



Republic of the Philippines
SANGGUNIANG PANLUNGSOD
City Government of Pasig

Ordinance No. 07
Series of 2019

Rhichie Brown

AN ORDINANCE REGULATING THE USE AND SALE OF VAPORIZED AND HEATED TOBACCO PRODUCTS IN PUBLIC PLACES AND PUBLIC CONVEYANCES, ADVERTISEMENTS AND PROMOTIONS, AND PROVIDING PENALTIES THEREFOR.

Gregorio P. Rupisan, Jr.

Authored By: Councilor Gregorio P. Rupisan, Jr.
Co-Authored By: Councilors Rodrigo B. Asilo, Ferdinand A. Avis, Regino S. Balderrama, Orlando R. Benito, Rhichie Gerard T. Brown, Mario C. Concepcion, Rosalio D. Martires, Corazon M. Raymundo, Reynaldo R. San Buenaventura III, Wilfredo F. Sityar, LIGA Pres. Rigor J. Enriquez and SK Federation President Georgia Lynne P. Clemente

Gregorio P. Rupisan, Jr.

WHEREAS, the 1987 Constitution declares it the policy of the State to protect and promote the right to health of the people and instill health consciousness among them;

WHEREAS, a wide range of vapor and heated tobacco products (VHTPs), also known as e-cigarettes, have been introduced in the Philippines and globally. They are handheld products that generate a nicotine-containing aerosol without combustion;

WHEREAS, Congress enacted Senate Bill no. 2233 with differentiated excise tax rates in recognition of the clear distinction between VHTPs- consisting of vapor products and heated tobacco products- which release an aerosol that can be inhaled without burning or any combustion of the tobacco or liquid solution or gel, and cigarettes which are consumed by burning;

WHEREAS, an emerging body of scientific evidence shows that while not risk-free, VHTPs are far less harmful due to the lack of combustion. Public Health England stated that carcinogenic constituents of cigarette smoke that harm health are either absent in e-cigarette vapor or, if present, they are mostly at levels much below five percent (5%) of smoking doses (mostly below one percent (1%) and far below safety limits for occupational exposure). Thus there is a reduced risk potential based on the reduced level of air pollution where VHTPs are used compared to conventional cigarettes;

WHEREAS, regulating VHTPs in the exact same way as cigarettes, however, would fail to acknowledge the fundamental difference between combustible and non-combustible products and their respective risk profiles. Groups such as Public Health England and the British Lung Foundation have underscored the importance of regulating VHTPs or e-cigarette products differently from cigarettes;



Republic of the Philippines
SANGGUNIANG PANLUNGSOD
City Government of Pasig

Ordinance No. 07
Series of 2019

-page 2-

AN ORDINANCE REGULATING THE USE AND SALE OF VAPORIZED AND HEATED TOBACCO PRODUCTS IN PUBLIC PLACES AND PUBLIC CONVEYANCES, ADVERTISEMENTS AND PROMOTIONS, AND PROVIDING PENALTIES THEREFOR.

WHEREAS, the proliferation of illicit or non-compliant VHTPs is a serious problem that could deprive the government of potential revenue from excise tax collections and has the effect of flooding the market with cheaper VHTPs, thereby making them more accessible to the public, especially the youth.

WHEREAS, these non-compliant VHTPs, if not eradicated may pose a threat to the health of consumers because of their substandard quality.

WHEREAS, in order to fully protect the health and welfare of the citizens of Pasig City and at the same time safeguard the interests of all stakeholders, including smokers who have the right to choose less harmful alternatives to cigarettes, there is a need to pass an ordinance regulating the use of vapor and heated tobacco products in public places and conveyances, including its advertising and promotion, in line with the latest scientific studies on this class of products.

BE IT ORDAINED BY THE SANGGUNIANG PANLUNGSOD OF PASIG CITY IN SESSION DULY ASSEMBLED THAT:

SECTION 1. Definition of Terms. - As used in this Ordinance:

- a. "Vapor and Heated Tobacco Products" (VHTPs) also known as "e-cigarette" refers to a category of products that include vapor products, heated tobacco products and similar products. Vapor products shall mean any liquid solution or gel which contains nicotine that transforms into an aerosol without combustion through the employment of a mechanical heating element, battery or circuit that can be used to heat such solution or gel, and include but is not limited to a cartridge, a tank, and the device without a cartridge or tank. It is commonly known as e-liquids for e-cigarettes. The electronic device is used to produce an aerosol, mist or vapor that users inhale by mimicking the act of smoking. Heated tobacco products refer to tobacco products that may be consumed through heating tobacco, either electrically or through other means sufficiently to release an aerosol that can be inhaled, without burning or any combustion of the tobacco. Heated tobacco products include liquid solutions and gels that are part of the product and are heated to generate an aerosol. For purposes of this Ordinance, "VHTPs" is used interchangeably with "electronic cigarettes" or "e-cigarettes";



Republic of the Philippines
SANGGUNIANG PANLUNGSOD
City Government of Pasig

Ordinance No. 07
Series of 2019

-page 3-

AN ORDINANCE REGULATING THE USE AND SALE OF VAPORIZED AND HEATED TOBACCO PRODUCTS IN PUBLIC PLACES AND PUBLIC CONVEYANCES, ADVERTISEMENTS AND PROMOTIONS, AND PROVIDING PENALTIES THEREFOR.

[Handwritten signature]

b. "Nicotine receptacle" shall refer to bottles, boxes, cartons, or containers of any kind in which a nicotine-containing solution or non-burning tobacco or product that can be used for the consumption of nicotine-containing vapors or Nicotine Mixtures or any related product is offered for sale to consumers for use with a VHTP system.

c. "Advertisement" - refers to any visual and/or audible message disseminated to the public about a particular product that promotes and gives publicity by words, designs, images or any other means through broadcast, electronic, print or whatever form of mass media, including outdoor advertisements, such as, but not limited to, signs and billboards. For the purpose of this Ordinance, advertisement shall be understood as VHTP or e-cigarette advertisement;

d. "Advertising" - refers to the business of conceptualizing, presenting, making available and communicating to the public, through any form of mass media, any fact, data or information about the attributes, features, quality or availability of consumer products, services or credit. For purposes of this Ordinance, advertising shall be understood as e-cigarette advertising. This shall specifically refer to messages and images promoting VHTPs; the purchase or use of VHTPs; and VHTP or e-cigarette trademarks, brand names, design and manufacturer's names;

e. "Distributor" - refers to any person to whom a VHTP product is delivered or sold for purposes of distribution in commerce, except that such term does not include a manufacturer or retailer or common carrier of such product;

f. "Enclosed area" - refers to an area that is physically separated from adjacent areas by walls or partitions and a roof or ceiling. The walls or partitions must be continuous, interrupted only by doors and windows. The mere presence of a roof or ceiling over the structure, but without walls or partitions surrounding said structure, does not constitute an enclosed area;

[Handwritten signature]

[Handwritten signature]

[Handwritten signature]

[Handwritten signature]

[Handwritten signature]

[Handwritten signature]

[Handwritten signature]

[Handwritten signature]



Republic of the Philippines
SANGGUNIANG PANLUNGSOD
City Government of Pasig

Ordinance No. 07
Series of 2019

-page 4-

AN ORDINANCE REGULATING THE USE AND SALE OF VAPORIZED AND HEATED TOBACCO PRODUCTS IN PUBLIC PLACES AND PUBLIC CONVEYANCES, ADVERTISEMENTS AND PROMOTIONS, AND PROVIDING PENALTIES THEREFOR.

g. "Mass media" - refers to any medium of communication which reaches a mass of people. For this purpose, mass media includes print media such as, but not limited to newspapers, magazines, and publications; broadcast media such as, but not limited to, radio, television, cable television, and cinema; electronic media such as but not limited to, the internet. For the purpose of this Ordinance, communications designed to reach persons by private, postal or regular mail, electronic mail (e-mail), and similar means shall not be considered as mass media;

h. "Minor" - refers to any person below eighteen (18) years old;

i. "Non-compliant VHTPs" - refers to those VHTPs being sold in the domestic market but fail to comply with national laws or regulations; these may be any of the following:

- (1) non-tax paid VHTPs (products with no affixed tax stamp or with fake tax stamps);
- (2) VHTPs without the health warnings on its labels and packages as required under national laws and/or regulations.

j. "Perimeter" - when used in this Ordinance in relation to sale of, and outdoor advertisements for, VHTPs, the term shall refer to any point in the boundaries as indicated in the Original Certificate of Title or Transfer Certificate of Title of the tract of land that is actually used or occupied by a public school, public playground owned by the government or other facility frequented particularly by persons below eighteen (18) years of age who are or are intended to be the principal users or patrons of such facility, whether or not said tract of land is separated by adjacent tracts by a wall or fence;

k. "Point-of-Sale" - refers to any location at which an individual can purchase or otherwise obtain VHTPs;

l. "Premises"- refers to a tract of land and the building or buildings thereon, including the open spaces between the buildings located on the same tract of land and within the perimeter of said tract of land;



Republic of the Philippines
SANGGUNIANG PANLUNGSOD
City Government of Pasig

Ordinance No. 07
Series of 2019

-page 5-

AN ORDINANCE REGULATING THE USE AND SALE OF VAPORIZED AND HEATED TOBACCO PRODUCTS IN PUBLIC PLACES AND PUBLIC CONVEYANCES, ADVERTISEMENTS AND PROMOTIONS, AND PROVIDING PENALTIES THEREFOR.

m. "Promotion" - refers to an event or activity organized by or on behalf of a VHTP or e-cigarette manufacturer, distributor or retailer with the aim of promoting a brand of e-cigarette, which event or activity would not occur but for the support given to it by or on behalf of the VHTP manufacturer, distributor or retailer. It may also refer to the display of a VHTP or manufacturer's name, trademark, logo, and the like on non-VHTP goods. This includes the paid use of VHTPs bearing the brand names, trademarks, logos, and the like in movies, television and other forms of entertainment. For the purpose of this Ordinance, promotion shall be understood as VHTP or e-cigarette promotion;

o. "Public conveyances" - refers to modes of transportation servicing the general population, such as but not limited to, elevators, airplanes, buses, taxicabs, ships, jeepneys, light rail transits, tricycles, and similar vehicles;

p. "Public places" - refers to enclosed or confined areas of all places of worship, hospitals or other healthcare centers, public conveyances, government offices, and educational or recreational facilities primarily intended for minors;

q. "Vaping" - refers to the act of using a VHTP where a user inhales from the device and exhales the vapor;

SECTION 2. Public Place Use. - Use of VHTPs indoors is prohibited in places of worship, hospitals or other healthcare centers, public conveyances, government buildings and educational or recreational facilities primarily intended and frequented by minors.

SECTION 3. Designation of vaping areas. - In all enclosed places that are open to the general public, and private workplaces, and other places not covered by Section 2 of this Ordinance, the owner, proprietor, operator, possessor, manager or administrator of such places may establish vaping areas in accordance with the following standards:

3.1 Designated vaping areas ("DVA") within the building may be in an open space or separate area with proper ventilation, but shall not be located within the same room that has been designated as a smoking area.

3.2 The owner, proprietor, operator, possessor, manager or administrator shall determine the size and specifications of the vaping area and non-vaping area.



Republic of the Philippines
SANGGUNIANG PANLUNGSOD
City Government of Pasig

Ordinance No. 07
Series of 2019

-page 6-

AN ORDINANCE REGULATING THE USE AND SALE OF VAPORIZED AND HEATED TOBACCO PRODUCTS IN PUBLIC PLACES AND PUBLIC CONVEYANCES, ADVERTISEMENTS AND PROMOTIONS, AND PROVIDING PENALTIES THEREFOR.

3.3 Unless the whole establishment has been designated as a vaping area, the DVA shall not be located within two (2) meters from entrances and exits, and physically delineated from non-vaping areas.

3.4 DVAs shall have at least one (1) legible and visible sign posted, namely "VAPING AREA" for the information and guidance of all concerned. In addition, the sign or notice posted shall include a warning about the health effects of vaping in accordance with national laws and regulations. Lastly, DVAs should have a sign that states: "Minors are not allowed to use VHTPs."

Vaping shall be allowed in outdoor areas with no to low foot traffic without any need for designation as vaping area.

Notwithstanding the restrictions provided in this Section 3, temporary use of VHTPs shall be allowed within the immediate vicinity of point-of-sale establishments solely for the limited purpose of testing and demonstrating the proper use of VHTPs.

SECTION 4. Minimum Age Sales. Under this Ordinance, it shall be unlawful:

- a) For any retailer to sell or distribute VHTPs to a minor.
- b) To purchase VHTPs from a minor.
- c) For minors to sell VHTPs.
- d) For minors to purchase VHTPs.

SECTION 5. Sale of VHTPs within School Perimeters. - The sale or distribution of VHTPs is prohibited within one hundred (100) meters from any point of the perimeter of a school, public playground or other facility primarily intended for and frequented particularly by minors who are intended to be the principal users of such facility intended and

SECTION 6. Point of Sale Display and Signage. - No point-of-sale establishment shall display VHTPs without ensuring that the unit packets and outside wrapping of Heated Tobacco Products, Vapor Products and other similar products are compliant with the health warnings required under national laws and regulations.



Republic of the Philippines
SANGGUNIANG PANLUNGSOD
City Government of Pasig

Ordinance No. 07
Series of 2019

-page 7-

AN ORDINANCE REGULATING THE USE AND SALE OF VAPORIZED AND HEATED TOBACCO PRODUCTS IN PUBLIC PLACES AND PUBLIC CONVEYANCES, ADVERTISEMENTS AND PROMOTIONS, AND PROVIDING PENALTIES THEREFOR.

Point-of-sale establishments offering, distributing or selling VHTPs to consumers shall post the following statement in a clear and conspicuous manner:

“SALE/DISTRIBUTION TO OR PURCHASE BY MINORS OF VAPOR AND HEATED TOBACCO PRODUCTS/ ELECTRONIC CIGARETTE IS UNLAWFUL.”

SECTION 7. Proof of Age Verification. - In case of doubt as to the age of the buyer, retailers shall verify by means of any valid form of photographic identification containing the date of birth of the bearer that the individual purchasing a VHTP is not below eighteen (18) years of age.

It shall not be a defense for the person selling or distributing that he/she did not know nor had any reason to believe that the VHTP was for the consumption of the minor to whom it was sold.

SECTION 8. Advertisement Restrictions. - Printed and outdoor advertisements shall be allowed only within the premises of point-of-sale establishments regardless of whether it is visible from the outside or not. Advertisements shall likewise be allowed through direct marketing and on the internet. The following restrictions shall apply to all VHTP advertisements:

- (a) Advertisements shall not be aimed at or particularly appeal to persons under eighteen (18) years of age.
- (b) Advertisements shall not contain cartoon characters or subjects that depict humans or animals with comically exaggerated features or that attribute human or unnatural characteristics to animals, plants or other objects.
- (c) Advertisements shall only depict persons who are or who appear to be above twenty-five (25) years of age.
- (d) Advertisements shall not show, portray or depict scenes where the actual use of, act of using, or puffing of VHTP is displayed.
- (e) Advertisements should not undermine quit-smoking messages and encourage non-tobacco or non-nicotine users to use the product.
- (f) Advertisements shall not contain any information or element that is untrue or not scientifically substantiated, in particular with regard to product characteristics, health effects, risks or emissions.



Republic of the Philippines
SANGGUNIANG PANLUNGSOD
City Government of Pasig

Ordinance No. 07
Series of 2019

-page 8-

AN ORDINANCE REGULATING THE USE AND SALE OF VAPORIZED AND HEATED TOBACCO PRODUCTS IN PUBLIC PLACES AND PUBLIC CONVEYANCES, ADVERTISEMENTS AND PROMOTIONS, AND PROVIDING PENALTIES THEREFOR.

- (g) Promotional communications shall allow for adult consumers to learn about the availability of VHTPs, receive information about how to use them, try before purchasing, subject to proof of age and certification of smoker status, and receive pre-sale and after-sales support.
- (h) Advertisements shall not appear on mass media television, radio, or cinema.
- (i) All allowable advertisements and promotional materials for VHTPs shall carry health warnings as required by existing laws and regulations.

SECTION 9. Punishable Acts. - The following acts are punishable under this Ordinance:

- a. Vaping in public places where vaping is expressly prohibited under Section 2 of this Ordinance;
- b. Non-compliance with Section 3 of this Ordinance when an establishment owner requires users of VHTPs to use the same designated smoking areas, unless smoking is allowed in the entire establishment;
- c. Sale of VHTP products to or by a minor;
- d. Purchase of VHTP from a minor;
- e. Minors to purchase VHTPs;
- f. Distribution of samples of VHTP to minors;
- g. Non-compliance with Section 6 of this Ordinance on selling restrictions;
- h. Non-compliance with the restrictions on VHTP promotions, advertisements, and required signages at point-of-sale establishments;
- i. Sale and/or distribution of non-compliant VHTP with fake tax stamp, or without tax stamp, or proof of payment of excise tax, as required by law or regulations.
- j. Sale and/or distribution of non-compliant VHTPs without health warnings, as required by law or regulations.

SECTION 10. Penalties. For violation of this Ordinance:

On the first offense, a fine of not less than Five Hundred Pesos (P500.00) but not more than One Thousand Pesos (P1,000.00) or one (1) day of community service shall be imposed.



Republic of the Philippines
SANGGUNIANG PANLUNGSOD
City Government of Pasig

Ordinance No. 07
Series of 2019

-page 9-

AN ORDINANCE REGULATING THE USE AND SALE OF VAPORIZED AND HEATED TOBACCO PRODUCTS IN PUBLIC PLACES AND PUBLIC CONVEYANCES, ADVERTISEMENTS AND PROMOTIONS, AND PROVIDING PENALTIES THEREFOR.

On the second offense, a fine of more than One Thousand Pesos (P1, 000.00) but not more than Two Thousand Five Hundred Pesos (P2,500.00) or up to two and a half (2.5) days of community service shall be imposed.

On the third offense, in addition to a fine of not less than Two Thousand Five Hundred Pesos (P2,500.00) but not more than Five Thousand Pesos (P5,000.00) or up to five (5) days of community service, the business permits and licenses to operate of the offender may be cancelled or revoked.

One (1) day of community service shall be equivalent to eight (8) hours.

SECTION 11. Community Service. - The apprehended violator who opts to render community service shall report to the City Health Officer and shall attend a seminar/ training with topics relating to healthy living and activities such as clean up drives or other community development programs being implemented by the City government.

SECTION 12. Minor Offender. - A minor offender of this Ordinance shall be dealt with in accordance with the provisions of Republic Act No. 9344 or the Juvenile Justice and Welfare Act of 2006.

SECTION 13. Confiscation. - VHTPs for sale and/or distribution associated with any violation of the prohibited acts in Sections I and J of this Ordinance shall be subject to confiscation and removal.

The City Legal Office, or his deputized representative, shall issue a corresponding confiscation receipt to the owner or the retailer of items confiscated. All confiscated VHTPs shall be endorsed to and placed in the custody of the City Legal Office for its proper disposal in accordance with applicable laws, rules and regulations.

SECTION 14. Enforcement on Point-of-Sale Establishments. - Within thirty (30) calendar days after the effectivity of this Ordinance the business permits and licensing office shall conduct inspections of point-of-sale establishments to determine their compliance with the provisions of this Ordinance.

Regular inspections shall thereafter be conducted at least once a month, or at such frequency that is practicable, during normal hours of operation of the point-of-sale establishments.



Republic of the Philippines
SANGGUNIANG PANLUNGSOD
City Government of Pasig

Ordinance No. 07
Series of 2019

-page 10-

AN ORDINANCE REGULATING THE USE AND SALE OF VAPORIZED AND HEATED TOBACCO PRODUCTS IN PUBLIC PLACES AND PUBLIC CONVEYANCES, ADVERTISEMENTS AND PROMOTIONS, AND PROVIDING PENALTIES THEREFOR.

Section 15. Civilian Participation in Enforcement. - Any person may file with the CENRO (City Environment and Natural Resources Office) a report or complaint for any violation of this

Ordinance which report or complaint will be promptly acted upon within five (5) working days from receipt of such report or complaint.

SECTION 16. Repealing Clause. -All existing ordinances inconsistent with this Ordinance are hereby repealed or modified accordingly.

SECTION 17. Interpretation. - Any request for interpretation of the provisions of this Ordinance shall be referred to the City Legal Officer. Any doubt in the interpretation of this Ordinance shall be construed in favor of the promotion of harm reduction.

SECTION 18. Separability Clause. - Should any provision of this Ordinance be subsequently declared unconstitutional or invalid, the other provisions not affected by such declaration shall remain in full force and effect.

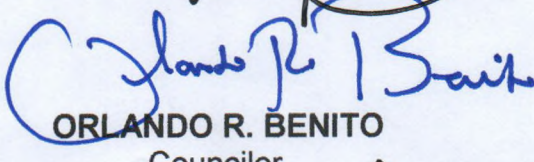
SECTION 19. Effectivity. - This Ordinance shall take effect fifteen (15) days from its publication in at least two (2) newspapers of general or local circulation within this City, consistent with the provisions of the Local Government Code.

ENACTED this 19th day of **September 2019** at the City of Pasig City.

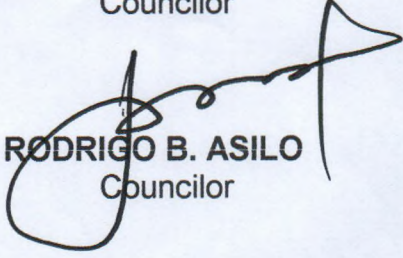

FERDINAND A. AVIS
Councilor


MARIO C. CONCEPCION, JR.
Councilor


GREGORIO P. RUPISAN JR.
Councilor


ORLANDO R. BENITO
Councilor

REGINO S. BALDERRAMA
Councilor


RODRIGO B. ASILO
Councilor



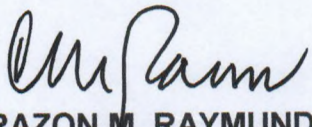
Republic of the Philippines
SANGGUNIANG PANLUNGSOD
City Government of Pasig


Ordinance No. 07
Series of 2019

-page 11-

AN ORDINANCE REGULATING THE USE AND SALE OF VAPORIZED AND HEATED TOBACCO PRODUCTS IN PUBLIC PLACES AND PUBLIC CONVEYANCES, ADVERTISEMENTS AND PROMOTIONS, AND PROVIDING PENALTIES THEREFOR.


RIGOR J. ENRIQUEZ
LIGA President

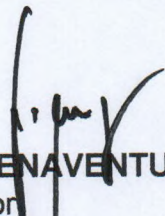

CORAZON M. RAYMUNDO
Councilor

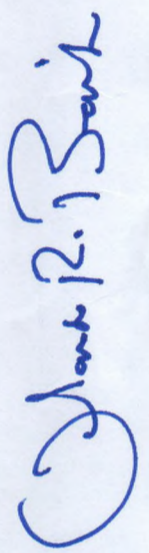

GEORGIA LYNNE P. CLEMENTE
SK Fed. President

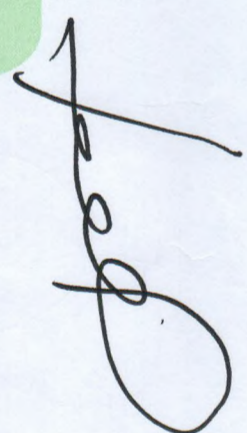

WILFREDO F. SITYAR
Councilor

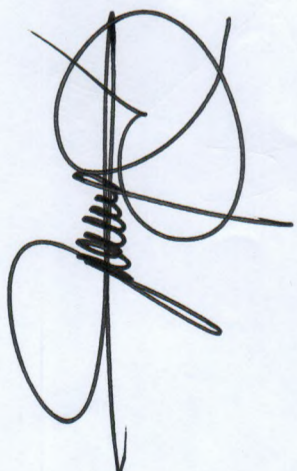

ROSALIO D. MARTIRES
Councilor

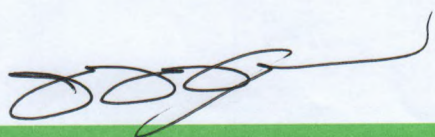

RHICHIE GERARD T. BROWN
Councilor
Minority Floor Leader


REYNALDO R. SAN BUENAVENTURA III
Councilor
Majority Floor Leader













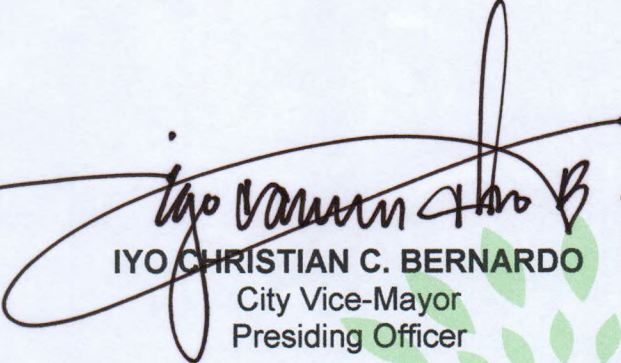
Republic of the Philippines
SANGGUNIANG PANLUNGSOD
City Government of Pasig

Ordinance No. 07
Series of 2019


-page 12-

AN ORDINANCE REGULATING THE USE AND SALE OF VAPORIZED AND HEATED TOBACCO PRODUCTS IN PUBLIC PLACES AND PUBLIC CONVEYANCES, ADVERTISEMENTS AND PROMOTIONS, AND PROVIDING PENALTIES THEREFOR.

Attested by:


IYO CHRISTIAN C. BERNARDO
City Vice-Mayor
Presiding Officer

APPROVED:


VICTOR MA. REGIS N. SOTTO
City Mayor

Attested by:


LOIDA U. VILLANUEVA
Acting City Council Secretary