional services, entertainment or other services. It also includes outdoor spaces where facilities are available for the public or where a crowd of people would gather, such as, but not limited to, playgrounds, sportsgrounds or centers, church grounds, health/hospital compounds, transportation terminals, markets, parks, resorts, walkways/sidewalks, entrance ways, waiting areas, and the like.

n. **Second-hand smoke (SHS)/Second-hand vaping aerosol (SHVA)** – means the smoke, aerosol or emission coming from the burning end/heated component of a cigarette/other tobacco products including heated tobacco products, and electronic cigarettes and other similar devices, usually in combination with the smoke, aerosol or emission exhaled by the smoker/vaper.

o. **Smoke-free air** – refers to the air that is 100% free from tobacco smoke, but is not limited to, the air in which tobacco smoke cannot be seen, smelled, sensed or measured. Similarly, **vape aerosol-free air** refers to the air that is 100% free from vaping (e-cigarette) aerosol.

p. **Smoking** – means being in possession or control of a lit tobacco product regardless of whether or not the smoke or emission is being actively inhaled or exhaled, or the act of inhaling and exhaling the smoke or aerosol produced by a heated tobacco product (HTPs) or other similar devices.

q. **Sponsorship** – means any form of a contribution to any event, activity or individual with the aim, effect of likely effect of promoting tobacco products, ENDS/ENNDS, HTPs, or their components, or the use thereof, either directly or indirectly.

r. **Tobacco Product** – means product entirely or partly made by the leaf tobacco as raw material which is manufactured to be used for smoking, sucking, chewing, or snuffing, such as but not limited to cigarette, cigar, pipe, shisha/hookah and chew tobacco. This likewise applies to heated and smokeless tobacco products, traditional and novel tobacco products, and related consumer products.

s. **Tobacco Industry** – refers to organizations, entities, associations, and individuals that work for on in behalf of the tobacco industry, such as, but not limited to, tobacco manufactures, 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 that compete with

those involved in electronic cigarette products are referred to as the **Electronic Cigarette (E-Cigarette) Industry.**

t. **Tobacco Industry Interference** – refers to a broad array of tactics and strategies used by the tobacco industry to interfere with the setting and implementation of tobacco control measures. In this light, interference by the Electronic Cigarette (E-Cigarette) Industry can be referred to as **Electronic Cigarette (E-Cigarette) Industry Interference.**

u. **Vaping** – refers to being in possession or control of a powered ENDS/ENNDS or HTPs, regardless of whether the emission in the form of smoke, vapor or aerosol is being actively inhaled or exhaled.

v. **Workplace** – means any place used by the people during their employment or work, whether done for compensation or voluntarily, including all attached or associated places commonly used by the workers in the course by their work (for example, corridors, elevators, stairwells, toilets, lobbies, lounges). Vehicles used in the course of work are considered workplaces.

Section 5. Prohibited Acts. – The following acts are declared unlawful and prohibited by this Ordinance.

USE, SALE, DISTRIBUTION, ADVERTISING, AND PROMOTION

a. Smoking and/or vaping in enclosed or partially enclosed public places, work places, public conveyances (whether mobile or stationary), or other public places, such as those enumerated under Section 14 (I), expect in Designated Smoking/Vaping Areas duly approved and fully compliant with the requirements under Section 4 (c);

b. For persons-in-charge to allow, abet or tolerate smoking and/or vaping in places enumerated in the preceding paragraph, outside of duly approved Designated Smoking/Vaping Area under Section 4 (c);

c. Selling, distributing or purchasing tobacco, electronic cigarette, and heated tobacco products and/or its component to or from persons below age twenty-one (21). (Proof of Age Verification – In case of doubt as to the age of the buyer, retails shall verify by means of a valid form of photographic identification and proof of age card containing the date of birth of the bearer (i.e. driver's license, passport, voter's ID) that no individual purchasing tobacco, electronic cigarette or heated tobacco product is below the age of 21 as per this ordinance);

d. Use, sale or purchase of tobacco, electronic cigarette, and heated tobacco products and/or its components by persons below age 21;

WHEREAS, the **Civil Service Commission Memorandum (CSC) Circular No. 17 series of 2009** prohibits smoking and premises, buildings, and grounds of government agencies providing health, education or social welfare and development services such as hospitals, health centers, schools and universities, and colleges; provides for specific requirements for designated smoking areas;

WHEREAS, the **Land Transportation Franchising and Regulatory Board (LTFRB) Memorandum Circular 2009-036** provides that drivers and operators of public utility vehicles are responsible for preventing smoking in public conveyances and posting specified "No Smoking" signs in their vehicles;

WHEREAS, the **Civil Service Commission-Department of Health Joint Memorandum Circular No. 2010-01** prohibits government officials and personnel from interacting with the tobacco industry and those representing their interests unless strictly necessary to effectively regulate, control, or supervise them;

WHEREAS, the **Universal Health Care Act of 2019 (Republic Act No. 11223)** directs local government units to enact stricter ordinances that strengthen and broaden existing health policies and implement effective programs that promote health literacy and healthy lifestyle among their constituencies to advance population health and individual wellbeing, reduce the prevalence of non-communicable disease and their risk factors, particularly tobacco and alcohol use;

WHEREAS, the **National Internal Revenue Code of 1997 as amended in 2020 (Republic Act No. 11467)** directs the Food and Drug Administration (FDA) to periodically determine and regulate, consistent with evolving medical and scientific studies, the manufacture, importation, sale, packaging, advertising, and distribution of vapor and heated tobacco products, including banning sale to nonsmokers or persons below age twenty-one (21), and banning of flavors. Local government units, in the pursuit of common health goals, must then act to ensure effective enforcement of these measures within their jurisdictions.

WHEREAS, the **Executive Order No. 106 series of 2020** directs local government units to adopt and implement the nationwide smoking and vaping ban and to strengthen existing measures on access restriction, including the regulation on sales, distribution, and availability of cigarettes and other tobacco products, electronic nicotine and non-nicotine delivery systems (ENDS/ENNDS), heated tobacco products (HTPs) and other novel tobacco products;

WHEREAS, the LGU Pinabacdao recognizes the local governments must act with urgency to denormalize the culture of tobacco consumption, smoking and vaping through comprehensive and proven effective tobacco control measures to prevent the initiation of non-users and the youth and prevent exposure to harmful chemical and emissions that pose risks to health while providing a supportive environment to those attempting to quit smoking and vaping;

of contribution, favor, sponsorship or corporate social responsibility (SCR) activity, event, program or project by a tobacco/electronic cigarettes company, tobacco/electronic cigarette industry front groups, or any representation working to protect or promote tobacco/electronic cigarette industry interests, executed for and in behalf and of within the territorial jurisdiction of the [name of LGU], with the aim, effect or likely effect of promoting a tobacco/electronic cigarette product, its use either directly or indirectly.

Section 6. Duties and Obligations of Persons-in-Charge. – Persons-in-Charge shall:

a. Prominently post and display the "No Smoking/No Vaping" symbol, in the locations most visible to the public in the areas where smoking and vaping is prohibited. At the very least, the "No Smoking/No Vaping" signage must be posted at the entrance to the area, which shall be at least 8 x 11 inches in size, where the symbol/s shall occupy no less than 60% of the signage. The remaining 40% of the signage shall show the pertinent information/precautionary statement, as follows:

As for the Designated Smoking/Vaping Area (DSVA), after complying with the specification in Section 4 (c), prominently display the following elements in the signage:

"DESIGNATED SMOKING/VAPING AREA" or **"SMOKING/VAPING AREA"**
"Persons below 21 not allowed within this premises"

b. Prominently post and display the "No Smoking/No Vaping" signage in the most conspicuous location within the public conveyance. At the very least, a three and a half (3.5) square inch "No Smoking/No Vaping" signage shall be placed on the windshield and a ten (10) square inch "No Smoking/No Vaping" sign at the driver's back seat;

c. For persons-in-charge of government property, facility, office or building, secure a certification/permit from the duly authorized officer or representative of the Civil Service Commission after inspection and approval prior to establishing a Designated Smoking/Vaping Area (DSVA);

d. For person-in-charge of commercial establishments/buildings or other non-government facilities intending to establish a DSVA, secure a certification/permit from the City/Municipal Building/Engineering and Health Officers after complying with the requirements for a DSVA, as stated in Section 4 (c)

e. For persons-in-charge of schools, public playgrounds or other facilities frequented by persons below age 21, offices of the DOH and attached agencies, hospitals and health facilities, post the following statement in a clear and conspicuous manner:

SELLING, ADVERTISING AND PROMOTING CIGARETTES, ELECTRONIC CIGARETTES, HEATED TOBACCO, OTHER TOBACCO PRODUCTS, AND/OR ITS COMPONENTS NOT ALLOWED WITHIN 100 METERS FROM ANY POINT IN THE PERIMETER OF [name of SCHOOL/PLAYGROUND/FACILITY FOR PERSONS BELOW 21/HEALTH FACILITY/ETC.]

f. For persons-in-charge of schools, public playgrounds or other facilities frequented by the persons below age 21, offices of the DOH and attached agencies, hospitals and health facilities, report to the Smoke/Vape-Free Task Force any sale, advertisements or promotion of tobacco, electronic cigarette, heated tobacco products, and/or any of its components located within 100 meters from its perimeter;

g. for person-in-charge of establishment intending to sell tobacco/ electronic cigarette, heated tobacco products, and/or any of its components secure a valid business permit and license to sell in retail or wholesale from the city's / municipality's Business permit and License Office, and shall comply with all essential requirements as directed by other regulatory agencies, if applicable.

h. For persons -in-charge of approved point-od sale establishments, post the following notice, together with a graphic/ picture-based health warning on the health consequences of tobacco, electronic cigarette, and heated tobacco use and exposure as prescribed by the City/ Municipality Health Office, in a clear and conspicuous manner.

SALE/ DISTRIBUTION OF TOBACCO, ELECTRONIC CIGARRETES HEATED TOBACCO PRODUCTS, AND /OR ANY OF ITS COMPONENTS TO PERSONS BELOW AGE 21 IS UNLAWFUL

i. For persons-in-charge of approved point of sale establishments, remove all forms of tobacco, electronic cigarette and heated tobacco product, and/or buy the Ordinance.

j. For person-in-charge of approved point-of-sale establishments, secure approval
from the City/ Municipality Health Office for Storages or containments of tobacco/ electronic cigarette/heated tobacco products, and/or any of its components. Only a listing of the available product's/components brand/variants sold at the point-of-sale establishment is allowed to appear outside of the storage or containment, where such listing shall only be written /printed in any plain font, and without any recognizable products or brand typefaces, logo, indicia or markings. Such list shall not occupy more than (25%) of the exposed side of the storage or containment.

k. For person-in-charge pf approved point-of-sale establishments, ensure that storages or containments of tobacco/electronic cigarette/heated tobacco products and/ or its components are opened only by the store personnel/ manager at the counter during actual purchase, or when being replenished, cleaned or inspected;

l. Established internal procedures and measures through which this Ordinance shall be implemented and enforced within the area of which he or she is inn charge. This includes compliance with smoking and/vaping sales, distribution, advertising and promotions restrictions *(i.e. warning smoking /vaping violators in banned areas and requesting them to stop smoking / vaping, and if they refuse to comply, reporting the incident to the City/ Municipality Health Office, the nearest peace officer, or to any member of the Smoke/ Vape -free Force through its hotline or by other means;*

m. Ensure that all the employees in the establishments and government officers are aware of this Ordinance and the procedure and measures for implementing and enforcing it;

n. Allow inspectors acting under Sections 14 and 15hereof, which may include other members of the Task Force and the designated civil society organization under Section 16, entry into the establishment, public conveyance and government offices and facilities during regular business hours for the purpose of inspecting its compliance with this ordinance.

o. For all signages required to be posted under (a), (b), (e), and (h) above, provide for versions of them in the local languages / dialects or in English;

SECTION 7. PERSONS LIABLE- The following shall be liable under this Ordinance:

a. Any person or entity who commits any of the prohibited acts stated in Section 5 hereof; provided, if the violator is a minor, the apprehending officer from the Task Force shall report the incident to the school principal/ dean exercising jurisdiction over the violators where shall be required to comply with the disciplinary measures imposed by the school / universities where he/ she is enrolled , or endorse to the City/Municipality Social Welfare and Development Office for appropriate action or intervention pursuant to Republic Act 9344 or the Juvenile Justice and Welfare Act. Should the School / university have no policy for offenses committed by their students outside the school premises or if the violator to the City / Municipality Social Welfare and Development Office, which may involve the parents or guardians and/ or a Barangay Officials where the violator is a resident, in carrying out disciplinary measures.

b. Persons- in- charge who knowingly allow, abet, authorize or tolerate the prohibited acts enumerated in Section 5, or otherwise fails to fulfill the duties and obligations enumerated in *Section 6* hereof.

the jurisdiction of this local Government unit, the recommendation for revocation or suspension of business permit and license to sell or Certificate of Public Convenience shall be forwarded to the appropriate local government unit, agency of governing body. The suspension or revocation shall only be lifted once all the requirements set forth upon re-inspection and evaluation of the City- Municipality Health Office, Building/ Engineering Office, Business Permits and Licensing Office and/or the appropriate agency or governing body has been fully complied with. Any Task Force member may recommend the revocation or suspension of license or permit of an erring establishment to the appropriate office.

e. Community Service. If a violator is unable to pay the penalties imposed, he or she may choose to render community service rendered, his/ her outstanding fine shall be reduced by an amount equivalent to (option 1) triple the hourly minimum wage, or (option 2) other computations/ fixed per hour in the city/municipality.

f. No Contest Provision. Persons who violate any provision of this Ordinance except for Section 5 (p) who do not wish to contest the violation and are willing to pay voluntarily the penalty imposed upon him/ her for the first and second offenses enumerated *in Section 8 a and b* prior to the filing of a formal compliant with the proper court, shall be allowed to pay the penalty with the City / Municipal Treasurer's Office within five (5) working days from the day of apprehension. If after the lapse of five (5) working days, the violator has failed to present the Official Receipt of the payment of the penalties, the Task shall have the case filed with the Prosecutor's Office, attaching an Affidavit or Certification from the City/ Municipal Treasurer's Office that the violators failed or did not avail of the No Contest Provision. The No Contest Provision cannot be availed for third and subsequent offenses.

g. Subsidiary Imprisonment Provision. Subsidiary imprisonment may be imposed by the court in the event that the violator is unable to pay the fine which he is sentenced to pay.

h. Proper Identification. Persons found in violation of this ordinance must present valid proof of identification. In the absence of such proof, the violator shall be brought to the nearest police station for proper identification, then to the Task Force for the payment of penalty or rendition of community service.

i. Confiscation or Removal. Tobacco electronic cigarette, heated tobacco products, related products or components, and their advertising/ promotions paraphernalia found violating any of the prohibited acts in this ordinance shall be subject to confiscation and/or removal.

j. Evidence. The evidence of the violation of this Ordinance may be obtained by means of photograph or video. In case of confiscated items, signed sworn statements/ affidavits shall be made by the apprehending officer with the specific details of the violation, details of the confiscated items, including the procedures taken in order to preserve its integrity and evidentiary value. Upon confiscation, the items should be appropriately marked by the apprehending

officer with his initials and signature, and subsequently photographed and recorded in the inventory of the Task Force.

SECTION 9. Citation Ticket System- Violators of this Ordinance shall be informed of their violation and its corresponding penalty by means of a Citation Ticket System with the following guidelines:

a. Officials booklets of Citation Tickets shall be issued by the City/ Municipal Treasurer to duly authorized enforcers within ninety (90) calendar days of the effectivity of this Ordinance.
b. A Citation Ticket shall be issued by duly authorized enforcers to person's / liable for any violation of this Ordinance.

c. A citation Ticket shall contain the following information;
   1. Checklist of the violations under this Ordinance
   2. The fines associated with each violation;
   3. Option to render community service incase violator is unable to pay fine;
   4. The due date for compliance with the obligations imposed by the ticket.

d. When the Citation Ticket is issued to a violator, he /she shall report to the City/ Municipal Treasurer's Office or its duly authorized collecting agent within 5 working days after issuance, where he or she shall either pay the fine imposed or render community service under *Section 8* (e) hereof.

e. The City/ Municipal Treasurer's Office shall keep a duplicate of all Citation Tickets issued to violators as well as other records of violations of this Ordinance.

SECTION 10. Smoking Cessation and Livelihood Assistance Programs--- The City/ Municipal Health Officer, with the assistance of the Health Education and Promotion Officer or other members of the Task Force, shall develop, promote and implement a Smoking/ Vaping Cessation Program and encourage the participation therein of public and private facilities which may be able to provide its requirements. Smokers/vapers who may have developed dependence but who are willing to quit, including those who may be dual users of tobacco and electronic devices (ENDS/ ENNDS/ HTPs), and those found violating the smoking/ vaping prohibitions of Ordinance, may be referred to the city/ municipality's Smoking Cessation service provider or to other facilities.

Persons involved in selling tobacco/ ENDS/ ENNDS/HTPs prior to the effectivity of this ordinance, such as, but not limited to, ambulant vendors, whose economic activity shall be affected or displaced by the restrictions on sales, may be referred for enrollment and given assistance in the livelihood programs of the city/ municipality or by other appropriate agencies.

ENFORCEMENT

SECTION 11. Smoke/Vape-Free Task Force --- A task Force be created to aid in the implementation, enforcement, and monitoring of this Ordinance, and to protect the same from tobacco/ electronic cigarette industry interference at all times as well as to conduct educational awareness campaigns, information dissemination programs, and capacity building programs that will inform the constituents and train enforcement officers.

The Task Force chaired by the Mayor shall have the following as members;

a. Health Officer
b. Health Education and Promotion Officer/ or equivalent designate;
c. Building/ Engineering Officer
d. Legal Officer;
e. Information Officer
f. Business Permits and Licensing Officer;
g. Representative/ s of one or more civil society organizations (CSO) designated by the Health Officer, under Section 16 hereof;
h. Philippine National Police (PNP) Chief of Police;
i. Treasurer;
j. Environment and Natural Resources Officer (ENRO) from the local government unit or from DENR;
k. Representative/s from DepEd, CHED and/or academic institution;
l. local President of the Liga ng mga B*arangay* ng Pilipinas;
m. Public Order and Safety Officer;
n. Social Welfare and Development Officer
o. Human Resources Management Officer
p. City/ Municipal Administrator / Chief of Staff
q. Coordinator of the Task Force Unit or Officer (if than the above officers)
r. Other members identified by the chair or vice chair (whose specific function in the local government unit and role may serve to effectively implement this Ordinance)

As the Chairman of the Task Force, the Mayor may designate a vice-chair to serve as an overall coordinator. The Task Force shall not include as its member any person or entity supporting or accommodating tobacco/electronic cigarette industry interests or is connected in any way to the tobacco/electronic cigarette industry in order to protect and preserve the integrity of the primary health objective of the Ordinance. No member of the Task Force shall also receive for himself or other individuals, beneficiaries or groups, any contribution or compensation, directly, whether financial or otherwise, from the tobacco/electronic cigarette industry. Non – compliance of this provision governing the Task Force shall serve as ground for the removal. If the erring Task Force member is likewise public official or government personnel, he/she shall also be subject to sanctions prescribed under the CSC-DOH Joint Memorandum Circular 2010- 001 or other applicable laws/ policies.

SECTION 12. Duties and Responsibilities of the Task Force--- Other than (1) receiving, reviewing and processing reports and complaints, serving of citations and notices and filing of appropriate charges for violations under this Ordinance (2)

attending regular Task Force meetings, and (3) deputizing enforcers *under section 13 to 16 hereof*, and enforcing the other provisions of this Ordinance, the Task Force headed by the Mayor, shall have the following respective duties responsibilities.

a. The Heath Officer shall:
   1. Makle tobacco control, including the implementation of this Ordinance, a part of the health program and propose funding under the annual general budget of the local government unit or the Local Health Investment Plan;
   2. Establish baseline annual data on tobacco/e-cigarette use prevalence and other related studies, and recommend further action on the findings such as data;
   3. Monitor, together with the Sanitary Inspector, Enforcers and / or Task Force members the compliance of this Ordinance in public places, establishments, conveyances, point of sale, and including the approval/ disapproval of permits in Designated Smoking/ Vaping Areas (DSVAs) as well permits/ licenses for tobacco/ e -cigarette point of sale;
   4. Facilitate, together with the Sanitary Inspector, Enforcers and / or Task Force members, the serving of notices, citations, the imposition of fines, suspension, or revocation of permits/ licenses for violations;
   5. Assign a hotline or any other number and email address to which violations of this Ordinance may be reported by email, phone call or SMS, or other means, and a person to operate the line and record reports, while another hotline may be assigned for accepting calls or messages for Smoking Cessation counselling;
   6. Develop, promote and implement a Smoking Cessation Program, stated in Section 10;
   7. Assist hospitals and other health facilities including any office of the DOH within the local government unit, together with the Sanitary Inspector, Enforces and / or Task Force members, in the monitoring of tobacco/ e-cigarette product' sales advertisements and promotions within 100 meters from the perimeter of schools, public playgrounds, facilities frequented persons below 21 and health facilities.

b. The Heath Education and Promotion Officer shall:
   1. Develop and produce information, education and communication materials and conduct activities on Tobacco Control, such as the harms of smoking and second-hand smoke/aerosol, as well as on provisions of this Ordinance;
   2. Encourage constituents to monitor and report violations of this Ordinance;
   3. Assist the Health Officer in developing, promoting and implementing a Smoking Cessation Program.

c. The Building/ Engineering Officers shall;
   1. Conduct, together with the Health Officer or on its own, inspection activities as provided in this Ordinance;
   2. Determine whether or not enclosed/ partially enclosed public places, workplaces, other public places, and point-of-sale establishments, comply with this ordinance;

3. Recommend the approval, suspension or revocation of licenses/ permits for establishments/ facilities, in compliance with this Ordinance.

d. The Legal Officer shall:
   1. Assist the Task Force in reviewing reports of and complaints for violations of this Ordinance and in determining liability or appropriate cases to file;
   2. Extend any legal assistance and/or cases on matters pertaining to this Ordinance.

e. The Information Officer shall:
   1. Assist in dissemination pertaining to all aspects of this Ordinance including the printing and distribution of copies of this Ordinance to the public;
   2. Make a primer summarizing the provisions of this Ordinance, and facilitate the development or related information materials and required signages.
   3. Publicize activities and reports related to implementation and enforcement.

f. The Business Permits and Licenses Officer shall:
   1. Order the suspension or revocation of licenses/ permits of establishments found to have violated this Ordinance, subject to the provisions of Section 8 hereof:
   2. Deny renewal of licenses/ permits of repeat violators of this Ordinance;
   3. Establish a procedure for identifying, informing and marking establishments covered by the 100-meter ban on the sale, distribution, and advertising of tobacco/e-cigarette products.

g. The CSO Representative/s shall:
   1. Assist in inspections and in monitoring violations of this Ordinance;
   2. Assist in promoting awareness of this Ordinance and in encouraging public support and participation for its implementation and enforcement;
   3. Assist in promoting and, if capable, implementing a Smoking Cessation Program;
   4. Assist in developing and conducting orientation and training seminars for enforcers;
   5. Assist in evaluating the performance of the Task Force and effectiveness of the implementation and enforcement of this Ordinance.

h. The PNP Chief of Police shall:
   1. Direct the Local PNP in the orderly enforcement of this Ordinance;
   2. Ensure apprehension of violators in accordance with the provisions of this Ordinance and other rules and procedures of engagement;

3. Assist Task Force members, local government unit officials and deputized civilians in apprehending violators and in filling the appropriate complaints when necessary;
4. Assist in promoting awareness of this Ordinance and in encouraging public support and participation in its implementation and enforcement;
5. Employ the assistance of other members of the Task Force and other police enforcers, such as those from other local government units, during enforcement when coordination is necessary;
6. Refer minors caught in violation of this Ordinance to the Social Welfare and Development Office and/ or to the School authorities where the violator is enrolled;
7. Use the Citation Tickets during apprehension and maintain a record or log of violations/ apprehensions made within particular periods, for purposes of reporting.

i. The Treasurer shall:
   1. Facilitate the printing and reprinting of Citation Ticket;
   2. Issue booklets of the Citation Tickets to the local government unit's enforcers and other deputized enforcers as appropriate;
   3. Collect/ receive fines paid by violators and submit reports on its collection;
   4. Designate collection agents and guidelines for collections as necessary to assist in efficient collection of fines from local government units;
   5. Facilitate the release and allocation of funds, and the remuneration of enforcers share in accordance with the provision for the sharing of proceeds, derived from the collection of fines, penalties, generated resources, and appropriated budget.

j. The Environment and Natural Resources Officers shall:
   1. Assist in promoting awareness of this Ordinance as a component in the protection and conversation of the environment and ion encouraging public support and participation in its implementation and enforcement;
   2. Assist in inspection and monitoring violations of the Ordinance on its own or with any other member of the Task Force.
   3. Conduct timely monitoring of air, water, soil quality and other studies pertinent to determine levels of exposure to tobacco smoke, e-cigarette aerosol, residues by products, and liter, among others;
   4. Provide expertise in the application and management of appropriate technologies to avert environmental/Heath risk, accidents, and damage posed by tobacco smoke, e-cigarette aerosol, residues, by – products, waste generated, among others.

k. The Representative from DepEd, CHED and /or Academic institution shall:
   1. Implement the Department/ Commission Orders on the integration of tobacco control education into the school curricula;

2. Ensure strict compliance of the Memos and Orders on the protection of the bureaucracy from industry interference as per FCTC Article 5.3;
3. Ensure strict compliance of Schools in enforcing 100% smokefree campuses and school facilities including the school's vehicles;
4. Assist in the monitoring of tobacco/ electronic cigarette products' sales, advertisements, and promotions within 100 meters from the perimeter of school's public playgrounds and facilities frequented by persons below 21;
5. Ensure the posting in a clear and conspicuous manner "No Smoking/ Vaping" signs and notices for the sales ban of Tobacco Products within 100 meters from the perimeter of schools, public playgrounds, facilities frequented by persons below 21 and health facilities.

l. The Local President of the *Liga ng mga Barangay ng Pilipinas* shall:
   1. Assist in promoting awareness of this Ordinance in encouraging public support and participation in its implementation and enforcement;
   2. Coordinate with all Barangay Captains and the PNP , or other members of the Task Force, in monitoring violations of the Ordinance within their jurisdictions;
   3. Provide the necessary coordination among the Barangay Heath Workers, *Kagawads, Sanguniang Kabataan* (SKs) and *Tanods* and other enforcers (i.e. Coast Guards) for the implementation of activities pertinent to the Ordinance;
   4. Assist in the facilitation of and referrals to the Smoking/ Vaping Cessation Program at the Barangay Level, if applicable.

m. The Public Order and Safety Officer shall:
   1. Assist in promoting awareness of this Ordinance in encouraging public support and participation in its implementation and enforcement;
   2. Monitor compliance in public places, establishments, conveyances, point-of-sale, Designated Smoking/ Vaping Areas (DSVAs), together with other members of the Task Force;
   3. Assist in the enforcement and coordinate with other enforcers/ Task Force members regarding the serving of Citation Tickets, imposition of fines, suspension or revocation of licenses/ permits for violations;

n. The Social Welfare and Development Officer:
   1. Assist in the enforcement of this Ordinance when persons below 21 are involved;
   2. Provide the necessary interventions for persons below 21 implicated in violations.

o. The Human Resources and Management Officer or equivalent officer/ LGU point- persons for the civil Service Commission:
   1. Overseas the strict implementation of smoke -free- government facilities;

2. Evaluate for approval the proper establishment of Designated Smoking / Vaping Areas in government facilities where it may apply;
3. Oversee the strict implementation of a policy preventing industry interference, pursuant to the CSC-DOH Joint Memorandum Circular 2010-01;
4. Monitor, supervise and report on all concerns pertaining to tobacco / e- cigarette industry activities, communications, and other related concerns;
5. Assist in matters related to tobacco control policies as it applies to the performance of functions and duties affecting government officials/ personnel.

p. The City / Municipal Administrator / Chief of Staff:
   1. Assist the Mayor in overseeing the implementation and enforcement of this Ordinance, in close coordination with other members of the Task Force;
   2. Provide regular updates to the Mayor as to the status of implementation and enforcement of the Ordinance.

q. The Coordinator, in case of a separate Coordinating Unit or Office of the Task Force, under the authority of the Mayor:
   1. Perform any of the functions assigned to him/ her by the Mayor pertaining to the implementation, enforcement, and promotion of this Ordinance;
   2. Coordinate with any/ all members of the City/ Municipal Task Force as necessary, facilitate training, assist in enforcement/ promotion/ monitoring/ research, and attend to any related function as required/ instructed by the Mayor;
   3. Provide regular updates to the Mayor as to the status of implementation of tobacco Control in the local government unit and of the Ordinance.

SECTION 13. Enforcement on Individuals- Members of the PNP and /or persons duly deputized by the Mayor/ Task Force shall apprehend and issue Citation Tickets against persons found in violation or have failed to comply with any provision enumerated under section 5 and 6 hereof. They forward copies of the tickets they issue violators to the Treasurer's Office regularly or per week. If the violator is a minor he or she must be turned over for dispersion of appropriate action to the nearest Social Welfare and Development Officer or its appointed designates, subjects to RA No. 9344 (Juvenile Justice and Welfare Law), and / or to the school authorities at the school where the violator is enrolled, and / or to the Barangay Office where the violator is a resident, and where the parents or guardians may be called. In case any valid or sufficient form of identification is not presented, he / she shall be brought to the nearest police station for proper identification, then to the Smoke/ Vape -Free Task Force for the payment of penalty or rendition of community service.

SECTION 14- Enforcement on Public Conveyances- Members of the PNP and/ or persons duly deputized by the Task Force 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 violators to the Treasurer's Office regularly or at least once a week.

SECTION 15- Enforcement on Establishments- Ninety (90) calendar days after the effectivity of this Ordinance, an inspection team composed team composed of representatives from the Heath Office, Engineer's Office, Permits and License Office, and other members of the Task Force, shall conduct inspections of establishments and buildings to determine their compliance with the provisions of this Ordinance.

A regular inspection shall thereafter be conducted at least once every month or simultaneously with other regular inspections done by the appropriate office or department, whichever is more frequent during normal hours of operation of the establishment. The inspection team shall issue a Citation Tickets 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-complaint.

Re-inspection of the establishment shall be done on any day after the issuance of the Citation-Ticket but in no case more than ten (10) working days after the 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 its license/permit consistent with *Section 8 (d)* hereof.

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

SECTION16. Civilian Participation in Enforcement- Within thirty (30) calendar days from the effectivity of this Ordinance, the Task Force/ Health Office shall designate with the approval of the Office of the Mayor, one or more civil society organizations (CSO) not connected/ represents interests of the tobacco / e-cigarette industry, to discharge the duties and responsibilities enumerated in Section 12 (g) hereof. The Mayor may deputized civilians to also serve as enforcers of this Ordinance. Any person can file with Task Force A report or complaint, or present evidence for any violation of this Ordinance, or be assigned other duties pursuant to the attainment of its effective implementation.

INFORMATION CAMPAIGN

SECTION17. Information Dissemination. - Within sixty (60) calendar days of the effectivity of this Ordinance, the Task Force shall:

a. In coordination with the Office of the Mayor:
   1. Provide at least two (2) copies of this Ordinance to every PNP station or precinct in the jurisdiction of the respective LGUs;
   2. Provide a primer on this Ordinance for every officer of the PNP/ deputized enforcers;
   3. Conduct lectures to brief officers of the PNP and other enforcers, the provisions of this Ordinance and of their responsibilities with respect to its enforcement.
b. In coordination with the Permits and License Office, provide a copy of this Ordinance and its primer to all existing establishments that are licensed

to operate, as well as to those applying for new licenses or permits to operate, and/ or permits to sell tobacco/e-cigarette product.

c. In coordination with the Information Office, provide a copy of this Ordinance and its primer to all public utility vehicle operators plying within and through the territorial jurisdiction of LGU of Pinabacdao and for other sectors as necessary.
d. In coordination with the Health Office, develop, disseminate and post timely health information on prevention and cessation, including the use of graphic health warnings, in information, education and communication (IEC) materials, depicting the health and other impacts of tobacco/e-cigarette use and exposure.

SECTION 18. Public Billboards, Notices in Barangays. - Upon the effectivity of this Ordinance, the Engineer's Office shall put up billboards in conspicuous places within the LGU to notify the public of the restrictions and sanction imposed by the Ordinance. The Information Office shall also immediately issue for the dissemination at the barangay level notices on obligations of persons under the ordinance.

SECTION 19. Conduct of Orientation Seminars and Trainings.- Within sixty (60) calendar days from the effectivity of the Ordinance and periodically thereafter, the Health Officer, with the assistance of the Health Education and Promotion Officer, and the CSPO representative designated under *Section 16* hereof, with other members of Task Force, shall develop and conduct a series of orientation seminars and training of the enforcers of this Ordinance, at least one for each group, including but not limited to deputized enforcers like barangay health workers, *barangay tanods*, and the local PNP.

FINANCING

SECTION 20. Funding- Initial funding to defray the expenses necessary for or incidental to the implementation of this Ordinance and Tobacco control Program of (name of LGU) in the amount of (insert amount here) shall be sourced from the amount of City/ Municipal Government and is hereby allocated. Every year thereafter, at least (insert amount here) shall automatically be included in the Annual Budget of the City/ Municipality for the implementation and enforcement of this Ordinance and the City's/ Municipality's Tobacco Control Program.

The initial funding annual budget appropriated for this purpose, and funds generated from other sources, such as, but not limited to, the proceeds from administrative penalties, shall be placed in a Trust Fund specifically intended to defray expenses and operationalize activities of this Ordinance and the city's/ municipality's Tobacco Control Program. The Task Force shall be empowered to determine how the Trust Fund is to be utilized in furtherance of this Ordinance, subject however to the usual government accounting and auditing procedures.

The above expenses may include, but are not limited to:

a. Cost of printing copies this Ordinance, the Citation Tickets, and Information. Education and communication materials pertaining to tobacco control;
b. Cost of regular periods meeting of the Task Force;
c. Cost of inspection and enforcement by the Task Force including allowances for meals and transformation which shall be set by the Office of the Mayor;
d. Remuneration for the apprehending enforcer's share of the proceeds from penalties paid;
e. Incentive or reward for private citizens who report violations of Ordinance
f. Institutional and operating expenses of the smoking cessation program and facility;
g. Other expenses associated with implementation and enforcement of this Ordinance;
h. The hiring of coordinator / staff/ agents who shall be involved in the day to day operations;
i. Conduct prevalence and compliance monitoring and assessment activities.

Sharing of Proceeds from the Administrative Penalties—The amount of the corresponding penalty paid by a violator to the Treasurer shall be apportioned where the equivalent of _____ percent _____ shall accrue to the apprehending officer or deputized enforcer as an incentive. The remainder of the proceeds from penalties collected as payment by violators, after deducting the amounts that shall accrue to the apprehending officers or deputized enforcers shall from part of the abovementioned Trust Fund.

SECTION 21. Repealing Clause – All Ordinances contrary to or inconsistent with this Ordinance are hereby repeated or modified accordingly.

SECTION 22. Separability Clause—If any or provision of this Ordinance is declared unconstitutional or invalid, the same shall not affect the validity and effectivity of the other parts or provisions hereof.

SECTION 23. Effectivity Clause—This Ordinance shall take effect fifteen (15) days after its publication in a newspaper of local or general circulation or posting in at least two (2) conspicuous places within the city/ municipality.

Enacted and Approved: 26th day of February 2024 at Pinabacdao, Samar.

HON. JOSE SANTIAGO T. QUIJANO
SB Member

HON. ELISEO B. CABORNAY JR.
SB Member

HON. JOEL R. PACAYRA
SB Member

HON. NESTOR C. OCENAR
SB Member

HON. ARLYN C. MABUTE
SB Member

HON. ROSEMARIE T. BADENAS
SB Member

HON. NINO A. RAGA
SB Member

HON. REYNALDO C. TUAZON
SB Member

HON. VILMA P. ESOY
ABC President

HON. JOSEPH ULDANE O. GACULA
SK Federation President

I HEREBY CERTIFY to the correctness of the foregoing ordinance.

MARY BERNARDETTE T. QUIJANO
Secretary to the Sangguniang Bayan

Attested by:

HON. EDGAR M TONELETE
Municipal Vice Mayor

Approved:

HON. TEODORICO A. MABAG
Municipal Mayor

03-04-24

d. **Electronic Nicotine and Non-Nicotine Delivery Systems (ENDS/ENNDS)** – refers to a battery-operated device that heat e-liquids or refills which may or may not contain nicotine to produce aerosol, mist, or vapor that users inhale by mimicking the act of smoking. They are also commonly known as **electronic cigarettes (e-cigarettes), vapor products**, vapes, vape pens, electronic shisha (e-shisha), mods and other similar or related devices.

e. **Enclosed or partially enclosed** – means being covered by a roof or enclosed by one or more walls or sides, regardless of the type of material used for the roof, wall or sides, and regardless of whether the structure is permanent or temporary.

f. **Heated Tobacco Products (HTPs)** – refers to tobacco products that contain highly-addictive substance nicotine and/or non-tobacco additives and flavorings that produce aerosols, which are inhaled by users through the mouth. HTPs mimic the behavior of smoking conventional cigarettes, and some make use of specifically designed cigarettes to contain tobacco for heating.

g. **Minimum Legal Age (MLA)** – refers to twenty-one (21) as the minimum wage at which the person is legally allowed to use, sell or purchase tobacco or electronic cigarette products within the territorial jurisdiction of [name of LGU].

h. **Novel Tobacco Products** – refers to all substances, devices and innovations entirely or partly made of tobacco leaf as raw material, already existing or to be developed in the future, intended to be used as substitutes for cigarettes, conventional tobacco products, ENDS/ENNDS or HTPs.

i. **Outdoor advertisement** – refers to any sign, model, placard, board, billboard, banner, bunting, poster, streamer, paint-on, light display, video/digital display, apparel, device, structure or representation, used outdoors and wholly or partially visible from the outside to advertise or promote a tobacco product/ENDS/ENNDS/HTPs or their components, or the use thereof, either directly or indirectly to the public.

j. **Person-in-charge** – refers to the president/manager in case of a company, corporation, partnership or association; the owner/proprietor/operator in case of a single proprietorship; the administrator in case of government property, facility or office of the building; the owner/driver/operator/conductor/captain in case of public conveyances; and the city/municipal schools superintendent, school president, dean or principal in case of schools or universities.

k. **Point-of-sale** – refers to a physical area where tobacco/electronic cigarette and heated tobacco products of their components are sold and bought.

l. **Public conveyance** – refers to modes of transportation servicing the general population, such as but not limited to, elevators, airplanes, ships, boats, jeepneys, buses, taxicabs, ride-share service vehicles/Transport Network

e. Ordering, instructing or compelling a person below age 21 to use, light up, buy, sell, distribute, deliver, advertise or promote tobacco, electronic cigarette, and heated tobacco products;

f. Selling or distributing tobacco, electronic cigarette, and heated tobacco products and/or its components in a school, public playground or other facility frequented by persons below age 21, offices of Department of Health (DOH) and its attached agencies, hospitals and health facilities or within 100 meters from any point in the perimeter of this places, within premises of a government facility, establishments that serve food and drinks or provide accommodation and entertainment;

g. Selling tobacco, electronic cigarette and heated tobacco products and/or its components without a valid city/municipal business permit and license to sell;

h. Manufacturing, distributing, marketing or selling of unregistered or adulterated electronic cigarettes and components thereof in the form of devices, e-liquids, solutions or refills whether physically part of or intended to be used with electronic cigarettes, heated tobacco products and other novel tobacco products;

i. Selling of e-liquids, solutions or refills forming components of electronic cigarettes or heated tobacco products, without prejudice to the registration requirements that may be set forth by the Food and Drug Administration in accordance with R.A. Nos. 9711 and 11467;

j. Selling of devices from components of electronic cigarettes or heated tobacco products not complaint with product standards that maybe imposed by the Department of Trade and Industry and the Food and Drug Administration in accordance with R.A. Nos. 7394 and 11467;

k. Manufacturing, distributing, importing, marketing and selling of electronic cigarettes, heated tobacco products or their components, without prejudice to the licensing requirements that may be set forth by the Food and Drug Administration;

l. Importing unregistered or adulterated electronic cigarettes, heated tobacco products or components thereof;

m. Selling of tobacco, electronic cigarette, and heated tobacco products and/or its components removed from its original product packaging or sold as an individual pieces or per stick, or in packs containing less than 20 sticks/pieces in case of tobacco products and heated tobacco product refills/heat sticks;

n. Selling tobacco, electronic cigarette, and heated tobacco products and/or its components without the appropriate government-issued health warning;

o. Selling tobacco, electronic cigarette, and heated tobacco products and/or its components knowingly or inadvertently to persons who have never smoked or vaped;

p. Selling or distributing of sweets, toys, accessories, apparel or any other objects in the form of or bearing resemblance to the logo, insignia, packaging or distinguishable design elements of tobacco, electronic cigarette, heated tobacco products and/or its their components, including imitations thereof, which may appeal to persons below age 21;

q. Placing cinema or outdoor advertisements of tobacco, electronic cigarette and heated tobacco products and/or its components;

r. Placing, posting, displaying, wearing or distributing advertisement and promotional materials of tobacco, electronic cigarette, and heated tobacco products and/or their components, such as but not limited to leaflets, posters, display structures, video/digital displays, accessories apparel and other materials within an establishments when such establishment, or its location, is prohibited or not licensed to sell and distribute tobacco, electronic cigarette, heated tobacco products, and/or their components, and are not adult-only establishments;

s. Conducting promotional activities, campaigns, events, product sampling, and other similar activities where the establishment or its location prohibits selling, distributing and purchasing of tobacco, electronic cigarette, heated tobacco products, and its components, and where persons below age 21 are allowed entry;

t. Displaying and placing tobacco, electronic cigarette and heated tobacco products and/or its components in open store shelves/racks, except in enclosed, opaque and single-colored storages/containments;

ONLINE SALE, DISTRIBUTION, ADVERTISING AND PROMOTION

u. Selling, distribution, advertising and promotion of tobacco, electronic cigarette, heated tobacco products and/or related components/product in online platforms/e-commerce subject to pertinent regulation/guidelines of the Food and Drug Administration (FDA) and other concerned agencies.

ENGAGEMENT AND SPONSORSHIP INVOLVING THE TOBACCO/E-CIGARETTE INDUSTRY

v. Facilitation, participation or partnership involving any government official or personnel of [name of LGU] regardless of employment status (permanent, casual, contractual, job order, consultant or special appointment) in any form