

**EXECUTIVE ORDER NO. 032**  
**Series of 2018**

**AN ORDER PROVIDING FOR THE IMPLEMENTING RULES AND REGULATIONS (IRR) OF DAVAO CITY ORDINANCE NO. 0506-13, OTHERWISE KNOWN AS AN "ORDINANCE MANDATING RANDOM DRUG TESTING IN ALL ESTABLISHMENTS IN DAVAO CITY EMPLOYING TEN (10) OR MORE EMPLOYEES AND ESTABLISHING THE SAME AS A REQUIREMENT IN THE ACQUISITION AND RENEWAL OF BUSINESS PERMITS"**

**PURSUANT TO SECTION 13 OF DAVAO CITY ORDINANCE NO. 0506-13, THE FOLLOWING RULES AND REGULATIONS ARE HEREBY PROMULGATED.**

**RULE I. GENERAL PROVISIONS**

**SECTION 1. TITLE.** - These Rules and Regulations shall be known and cited as the Implementing Rules and Regulations of City Ordinance 0506-13.

**SECTION 2. DEFINITION OF TERMS.** - As used in this Implementing Rules and Regulations, the following terms shall mean:

- a.) **Assessment Team** is a team composed of the safety and health committee including occupational safety and health personnel, human resource managers, employers and workers' representatives of the establishment trained to address all aspects of prevention, treatment and rehabilitation.
- b.) **Confirmatory Test** is an analytical test using a device, tool, or equipment with a different chemical or physical principle that is more specific which will validate and confirm the result of the screening test. It refers to the second or further analytical procedure to more accurately determine the presence of dangerous drugs in a specimen.
- c.) **Employee** shall mean any person hired or permitted to work by an employer. The term employee includes permanent, regular, temporary, casual, part-time, and contractual workers.
- d.) **Employer** includes any person or entity acting directly, or indirectly in the interest of the employer, in relation to an employee and shall include non-profit private institutions or organizations.
- e.) **Random** refers to the selection of the employees of the establishment who will undergo the drug testing to avoid any preparations or scheme on the part of the employees in order to manipulate the results.
- f.) **Random Drug Test** refers to unannounced schedule of testing with each employee having an equal chance of being selected for testing through simple random sampling. The policy on the conduct of random drug test should be known to both employers and employees.
- g.) **Screening Test** is a rapid test performed to establish potential/presumptive positive result. It refers to the immunoassay test to eliminate a "negative" specimen, i.e., one without the presence of dangerous drugs, from further

consideration and to identify the presumptively positive specimen that requires confirmatory test.

- h.) **Workplace** refers to an office, premises, or worksite, where the workers are habitually employed and shall include the office or place, where the workers who have no fixed or definite worksite regularly report for assignment in the course of their employment. It shall also include venues used by the employer for company functions.

**SECTION 3. DECLARATION OF POLICY.** – It is the policy of the State to protect the well-being of its citizens from the harmful effects of dangerous drugs through pursuing an intensive campaign against the sale and use of the same.

**SECTION 4. BASIS.** – These Rules are promulgated to implement **Davao City Ordinance No. 0506-13** which is enacted pursuant to the provisions of Republic Act 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002 and the Department of Labor and Employment Department Order No. 53-03, Series of 2003, particularly:

*Republic Act No. 9165*

Section 2. Declaration of Policy. It is the policy of the State to safeguard the integrity of its territory and the well-being of its citizenry particularly the youth, from the harmful effects of dangerous drugs on their physical and mental well-being, and to defend the same against acts or omissions detrimental to their development and preservation. In view of the foregoing, the State needs to enhance further the efficacy of the law against dangerous drugs, it being one of today's more serious social ills.

Toward this end, the government shall pursue an intensive and unrelenting campaign against the trafficking and use of dangerous drugs and other similar substances through an integrated system of planning, implementation and enforcement of anti-drug abuse policies, programs, and projects. The government shall however aim to achieve a balance in the national drug control program so that people with legitimate medical needs are not prevented from being treated with adequate amounts of appropriate medications, which include the use of dangerous drugs.

It is further declared the policy of the State to provide effective mechanisms or measures to re-integrate into society individuals who have fallen victims to drug abuse or dangerous drug dependence through sustainable programs of treatment and rehabilitation.

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Section 36. Authorized Drug Testing. – Authorized drug testing shall be done by any government forensic laboratories or by any of the drug testing laboratories accredited and monitored by the DOH to safeguard the quality of test results. The DOH shall take steps in setting the price of the drug test with DOH accredited drug testing centers to further reduce the cost of such drug test. The drug testing shall employ, among others, two (2) testing methods, the screening test which will determine the positive result as well as the type of the drug used and the confirmatory test which will confirm a positive screening test. Drug test certificates issued by accredited drug testing centers shall be valid for a one-year

period from the date of issue which may be used for other purposes. DOH shall furnish a copy of Accredited Testing Centers to business establishments. The following shall be subjected to undergo drug testing:

- d.) Officers and employees of public and private offices. – Officers and employees of public and private offices, whether domestic or overseas, shall be subjected to undergo a random drug test as contained in the company's work rules and regulations, which shall be borne by the employer, for purposes of reducing the risk in the workplace. Any officer or employee found positive for use of dangerous drugs shall be dealt with administratively which shall be a ground for suspension or termination, subject to the provisions of Article 282 of the Labor Code and pertinent provisions of the Civil Service Law.

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Section 47. Drug-Free Workplace – It is deemed a policy of the State to promote drug-free workplaces using a tripartite approach. With the assistance of the Board (Dangerous Drugs Board under Section 77 of the Act), the Department of Labor and Employment (DOLE) shall develop, promote and implement a national drug abuse prevention program in the workplace to be adopted by private companies with ten (10) or more employees. Such programs shall include the mandatory drafting and adoption of company policies against drug use in the workplace in close consultation and coordination with the DOLE, labor and employer organizations, human resource development managers and other such private sector organizations.

*DOLE Department Order No. 53-03 Series of 2003*

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#### C. COMPONENTS OF A DRUG-FREE WORKPLACE POLICIES AND PROGRAMS

1. Workplace policies and programs on drug abuse prevention and control to be adopted by companies shall include, among others, the following components:
  - a) Advocacy, Education and Training
    - i. Employers shall be responsible for increasing awareness and education of their officers and employees on the adverse effects of dangerous drugs as well as the monitoring of employees susceptible to drug abuse. Topics which may be included in the orientation-education program shall include, among others, the following:
      - a) Salient Features of RA 9165 (the Act) and its Implementing Rules and Regulations (IRR)
      - b) The Company policies and programs on drug-free workplace
      - c) Adverse effects of abuse and/or misuse of dangerous drugs on the person, workplace, family and the community
      - d) Preventive measures against drug abuse
      - e) Steps to take when intervention is needed, as well as the services available for treatment and rehabilitation.

- iv. Training on prevention, clinical assessment, and counseling of workers and other related activities shall be given to occupational safety and health personnel, the human resource manager and the employers and workers representatives. These trained personnel shall form part of an Assessment Team which shall address all aspects of drug abuse prevention, treatment and rehabilitation. Training service providers shall be accredited by the Department of Health or City Health Office.

b) Drug Testing Program for Officers and Employees

- i. Employers shall require their officials and employees to undergo a random drug test in accordance with the company's work rules and regulations for purposes of reducing the risk in the workplace. Strict confidentiality shall be observed with regard to screening and the screening results.
- ii. Drug testing shall conform with the procedures as prescribed by the Department of Health (DOH). Only drug testing centers accredited by the DOH shall be utilized. The DOH shall provide a list of accredited drug testing centers to business establishments.
- iii. Drug testing shall consist of both the screening test and the confirmatory test; the latter to be carried out should the screening test turn positive. The employee concerned must be informed of the test result whether positive or negative.
- iv. Where the confirmatory test turns positive, the company's Assessment Team shall evaluate the results and determine the level of care and administrative interventions that can be extended to the concerned employee.
- v. A drug test is valid for one year; however, additional drug testing may be required for just cause as in any of the following cases:
  - a) After work-place related accidents, including near miss;
  - b) Following treatment and rehabilitation to establish fitness for returning to work/resumption of job;
  - c) In the light of clinical findings and/or upon recommendation of the Assessment Team.
- vi. All cost of drug testing shall be borne by the employer.

c) Treatment, Rehabilitation and Referral

- i. The drug prevention and control program shall include treatment, rehabilitation and referral procedure to be provided by the company staff or by external provider. It shall also include a provision for employee assistance and counselling programs for emotionally-stressed employees.

- ii. The Assessment Team shall determine whether or not an officer or employee found positive for drugs would need referral for treatment and/or rehabilitation in a DOH accredited center.

An officer or employee with confirmed positive drug test result may be referred to DOH Accredited physicians or service providers for assessment.

Upon assessment, low risk and mild risk drug dependents shall be referred to TARA NA CBRAP (Tabangan Atong Reformist Aron Naa'y Asenso Community-Based Rehabilitation and Aftercare Program) of Davao City.

Moderate risk shall be referred to health facility-based outpatient intensive treatment and rehabilitation accredited by the DOH.

Severe risk shall be referred to an in-patient treatment and rehabilitation facility or to any DOH accredited treatment and rehabilitation center (TRC).

The drug dependent shall undergo the following phases of intervention:

- a) Phase 1 Intervention: Primary Care for Six (6) Months
- b) Phase 2 Intervention: Aftercare Program for Eighteen (18) Months
- c) Phase 3 Intervention: Continuum Preventive Healthcare

Upon completion of Phase 1 Intervention, the drug dependents from an outpatient and in-patient facilities shall be referred to TARA NA CBRAP for the aftercare and continuum of care programs.

- iii. This option is given only to offices and employees who are diagnosed with drug dependence for the first time, or who turn to the Assessment Team for assistance, or who would benefit from the treatment and rehabilitation.
- iv. Following rehabilitation, the Assessment Team, in consultation with the head of the rehabilitation center, shall evaluate the status of the drug dependent employee and recommend to the employer the resumption of the of the employee's job if he/she poses no serious danger to his/her co-employees and/or the workplace.
- v. Repeated drug use even after ample opportunity for treatment and rehabilitation shall be dealt with the corresponding penalties under the Act and its IRR.

d) Monitoring and Evaluation

- i. The implementation of the drug-free workplace policies and programs shall be monitored and evaluated periodically by the employer to ensure that the goal of a drug-free workplace is met. The Health and Safety Committee or similar Committee may be tasked for this purpose.

For purposes of enforcement, the foregoing provisions of Section 4 are to be treated as forming an integral part of this IRR.

**SECTION 5. AUTHORITY.** – Section 458, paragraph 3(ii) of the Local Government Code provides that the Sangguniang Panlungsod, as the legislative body of the City may enact ordinances authorizing the issuance of permits or licenses, upon such conditions and for such purposes intended to promote the general welfare of the inhabitants of the city. Pursuant to this mandate, it can regulate or fix fees for any business within the city and the conditions under which the license for said business may be revoked.

The Philippine Drug Enforcement Agency (PDEA) is the lead anti-drugs law enforcement agency, responsible for preventing, investigating, and combating any dangerous drugs, controlled precursors and essential chemicals within the Philippines. The agency is tasked with the enforcement of the penal and regulatory provisions of RA 9165.

The City Anti-Drug Abuse Council (CADAC) was created to play the role of the local arm of the City in its relentless campaign against illegal drugs, and it is the agency assigned to effectively and efficiently enforce and implement the Ordinance;

**SECTION 6. COVERAGE.** – This IRR shall apply to all establishments in the private sector in Davao City, including owners, employers, proprietors and their contractors and concessionaires.

**SECTION 7. CLASSIFICATION OF BUSINESS ESTABLISHMENTS.** – For the purpose of this IRR, the businesses in Davao City shall be classified into the following:

- i. Service-oriented establishments are those that offer and provide services for a fee to their clients or customers such as, but not limited to, the following:
  - a.) Public Utilities and Facilities – privately-owned public utilities such as power companies, telecommunication companies, cable network providers, water distributors and other companies providing basic services;
  - b.) Transportation Services – buses, jeepneys, taxis, trucking, carpool, tourist vehicles, rent-a-car and other public transportation;
  - c.) Security Services and Maintenance Services – security and intelligence agencies, janitorial and messengerial agencies, manpower, vulcanizing shops and repair shops for motor vehicles, equipment, appliance, gadgets and other personal properties;
  - d.) Lodging and Restaurant Services – hotels, motels, inns, pension houses, dormitories, sorts, resto-bars, restaurants, food chains, canteens, bakeshops, and other establishments for refreshment;
  - e.) Educational and Social Services – schools, universities, colleges, occupational and vocational training centers, baby-sitting, child-minding or children play centers and other centers offering care-giving services;

- f.) Business Services – banks, cooperatives, public and private hospitals, pawnshops, computer shops or internet cafes, call centers, analysis or testing centers, and other agencies rendering services for travel booking, advertising and processing, financial lending, financing, cargo or mail forwarding, freight handling, recruitment and consultancy, legal, accounting/bookkeeping, medical and dental;
  - g.) Personal Services – laundry shops, parlors, salons, spas, pub houses, fitness centers, funeral and other establishments offering services related to grooming, health and fitness.
- ii. Service and Product-oriented establishments are those that offer and provide both services and products for a fee to their clients and customers such as, but not limited to, malls, supermarkets, convenience stores, groceries, general merchandise stores, drugstores, pharmaceutical, hardware stores, furniture shops, car distributors and dealers, tailoring shops, gasoline stations, publishing and printing houses, photo houses and ice plants.
  - iii. Product-oriented establishments are those that manufacture, process or distribute goods and products such as factories, manufacturers, growers, and distributors who do not deal directly with the end-users.

## **RULE II. PROGRAM IMPLEMENTATION**

### **SECTION 8. MANDATORY RANDOM DRUG TESTING**

- a) It shall be mandatory for business establishments doing business in Davao City, employing ten (10) or more employees, including their contractors and concessionaires, to conduct a Mandatory Random Drug Testing of their employees covering at least 10 percent (10%) of their total workforce.
- b) Service-oriented establishments enumerated and defined under Section 7 (i) hereof are mandated to conduct Mandatory Random Drug Testing in 2014 as a pre-requisite for the renewal of their business permits for the year 2015, and every three (3) years thereafter. For purposes of these Rules, service-oriented establishments are mandated to conduct Random Drug Testing for the year 2018 as a pre-requisite for the renewal of business permit for the year 2019 and every three years thereafter.
- c) Service and product-oriented establishments enumerated and defined under Section 7 (ii) hereof are mandated to conduct Mandatory Random Drug Testing in 2015 as a pre-requisite for the renewal of their business permits for the year 2016, and every three (3) years thereafter. Accordingly, service and product-oriented establishments are mandated to conduct Random Drug Testing for the year 2019 as a pre-requisite for the renewal of business permit for the year 2020 and every three years thereafter.
- d) Product-oriented establishments enumerated and defined under Section 7 (iii) hereof are mandated to conduct Mandatory Random Drug Testing in 2016 as a pre-requisite for the renewal of their business permits for the year 2017, and every three (3) years thereafter. Accordingly, product-oriented establishments are mandated to conduct Random Drug Testing for the year 2020 as a pre-requisite for the renewal of business permit for the year 2021 and every three years thereafter.

**SECTION 9. ROLE OF THE PHILIPPINE DRUG ENFORCEMENT AGENCY (PDEA).** – All Mandatory Random Drug Testing activities to be undertaken by the business establishments shall be done in coordination with and under the supervision of the PDEA. Drug testing activities conducted which are not coordinated with or without the supervision of PDEA shall not be respected. PDEA shall provide guidelines in the conduct of Random Drug Testing and strategies that include random selection of candidates for the random drug testing and drug testing schedules, and in cases when the client wishes to contest for the positive result.

**SECTION 10. CERTIFICATE OF COMPLIANCE.** – Upon compliance of the establishment with the undertakings in Section 8 hereof, the Philippine Drug Enforcement Agency (PDEA) shall issue a Certificate of Compliance within ten (10) days from the date of such compliance.

**SECTION 11. ACQUISITION AND RENEWAL OF BUSINESS PERMITS.** - In the year 2014 and thereafter, the Business Bureau of Davao City shall not grant and renew any business permit to an establishment unless it was issued a Certificate of Compliance by the Philippine Drug Enforcement Agency (PDEA), subject to the provisions of Section 8 hereof. This will be considered as an additional requirement for the acquisition and renewal of business permits for all establishments covered by the Ordinance and this IRR.

**SECTION 12. REVOCATION OF BUSINESS PERMITS.** – Should there be a “perceived need”, as may be determined by the Philippine Drug Enforcement Agency (PDEA), to conduct additional or repeat drug testing to a covered establishment or certain industry, it shall inform the establishment or industry of such directive in writing. Failure or refusal of the establishment or industry to comply with the directive shall be a ground for the recommendation for the revocation of the business permit at the instance of the PDEA.

As used in this Section, “perceived need” covers, but not limited to, (i) the rise in drug-related crime incidents in the establishment or industry, and (ii) considerable increase of reported drug dependents in the establishment or industry as certified by the local Philippine National Police (PNP) or the Philippine Drug Enforcement Agency (PDEA).

**SECTION 13. DISCIPLINARY ACTION TO EMPLOYEES FOUND POSITIVE OF ILLEGAL DRUGS.** – The owner of the business establishment shall discipline any employee found positive in the confirmatory tests, to be conducted in accordance with the provisions of RA 9165 and Community-Based Rehabilitation and Aftercare Program of Davao City. Failure or refusal of the covered establishment to discipline the erring employee, after due notice and hearing to be conducted by the City Anti-Drug Abuse Council, shall be a ground for the revocation of its business permit, at the instance of Philippine Drug Enforcement Agency (PDEA).

**SECTION 14. ROLE OF THE CITY ANTI-DRUG ABUSE COUNCIL (CADAC).** – The CADAC shall closely work with Philippine Drug Enforcement Agency (PDEA) for the proper implementation of the Ordinance and this IRR. CADAC shall monitor all activities done pursuant to the mandate of the Ordinance and this IRR and shall ensure that everything will be done with due process and with high regard to justice and equity. CADAC shall craft the monitoring tool for the implementation of the ordinance and this IRR.



**SECTION 15. INFORMATION AND EDUCATION COMPONENT.** –The City Anti-Drug Abuse Council (CADAC), through the City Information Office, shall spearhead an intensive Information Dissemination Campaign upon the effectivity of the Ordinance and this IRR. CADAC shall conduct an orientation on the ordinance and TARA NA CBRAP to all establishments.

**SECTION 16. ADDITIONAL REQUIREMENT.** – There shall be posted a signage stating that “THIS IS A DRUG-FREE WORKPLACE: LET’S KEEP IT THIS WAY” in any conspicuous place in the establishment, upon compliance with the mandates of the Ordinance and this IRR, with the following specifications (refer to Annex A for illustration):

Size of signage	: (H) 6 inches x (W) 20 inches
Color and style of font	: Green, Tahoma
Font size	: 1st line: 40; 2nd and 3rd line: 30
Background	: White

In addition, the text “Per Ordinance No.: 0506-13” shall be printed at the center bottom of the signage and below thereof the text PDEA Certificate No.: \_\_\_\_\_”.

**SECTION 17. APPROPRIATION.** – An initial amount of Two Million Pesos (₱2,000,000.00) shall be appropriated for the implementation of the Ordinance, more particularly for the Information Dissemination Campaign, which shall be taken from the Annual Budget of the Business Bureau and which shall be under the supervision and control of the City Anti-Drug Abuse Council (CADAC).

**SECTION 18. REPEALING CLAUSE.** – All memorandum circulars, resolutions, orders, and other issuance or parts thereof which are inconsistent with the ordinance or with this IRR are hereby repealed, amended or modified accordingly.

**SECTION. 19. IMPLEMENTING DETAILS.** – The CADAC is hereby authorized to issue supplemental implementing details as may be necessary to further clarify any part of this IRR or the Ordinance.

**SECTION 20. EFFECTIVELY CLAUSE.** – This Executive Order shall take effect immediately upon its approval and shall remain effective unless revoked or modified.

Done in the City of Davao, Philippines, this 19<sup>th</sup> day of November 2018.

  
SARA Z. DUTERTE  
City Mayor

Attested by  
  
ATTY. ZULEIKA T. LOPEZ  
City Administrator

CMO - CRD  
**RELEASED**  
22 NOV 2018 9:15 AM Elna

Annex A

DRUG-FREE WORKPLACE SIGNAGE

Size of signage : (H) 6 inches x (W) 20 inches  
Color and style of font : Green, Tahoma  
Font size : 1st line: 40; 2nd and 3rd line: 30  
Background : White

**THIS IS A DRUG FREE WORKPLACE: LET'S KEEP IT THAT WAY!**

**Per Ordinance No.: 0506-13**  
**PDEA Certificate No.: \_\_\_\_\_**