By unanimous vote of the members present, the following City Ordinance was enacted:

**CITY ORDINANCE NO. 2002-090**

Author: Councilor Nelson S. Pasia

**AN ORDINANCE REVISING ALL EXISTING ANTI-SMOKING ORDINANCES IN MAKATI CITY AND EXPANDING THE COVERAGE THEREOF, PROVIDING PENALTY FOR VIOLATION THEREOF.**

**WHEREAS,** it is the policy of the City of Makati to promote the health and welfare of its citizens. Towards this end, it is the purpose of this ordinance to safeguard public health and ensure the physical well being of smokers and non-smokers alike by discouraging cigarette smoking and tobacco use;
WHEREAS, scientific studies and statistical findings reveal that smoking and the effects of second-hand smoke pose serious health hazards to persons who are in the presence of smokers. The World Health Organization (WHO), in its latest survey, reported that 3.5 to 4 million people all over the world die each year from smoking and inhaling of secondary smoke. The WHO predicts that by the year 2003, the figure will increase to 10 million people;

WHEREAS, thousands of Filipinos who have been addicted to tobacco smoking die due to lung cancer, chronic obstructive pulmonary disease, coronary artery diseases or cerebro-vascular diseases. Exposure to second-hand tobacco smoke also causes numerous health problems. Consider for instance, our children who are exposed to cigarette or tobacco smoke are at increased risk from asthma, pneumonia, bronchitis, and ear infections, exposure of pregnant women and the new born can cause premature birth and slower development of the child. But worst of all is the fact that many cigarette smokers are not aware of the extremely poisonous substances like cyanide and arsenic, among other toxins that are found in cigarette smoke;

WHEREAS, the right of the general public to a cigarette and tobacco smoke-free environment shall be ensured by a ban on smoking in public conveyances, in all public buildings and enclosed public places;

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

Section 1. This Ordinance shall be known as the “REVISED ANTI-SMOKING ORDINANCE OF MAKATI”.

Section 2. Definition of Terms – As used in this Ordinance, the following terms shall have the meanings ascribed to them in this section, unless the context of their usage indicates another meaning:

*Cigarette* – roll of finely cut leaf tobacco, or any substitute thereof, wrapped in paper or any other material.

*Cigar* – a small roll of tobacco leaves prepared for smoking.

*Public Conveyance* – mode of transport servicing the general population, such as, but not limited to, elevators, jeepneys, buses, light railway transit, trains, airplanes, ships, taxicabs, tricycles and other similar vehicles.

*Enclosed Public Place* – refers to a building or any other enclosed structure, whether government or privately owned, that is open to the public by general invitation or otherwise, such as but not limited to private workplaces, offices, schools, hospitals, medical clinics, department stores, malls, markets, supermarkets, restaurants, bars, clubs, nightclubs, lounges, comfort rooms, auditoriums, private clubhouses, session halls, bus or airport terminals, elevators, hotels, coliseum, libraries, courtrooms, grocery stores, ship terminals and other similar places where smoking may expose a person other than the smoker to tobacco smoke.

The imposition of an entry fee, use charge, membership requirement or other condition of entry to an enclosed area shall not prevent its constitution as a public place, provided that admission is granted on a uniform basis to persons who meet the established criteria for use or admission.
Smoking – the act of carrying a lighted cigarette, cigar or a pipe whether or not it is being inhaled or smoked.

Designated Smoking Area – refers to an indoor area where smoking is allowed, physically separated from the declared smoking-free area, equipped with effective and strong ventilation so that smoke emanating therefrom does not drift, permeate, or re-circulate into any smoke free area. Physical separation requires that designated smoking area must be fully separated from smoke-free area by continuous floor-to-ceiling walls which are interrupted only by doors which must be constantly closed except during ingress or egress.

Minor – person under eighteen (18) years old.

Section 3. Smoking is strictly prohibited in all public places in Makati, except in designated smoking areas. Provided, however, that the following public places are hereby declared as absolutely smoke-free areas:

a. All government/public buildings
b. Schools in all levels;
c. Hospitals/Medical Clinics
d. All enclosed public places with an area of less than one hundred (100) square meters.

In relation to the above section, any person having ownership, possession or control of a public place not otherwise declared as absolutely smoke-free area may designate separate smoking areas. In the absence of designated smoking area, such public place shall be declared totally a non-smoking area.

Section 4. It is likewise declared unlawful to smoke cigarette, cigar or pipe in public conveyances plying in Makati City.

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

“NO SMOKING AS PER CITY ORDINANCE NO. 2002-090

Penalty for violation:

First Offense : Fine of P1,000
Second Offense : Fine of P2,000
Third Offense : Fine of P3,000 or imprisonment for three (3) days but not more than six (6) days at the discretion of the court.”

Section 5. Any person found violating any provision of this Ordinance shall be penalized as follows:

First Offense : Fine of P1,000.00
Second Offense : Fine of P2,000.00
Third Offense : Fine of P3,000.00 or imprisonment for not less than three (3) days but not more than six (6) days or both at the discretion of the Court.
The city government may order the closure of a public place that violates this ordinance.

Section 6. The Makati Health Department shall promulgate such rules and regulations, with the approval of the Office of the Mayor, as are necessary for the effective implementation of this ordinance.

Section 7. All ordinances contrary to or inconsistent with this ordinance are hereby repealed or modified accordingly.

Section 8. If any provision of this Ordinance is declared unconstitutional or illegal, the same shall not affect the validity and effectivity of the other provisions hereof.

Section 9. A copy of this ordinance shall be furnished the Makati Health Department, the Makati Police Station, the Makati Public Safety Department (formerly MAPSA), the Information and Community Relations (PRESS) Office, all the Barangays, the Makati Commercial Estate Association (MACEA), all public conveyances and concerned establishments in Makati City.

Section 10. This Ordinance shall take effect after fifteen (15) days following its full publication in a newspaper of local or general circulation or posting in at least two (2) conspicuous places in the city.

ENACTED BY THE SANGGUNIANG PANLUNGSOD OF MAKATI, METRO MANILA, in its special session held on February 27, 2003.

Certified true and correct by:

ROGELIO U. MARASIGAN
City Secretary

Attested by:

ERNESTO S. MERCADO
Vice Mayor & Presiding Officer

APPROVED:

JEjomar C. Binay
City Mayor

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