

13<sup>th</sup> City Council  
14<sup>th</sup> Regular Session  
Series of 2004

Republika ng Pilipinns  
LUNGSODNGDABAW  
Tanggapan ng Sangguniang Panlungsod

PRESENT:

Councilor Emmanuel D. Galicia, Sr. - Acting Presiding Officer

Councilor Nilo G. Abellera  
Councilor Ma. Belen S. Acosta

Councilor Victorio S. Advincula  
Councilor Wilberto E. Al-ag  
Councilor Leonardo R. Avila, III

Councilor Gerald B. Bango

Councilor Danilo C. Dayanghirang  
Councilor April Marie C. Dayap  
Councilor Shane L. Dolor  
Councilor Jimmy G. Dureza  
Councilor Frances Mabel A. Laman  
Councilor Peter T. Lavina  
Councilor Angela A. Librado  
Councilor Liborio V. Lumin  
Councilor Diosdado A. Mahipus  
Councilor Amilbansa T. Manding  
Councilor Teresita M. Maranon  
Councilor Bonifacio E. Militar  
Councilor Beethoven L. Orcullo  
Councilor Mynia G. L'Dalodo-Ortiz

**ON OFFICIAL BUSINESS:**

Vice Mayor Luis C. Bonguyan - Acting City Mayor

ABSENT:

Councilor Salvador V. Caingles - On Sick Leave  
Councilor Clemencia D. Cataluna - On Sick Leave  
Councilor Tomas I. Monteverde, IV  
Councilor Susan Isabel C. Reta - On Forced Leave  
Councilor Isidro T. Ungab - On Vacation Leave

**ORDINANCE NO.0227-04**  
SERIES OF 2004

**AN ORDINANCE PRESCRIBING GUIDELINES AND  
REGULATIONS ON THE OPERATION AND SERVICES  
OF INTERNET CAFE IN DAVAO CITY AND FOR OTHER  
PURPOSES, AS AMENDED.**

Be it ordained by the Sangguniang Panlungsod of Davao  
City in session assembled, that:

**SECTION 1. TITLE OF THE ORDINANCE** - This Ordinance shall be called the "Internet Cafe Ordinance of Davao City, as Amended";

## **SECTION 2. DEFINITION OF TERMS**

For purposes of this Ordinance, the following terms shall be defined as follows:

1. Internet - refers to the interactive communication and information technology sourced through computers. .
2. Internet Cafe - means a business establishment using the worldwide web or Internet system that enable users to view and interact with a variety of information accessed through a computer connected to a Local Area Network (LAN).
3. Internet Service Provider (ISP) - refers to local or national network provider of Internet services.
4. Internet User - refers to an individual, a corporation or institution utilizing or accessing data information through the Internet for entertainment, games, advertisement, business, news and educational purposes.
5. Accreditation - refers to the recognition accorded to an establishment or institution that meets the standard or criteria established by a body legally constituted for the purpose.
6. Student- refers to minors, individual and/or person who are officially enrolled in-the elementary grade or secondary level in any public or private educational institution in the city.
7. Minors - any individual/person 17 years of age and below.
8. Class Hours - Prescribed school hours.
9. Board - refers to the Internet Cafe Accrediting Board.

## **SECTION 3. NATURE OF INTERNET CAFE ESTABLISHMENT**

This section hereby explains the nature and scope of Internet Cafe establishment as follows:

- 3.1 Any establishment which includes residential units with more than one computer unit principally offering Internet services, including, but not limited to, e-mail, fax, online and network games, chatting, surfing and other such services covered by the internet technology which are accessed for a fee.

- 3.2 Other business establishments that offer a combination of services such as food and Internet, bar and Internet recreation, and others of similar nature. Internet and other combinations are still included as Internet Cafe and shall be covered by this Ordinance.
- 3.3 Educational institutions, private homes and corporate entities using the Internet through an Internet Service Provider (ISP) for purposes other than business shall not fall under the category of Internet Cafe establishment.
- 3.4 Internet Cafe establishment expanding to other lines of services such as offering short term courses which may run between one to six months and which may fall under computer programming, computer technology and other such similar courses shall apply for a permit to offer such courses from the Technical Education and Skills Development Authority (TESDA).

#### **SECTION 4. OPERATION OF INTERNET CAFE ESTABLISHMENTS**

Internet Cafe establishments shall follow the following guidelines for its operation:

- 4.1 Internet cafe establishments are required to secure a Business Permit and other licenses required by the local government to operate;
- 4.2 Internet cafe establishments which offer a combination of other services as defined in Section 3.2 of this Ordinance are also required to declare in their business permits other lines of business other than internet services.
- 4.3 **Internet Cafe establishments should not allow students to stay in the premises of the establishment during their class hours unless for specific educational or study purposes such as data research or statistical gathering.**
- 4.4 **Internet Cafe establishments shall not offer online and network gaming services during class hours to students and/or minors.**
- 4.5 Prohibited drugs, intoxicating drinks, selling of cigarettes, and smoking are prohibited inside Internet Cafe Establishments;
- 4.6 Selling of food and meals are allowed only when Internet Cafe establishments have declared in their original permits or the permit of other businesses.
- 4.7 Internet cafe establishments shall not allow computer hackers or cause computer hacking to be practiced in their premises.
- 4.8 **Internet Cafe Establishments must post in a conspicuous and visible area within the establishment a warning sign against accessing pornography and playing games by students during prescribed class hours on school days.**
- 4.9 **Internet Cafe Establishments must be well lighted.**

4.10 Internet Cafe Establishments offering a combination of services such as research and games shall either provide headphones for every unit being used for gaming or reduce the volume of the gaming unit so as to prevent excessive sound that could disturb other users. Internet Cafe Establishments may play music at a moderate volume.

4.11 Internet Cafe Establishments must provide for a means of downloading/saving information from the internet by the user, to be determined by the Board;

**4.12 Internet Cafe Establishments must not use fully enclosed cubicle for every computer. Only half-closed cubicle shall be allowed, the specifications of which will be provided by the Board;**

4.13 Internet Cafe Establishments offering the use of web cameras or web cams must not allow its users to use it for obscenity and lewd designs.

4.14 Internet Cafe Establishments shall be maintained under good sanitary condition;

4.15 Internet Cafe establishments should not tolerate or promote indecent, lewd and immoral behavior inside the establishment.

## Section 5. GUIDELINES FOR SERVICES OFFERED

5.1 The following services of Internet cafe establishments are covered by this ordinance, specially viewing, sourcing and interacting with:

- 1) Magazine archives
- 2) Public and university resources
- 3) Current world and business news
- 4) Advertisements and shopping
- 5) Sports and recreational services
- 6) Entertainment and games
- 7) Chatting and E-mail
- 8) E-commerce and various printing and documentation needs
- 9) Other similar matters and/or services not falling under Section 5.2

**5.2 Internet gambling, nudity, vulgar language, depiction of graphic sex and all other forms of lewd pictorial representation are prohibited from being sourced, accessed or provided by internet Cafe establishments and by all internet users, regardless of age. Corresponding penalty will be meted to establishments that allow violation of this section. ,**

5.3 Chatting by minor which will lead to sexual exploitation and experimentation with pedophiles and other sexual perverts shall be terminated by the establishment or its management at a time when it is deemed injurious to minors.

5.4 A floor rate for Internet use to be followed by all accredited Internet cafes may be set by the Board for compliance after proper consultation with owners and/or authorized organization of Internet cafe owners.

#### **SECTION 6. CONSORTIUM, LINKAGES AND NETWORKING WITH OTHER SECTORS OR AGENCIES**

The following are the guidelines for consortium, linkages and networking of Internet Cafes with other sectors or agencies:

6.1 Internet Cafe establishments may enter into consortium with private educational institutions for the purpose of providing computer technology information to students without prejudice to its permit or license.

6.2 Linkages or networking with government agencies for business purposes shall be regulated by existing applicable laws or regulations.

#### **SECTION 7. ACCREDITATION OF INTERNET CAFE ESTABLISHMENTS.**

Accreditation of Internet Cafe establishments in the City shall take the following forms and processes;

*An Internet Cafe Accrediting Board shall be created composed by the purpose of accrediting Internet Cafes in the City.*

B. The Board shall be composed of the following:

The CITY MAYOR	-	CHAIRPERSON
The CITY ADMINISTRATOR	-	CO-CHAIRPERSON
The CHIEF of the Business Bureau	-	VICE-CHAIRPERSON

**-MEMBERS-**

1. CHAIRPERSON,  
Information Technology Committee of the City Council;
2. CHAIRPERSON  
Education, Science and Technology Committee of the City Council;

3. CHAIRPERSON

Council for the Welfare of Children (CWC) or any designated representative;

4. REPRESENTATIVE, PRESIDENT, OR DULY ACCREDITED MEMBER.

Association of internet cafe operators/owners in Davao to be appointed by the City Mayor;

5. REPRESENTATIVE,

Technical Education and Skills Development Authority (TESDA);

6. THE CITY LEGAL OFFICER of Davao City or his duly DESIGNATED REPRESENTATIVE,

7. REPRESENTATIVE,

Non-government Organization (NGO) identified with information technology-related advocacy to be appointed by the City Mayor upon recommendation by the body.

C. All Internet Cafe establishments must be accredited as such by the Board.

D. Accreditation shall be a requirement for the issuance of business permit or license to operate.

E. SECRETARIAT. The personnel who will act as Secretariat of the accrediting body will be composed of four (4) employees from the Business Bureau and one (1) Legal Officer from the City Legal Office. The Secretariat shall be appointed by the accrediting board upon recommendation by the Chief of the Business Bureau and City Legal Officer, respectively.

## **SECTION 8. FUNCTIONS OF THE ACCREDITING BODY**

The following are the functions of the accrediting body.

1. Formulate policies and criteria to serve as guidelines for accreditation of Internet Cafes in the city;
2. To accredit Internet Cafes after complying with all the necessary requirement; provided by the Board;
3. To conduct monitoring activities and ocular inspections, on its own or in coordination with the school administrators and Barangay Officials, in pursuance of its functions in accrediting internet cafes in Davao City and in order to determine if the duly accredited internet cafes have been following provisions of Ordinance 106, Series of 2000;

4. To recommend to the City Mayor through the Business Bureau the closure of any accredited internet cafe found violating Ordinance No. 106, Series of 2000;

#### SECTION 9. PUNISHABLE ACTS

Under this Ordinance, the following acts committed by Internet Cafe Establishments shall be deemed punishable and subject to the penalties set forth under Section 10 hereof.

1. Operating an Internet Cafe without business permit or license;
2. Operating other business in combination with internet services without the necessary business permit or license;
3. **Allowing students to surf or source data/information other than those needed for study or educational purposes during prescribed class hours;**
4. Selling or allowing the use or consumption of prohibited drugs and intoxicating drinks within the Internet Cafe premises;
5. Smoking and selling of cigarettes within its premises, especially to children and minors;
6. **Allowing the use of internet facilities for fraud and deceit whether of sexual or business nature, promotion of indecent and immoral behavior, the sourcing or accessing of depictions of nudity, graphic sex and all other forms of lewd pictorial presentations, injurious materials and confidential websites that are protected by the government, gambling, and other criminal activities.**

#### SECTION 10. PENALTY

Violators of this Ordinance shall be subjected to the following penalties:

1. A fine of P1,000.00 for the first offense and/or 5-day suspension of business operation;
2. A. fine of P3,000.00 for the second offense and/or two weeks suspension of business operation;
3. A fine of 5,000.00 and/or revocation of business permit by the Mayor for the third offense

SECTION 11. SEPARABILITY CLAUSE. If for any reason any Section of the Ordinance is declared unconstitutional or invalid, the other Sections or provisions hereof which are not affected thereby shall continue to be in full force and effect.

SECTION 12. FUNDING. Any amount needed in the implementation of this Ordinance shall be derived from the Office of the City Mayor or from any source of funds that may be made available for the purpose.

SECTION 13. REPEALING CLAUSE. Any ordinance, local issuances or rules inconsistent with (he provisions of this Ordinance are hereby repealed or modified accordingly.

SECTION 14. EFFECTIVITY. This Ordinance shall take effect upon approval and publication in a newspaper of general circulation.

ENACTED, June 1, 2004 by a majority vote of all the Members of the Sangguniang Panlungsod.

**CERTIFIED CORRECT:**

**LOLITA C. GARCIA**  
Secretary to the Sangguniang Panlungsod  
(City Government Department Head II)

**ATTESTED:**

**EMMANUEL D. GALICIA, SR,**  
Speaken Pro Tempore  
Acting Presiding Officer  
/vl

**APPROVED Jul 08 2004 ,2004**

**RODRIGO R. DUTERTE**  
City Mayor

**ATTESTED:**

**ATTY. WENDEL E. AVISADO**  
CITY ADMINISTRATOR