



Republic of the Philippines
City of Bago
OFFICE OF THE SANGGUNIANG PANLUNGSOD

ORDINANCE NO. 09-34

AN ORDINANCE ADOPTING EXECUTIVE ORDER NO. 51, SERIES OF 1986 AND ADMINISTRATIVE ORDER NO. 2006-0012, OTHERWISE KNOWN AS THE "MILK CODE", PENALIZING VIOLATIONS THEREOF, AND FOR OTHER PURPOSES.

WHEREAS, Section 15 Article II of the 1987 Constitution of the Philippines states that "The State shall protect and promote the right to health of the people and instill health consciousness among them";

WHEREAS, Section 2, Article II of the 1987 Constitution of the Philippines states in part that "The Philippines x x x adopts the generally accepted principles of international law as part of the law of the land x x x".

WHEREAS, the Philippines has adopted the WHO and UNICEF "2002 Global Strategy on Infant and Young Child Feeding", and the various World Health Assembly Resolutions to implement the same, and therefore is legally and morally obligated to follow their provisions.

WHEREAS, towards this end, the State shall support the "2002 Global Strategy on Infant and Young Child Feeding" and exerts efforts to address the provision of safe and adequate nutrition for infants and young children, by the protection, promotion and support of breastfeeding;

WHEREAS, the WHO/UNICEF Global Strategy on Infant and Young Child Feeding recommends not only exclusive breast milk for newborns, but also indigenous, fresh and natural foods in combination with continued breastfeeding for infants and young children. It is guided by the World Health Assembly Resolutions, Codex Alimentarius, and consistent with national laws or national policies;

WHEREAS, adequate and proper nutrition is an important and universally recognized component of each child's right to the enjoyment of the highest attainable standard of health as provided for in the United Nations Convention on the Rights of the Child, which the Philippine Senate, in accordance with its constitutional prerogative under Section 21, Article VII, of the 1987 Constitution, ratified on July 26, 1990, and which mandates the Philippines to implement various international agreements relevant to Infant and Young Child Feeding;

WHEREAS, the use of breastmilk, which is widely recognized as the best source of nutrition for babies, promotes the development of emotional bonding between the mother and child, bestows upon the newborn infant protection against infection, provides for the mother natural contraception after delivery, and protects the mothers from closely spaced pregnancy.

WHEREAS, with the resultant healthier population and the reduction in infant and under five mortality rates, the country will be closer in reaching its targets for the Millennium Development Goals;

WHEREAS, breastfeeding is the most far-reaching and the least costly strategy for the alleviation of poverty.

NOW THEREFORE, upon motion of SP Member Rosario F. Gaudite, unanimously seconded by SP Members present, the Sanggunian Panlungsod,

Be it enacted by the Sangguniang Panlungsod, that:

RULE I – ENABLING PROVISIONS

Section 1. Title.- The following shall be referred to as the “Milk Code of the City of Bago.”

Section 2. This Code is promulgated to ensure the provision of safe and adequate nutrition for infants and young children by the promotion, protection and support of breastfeeding and by ensuring the proper use of breastmilk substitutes, breastmilk supplements and related products when these are medically indicated and only when necessary, on the basis of adequate information and through appropriate marketing and distribution.

Section 3. Scope and Coverage.-This Code shall apply to the marketing, and practices related thereto, of the following products: breastmilk substitutes, including infant formula; other milk products, foods and beverages, including bottle-fed complementary foods, when marketed or otherwise represented to be suitable, with or without modification, for use as a partial or total replacement of breastmilk; feeding bottles and teats. It also applies to their quality and availability, and to information concerning their use.

Section 4. Declaration of Principles.-The following are the underlying principles from which this Code is premised upon:

- a. Exclusive breastfeeding is for infants from 0 to six (6) months.
- b. There is no substitute or replacement for breastmilk.
- c. Appropriate and safe complementary feeding should start from six months onwards in addition to breastfeeding.
- d. Breastfeeding is still appropriate for young children up to two (24 months) years of age or beyond.
- e. Infant or milk formula may be hazardous to a child's health and damage child's formative development.
- f. Other related products such as, but not exclusive of, teats, feeding bottles, and artificial feeding paraphernalia are prohibited in health facilities.
- g. Government and all concerned stakeholders must continuously accomplish an information, dissemination campaign/strategy, and do further research on the advantages of breastmilk and the hazards of breastmilk substitutes or replacements.
- h. Milk companies, and their representatives, should not form part of any policymaking body or entity in relation to the advancement of breastfeeding.

RULE II – DEFINITION OF TERMS

Section 5. Definition of Terms.-For purposes of this Code, the term:

- (a) “Advertising” refers to any representation by any means whatsoever for the purpose of promoting the sale or distribution of breastmilk substitutes/supplements and other related products under the scope of this Code;
- (b) “BFAD” refers to the Bureau of Food and Drugs of the Department of Health;
- (c) “Breastmilk substitute” means any food being marketed or otherwise represented as partial or total replacement of breastmilk whether or not suitable for that purpose;
- (d) “Committee” shall refer to the Inter-Agency Committee created under E.O. No. 51, S. 1986 composed of the Secretary of Health, as Chairman, and the Secretary of Trade and Industry, the Secretary of Justice, and the Secretary of Social Welfare and Development, as Members;
- (e) “Complementary” means any food, except milk substitutes, whether manufactured or locally prepared, suitable as a complement to breastmilk to satisfy the nutritional requirements of the infant;
- (f) “Container” means any form of packaging of products for sale as a normal retail unit, including wrappers;
- (g) “Distributor” means a person, corporation or any other entity in the public or private sector engaged in the business (whether directly or indirectly) of marketing at the wholesale or retail level a product within the scope of this Code.

- (h) "DOH" refers to the Department of Health;
- (i) "Exclusive breastfeeding" means giving only breastmilk without water, liquids, teas, herbal preparations, or other food and fluid intake for the first six months of life;
- (j) "Gifts of any sort" means any form of financial, personal or commercial reward, inducement, incentives and other favors provided directly or indirectly by manufacturers, distributors, and their representatives, of products within the scope of the Code;
- (k) "Health care system" means governmental, non-governmental or private institutions or organizations engaged, directly or indirectly, in health care for mothers, infants and pregnant women; and nurseries or child care institutions;
- (l) "Health Facilities" means health care systems including but not limited to health centers, clinics, birthing and parenting classes venues, hospitals, maternal centers/clinics, birthing homes, barangay health stations, health and nutrition posts and lying in clinics;
- (m) "Health Worker" means a person working in a component of such health care system, whether professional or non-professional, including volunteer workers. It also includes health workers in private practice. Traditional and other birth attendants, their assistants and other community volunteers involved in health and nutrition promotion and education shall likewise be covered;
- (n) "Infant" shall refer to a person within the age bracket of 0-12 months;
- (o) "Infant Formula" means one of the breastmilk substitutes formulated industrially in accordance with applicable Codex Alimentarius standards;
- (p) "Products within the scope of this Code" shall pertain to breastmilk substitutes and infant formula, including bottle-fed complementary foods, as well as teats and other commodities which intend to replace or substitute, in whole or in part, breastmilk and breastfeeding;
- (q) "Promotions" means employing any method, scheme, or design, of directly or indirectly, encouraging or enticing people, or group of persons, in whatever form, whether by chance or skill, to purchase or acquire products within the scope of the Code;
- (r) "Sample" refers to single or small quantities of a product provided for free;
- (s) "Sponsorships" shall refer to milk companies, and their agents/representatives, hosting, initiating, or otherwise providing games, sport or cultural events, charities, dances/balls, conventions, meetings, youth and women seminars or classes, and other like activities, for the purpose of promoting, directly or indirectly, their products covered within the scope of this Code;
- (t) "Supplies" refers to quantities of a product provided for use over an extended period, free or at a low price, for social purposes, including those provided to families in need.
- (u) "Young Child" means a person from the age of more than twelve (12) months up to the age of three (3) years (36 months).

RULE III – INFORMATION AND EDUCATION

Section 6. Responsibility.-The City Health Office shall take measures to promote, protect, support and monitor appropriate infant and young child feeding (IYCF) practices. Appropriate IYCF practices include the following:

- Proper Latching-on immediately after birth and initiation of breastfeeding within the first thirty (30) minutes thereafter
- Exclusive breastfeeding from 0-6 months
- Appropriate complementary feeding from 6 months onwards
- Continuous breastfeeding up to two (2) years of age or beyond

The goals will be achieved by providing women access to the support that they require – in the family, the community and the workplace. The City Health Office shall provide objective, updated and consistent information and training of health workers and the general public on infant and young child nutrition in partnership with the local governments and civil societies without any conflict of interest.

Section 7. Hazards and Complete Information on Breastmilk Substitutes and Replacements.-It is the responsibility of the State to inform the general public on the hazards of the production, preparation and use of breastmilk substitutes and other products covered by the Code. When medically indicated and only when necessary, the use of breastmilk substitutes is proper if based on complete and updated information.

Section 8. Information and Education.-The government shall ensure that objective and consistent information is provided on infant and young child feeding, for use by families and those involved in the field of infant nutrition. This responsibility shall cover the planning, provision, design and dissemination of information, and the control thereof.

- a) In this regard, the City Health Office in collaboration with the national agencies, local government units, including non-governmental organizations and members of civil society, shall:
 - a.1. Plan, provide, design, disseminate and regulate information related to infant and young child nutrition and the implementation of the Milk Code;
 - a.2. Formulate and implement a communication plan, which among others will indicate key messages on infant and young child nutrition;
 - a.3. Create a Technical Working Group to serve as a clearing house for all information and training materials on infant and young child nutrition and the Milk Code; and
 - a.4. Assist Local Government Units (LGU's) and other partners in developing strategies to promote breastfeeding and infant and young child nutrition.
- b) Information and educational materials intended to reach pregnant women and mothers of infants, including women of reproductive age, which materials shall include clear information on all of the ensuing; (1) the benefits and superiority of breastfeeding; (2) maternal nutrition, and the preparation for and maintenance of breastfeeding; (3) the negative effect on breastfeeding of introducing partial bottle-feeding; (4) the difficulty of reversing the decision not to breastfeed; and (5) where needed, the proper use of infant formula, whether manufactured industrially or home-prepared. When such materials contain information about the use of infant formula, they shall include the social and financial implications of its use; the health hazards of inappropriate foods or feeding methods; and in particular, the health hazards of unnecessary or improper use of infant formula and other related products including information that powdered infant formula may contain pathogenic microorganisms and must be prepared and used appropriately.
- c) The promotion, protection and support of breastfeeding and the proper implementation of the Milk Code shall be an integral part of all information, education and communication plans and training activities of the City Health Office, as well as of the Department of Education (DEPED), Office of the City Social Welfare and Development, Local Government Units (LGU's) and other such concerned agencies/individuals.

RULE IV – RESEARCH

Section 9. Research, Ethics Committee, Purpose.-The City Health Office shall adopt Sections 9 and 10 of Administrative No. 2006-0012, of the Department of Health with regards to this section.

RULE V – ADVERTISING, PROMOTION, MARKETING AND SPONSORSHIPS

Section 10. For purpose of this Code, Sections 12 to 15 of Administrative Order No. 2006-0012 of the Department of Health is hereby adopted.

RULE VI – PROHIBITED ACTS

Section 11. All health and nutrition claims for products within the scope of the Code are absolutely prohibited. For this purpose, any phrase or words that connote to increase emotional, intellectual abilities of the infant and young child and other like phrases shall not be allowed.

Section 12. False or misleading information or claims of products within the scope of the Code are prohibited.

Section 13. No financial or material inducements or gifts of any sort to promote products within the scope of this Code shall be offered or given by milk companies nor accepted by health workers and/or members of their families.

Section 14. Manufacturers, distributors and marketing firms or their representatives of products within the scope of this Code are prohibited from donating or giving directly or indirectly, samples and supplies to any member of the general public, to hospitals, and other health facilities, including their personnel and members of their families.

Section 15. Manufacturers, distributors and marketing firms or their representatives of products within the scope of this Code are prohibited from using the health workers and the health care system in the dissemination, distribution and promotion of products within the scope of the Code.

Section 16. Gifts of any sort from milk companies/manufacturers, distributors, and representatives of products within the scope of this Code, with or without company name or logo or product or brand name shall not be given to any member of the general public, to hospitals and other health facilities, including their personnel and members of their families.

Section 17. No manufacturer, distributor or representatives of products covered by the Code shall be allowed to conduct or be involved in any activity on breastfeeding promotion, education and production of Information, Education and Communication (IEC) materials on breastfeeding, holding of or participating as speakers in classes or seminars for women and children activities and to avoid the use of these venues to market their brands or company names.

Section 18. There shall be no point of sale advertising, giving of samples or any promotion devices to induce sales directly to the consumers at the retail level, such as special displays, discount coupons, premiums, rebates, special sales, bonus and tie-in sales, loss-leaders, prices or gifts for the products within the scope of this Code.

Section 19. Neither the container nor the label of milk products within the scope of this Code shall have pictures of babies and children together with their mothers, fathers, siblings, grandparents, other relatives or caregivers (or yayas) or such other pictures and graphics of similar import.

RULE VII – CONTAINERS/LABELS

Section 20. Appropriate Use.-Containers and labels shall be designed to provide the necessary information about the appropriate use of the products within the scope the Code and in such a way as not to undermine, or equate it to, breastfeeding.

Section 21. Content.-Each container/label shall contain such message, in both Filipino and English languages, and which message cannot be readily separated there from, relative to the following points:

- a) The words or phrase "Important Notice" or "Government Warning" or their equivalent;
- b) A statement of the superiority of breastfeeding;
- c) A statement that there is no substitute for breastmilk;
- d) A statement that the product shall be used only on the advice of a health worker as to the need for its use and the proper methods of use;
- e) Instructions for appropriate preparation, and a warning against the health hazards of inappropriate preparation, and
- f) The health hazards of (the use) unnecessary or improper use of infant formula and other related products including information that powdered infant formula may contain pathogenic microorganisms and must be prepared and used appropriately.

Section 22. Infant Feeding Warning.-Food products within the scope of this Code marketed for infant feeding, which do not meet all the requirements of an infant formula but which can be modified to do

so, shall carry on the label, a warning that the unmodified product should not be the sole source of nourishment of an infant.

Section 23. BFAD's Authority.-The labels of food products within the scope of this Code shall, in addition to the requirements in the preceding paragraphs, conform to the rules and regulations of the BFAD.

RULE VIII – QUALITY AND STANDARD

Section 24. Quality.-The quality of products is an essential element for the protection of the health of infants and young children and therefore shall be of highly recognized standard.

Section 25. Standards.-Food products within the scope of this Code shall, when sold or otherwise distributed, meet applicable standards recommended by the Codex Alimentarius Commission and also the Codex Code of Hygienic Practice for Foods for Infants and Children.

Section 26. Against Adulteration and the Like.-To prevent quality deterioration, adulteration or contamination of food products within the scope of this Code, distribution outlets, shall not be allowed to open cans and boxes for the purpose of retailing them by the cup, bag or in any other form.

RULE IX – MONITORING AND IMPLEMENTATION

Section 27. Monitoring, Implementation, Functions.-The City Health Office shall be primarily responsible for the monitoring, implementation and enforcement of the Milk Code and these Implementing Rules and Regulations. It shall likewise provide regular training on monitoring compliance and enforcement on violations of the Milk Code for all persons engaged in or volunteering to help in the monitor and implementation of the Code. The Office may request for the assistance of non-governmental organizations, civil society, and concerned national/international agencies in order to better monitor the implementation of these rules.

Accordingly, a monitoring team, composed of the ensuing, is hereby created and established:

City/Barangay levels:

- Center for Health Development Office
- City Health Office
- Barangay Health Offices
- GOs/NGOs/Civil societies

The Monitoring Team shall have the following functions:

- Monitors compliance as well as problems encountered in the implementation of the Milk Code.
- Reviews/acts on reports of violations of the provisions of the Code.
- Verifies reports of violations of the Milk Code.
- Monitors labels of products within the scope of the Code and marketing practices in various distribution centers.
- Recommends sanctions or punitive actions for violations of the Milk Code to the Bureau of Foods and Drugs.
- Submits regular reports on the status of the Milk Code implementation to the Bureau of Foods and Drugs.

Section 28. Report to the Secretary of Health.-Monitoring Teams comprised of duly accredited teams from non-governmental organizations, and/or civil society may report their findings to the Office of the Secretary of Health who shall appropriately respond thereto with sufficient dispatch.

RULE X – SANCTIONS

Section 30. a) Any person who violates the provisions of this Code or the rules and regulations issued pursuant to this Code shall, upon conviction, be punished by a penalty of two (2) months to one (1) year Imprisonment or a fine of not less than five thousand pesos (P5,000.00) or both. Should the offense be committed by a juridical person, the Chairman of the Board of Directors, the president, general manager, or the partners and/or the persons directly responsible therefore, shall be penalized.

b) Any license, permit or authority issued by any government agency to any health worker, distributor, manufacturer, or marketing firm or personnel for the practice of their professional or occupation, or for the pursuit of their business, may, upon recommendation of the City Health Officer, be suspended or revoked in the event of repeated violations of this Code, or the rules and regulations issued pursuant to this Code.

RULE XI – FINAL PROVISIONS

Section 31. APPLICABILITY CLAUSE. The provisions of existing ordinances dealing on the same subject matter which are not in conflict with, or contrary to, the provisions of this Ordinance are hereby adopted and made an integral part of this Ordinance.

Section 32. SEPARABILITY CLAUSE. If for any reason, any part or provision of this code shall be held to be unconstitutional or invalid, other parts or provisions hereof which are not affected shall continue to be in full force and effect.

Section 33. REPEALING CLAUSE. All ordinances, administrative regulations, or parts thereof which are inconsistent with any provisions of this Ordinance are hereby repealed, amended or modified accordingly.

Section 34. EFFECTIVITY. This Ordinance shall take effect after the review and approval of the Sanggunian Panlalawigan or thirty (30) days from the date of approval by the Sanggunian Panlungsod, whichever comes earlier, and after its publication in a newspaper of general of circulation.

Enacted by the Sangguniang Panlungsod of the City of Bago in its 1490th Regular Session assembled, November 18, 2009.

CARRIED BY THE VOTE OF:

Affirmative:

SP Members Ruben T. Torres, Serafin Z. Jara, Bernadette M. Somcio, Romeo C. Obando, Federico A. Matti, Victor B. Javellana, Jobert D. Tagobader, Rosario F. Gaudite, Maximo D. Matti, Loreto N. Cauntoy, Eliseo T. Yanong, Jr.

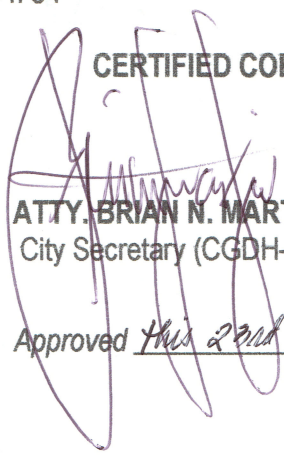
Negative: None.

CERTIFIED CORRECT:


NICHOLAS M. YULO

City Vice Mayor-Presiding Officer

ATTESTED:


ATTY. BRIAN N. MARTIR
City Secretary (CGDH-I)

Approved this 22nd day of Nov. 2009.

APPROVED:


RAMON D. TORRES

City Mayor