



Republic of the Philippines
PROVINCE OF NEGROS ORIENTAL
City of Bayawan
Office of the Sangguniang Panlungsod

EXCERPT FROM THE MINUTES OF THE REGULAR SESSION HELD BY THE CITY COUNCIL OF BAYAWAN, NEGROS ORIENTAL ON MARCH 23, 2021 AT 2 PM AT THE LEGISLATIVE BUILDING GOVERNMENT CENTER.

RECORD OF ATTENDANCE

HON. HENRY E. CARREON, JR.	Vice Mayor & Presiding Officer	Present
HON. NICO ANGELO L. LIM		Present
HON. MERLITA R. GAUDIEL		Present
HON. RUSMAR IAN D. TIJING		Present
HON. LUIS J. SUMALPONG		Present
HON. JONAS M. TRIAS		Present
HON. NARCISO N. CASIPONG		Present
HON. ROLANDO B. ABRASALDO		Present
HON. FELIPE O. SANTIAGO, JR.		Present
HON. SEVERINO SALVADOR M. CAPULSO	(LNMB Vice President)	Present
HON. TRISTAN GOLD T. TORRILLO	(SK Federated President)	Present

RESOLUTION NO. 157

“WHEREAS, Republic Act 9003 provides for an ecological solid waste management program, creates the necessary institutional mechanisms and incentives, declares certain acts prohibited and provides penalties for violations;

“WHEREAS, Section 10 of R.A. 9003 provides that “Pursuant to Republic Act 7160 or The Local Government Code of 1991 provides that the LGUs shall be primarily responsible for the implementation and enforcement of the provisions within their respective jurisdictions”;

“WHEREAS, Section 48 of Republic Act 9003 prohibits open burning of solid wastes;

“WHEREAS, open burning emits greenhouse gas such as carbon dioxide and nitrous oxide which contribute to global warming;

“WHEREAS, the Local Government Unit of Bayawan promotes public health, comfort, quality living, safety and welfare of the citizens by regulating the air pollution and health hazards of burning in accordance with the Clean Air Act, Solid Waste Management Act and other related policies;

“WHEREFORE, on motion of Honorable Councilor Merlita R. Gaudiel and duly seconded by Honorable Councilor Jonas M. Trias, the Council

“RESOLVED, To enact, as it hereby enacts the following ordinance:

ORDINANCE NO. 3

**AN ORDINANCE REGULATING OPEN BURNING
IN BAYAWAN CITY AND PROVIDING
PENALTIES FOR VIOLATIONS THEREOF**

Be it ordained that:

SECTION 1. Title.

This Ordinance shall be known as the **“Open Burning Regulation Ordinance”**.

SECTION 2. Declaration of Policy.

It shall be the policy of the Local Government Unit of Bayawan City to protect and preserve the inhabitants and its environs from degradation, abuse and harmful habit that may affect the future generation and prevent foreseeable damage to the environment, in particular and the public in general.

SECTION 3. Definition of Terms.

- a. **1 kilometer radius** – refers to a 1 kilometer area extending from the populated place.
- b. **Accidental burning of sugarcane and other standing vegetation** – refers to the non-deliberate burning of standing sugar cane and other standing vegetation due to human carelessness, lightning and such other causes as determined and accordingly verified by the barangay captain of the barangay where the burning took place.
- c. **Agricultural Based Category** – refers to the agricultural waste generated from farming.
- d. **Agricultural waste** - refers to waste as defined in RA 9003 such as waste generated from planting or harvesting of crops, pruning of plants and waste or run -off materials from farms or fields.
- e. **Artificial Reefs** – refer to the recycling of waste for underwater structure to protect, promote and improve marine life.
- f. **Campfire** – A campfire is a fire lit at a campsite, usually during camping conducted annually by schools as part of Girl Scouts/Boy Scout Encampment activities with the use of coco husks and shells and other untreated wood materials. The term may also be applied to the fire lit for cultural and religious purposes.
- g. **Composting** – refers to the process of waste disposal by natural decomposing of agricultural and other solid waste management for fertilizer purposes.
- h. **Construction and demolition wastes** – waste materials including but not limited to gravel, lumber, treated wood, painted wood, wiring, plastics, insulation and debris that resulted from construction, remodeling, repair, and demolition operations on a house, commercial or industrial buildings or other structures.
- i. **Cooking** – a process of food preparation which is either done indoor or outdoor with the fire contained in a stove, barbecue or roasting pit or other similar enclosures with the use of charcoal, untreated wood, biogas, kerosene and propane.
- j. **Fire training** – refers to an activity where fire is lit inside a structure or in an open environment for the purpose of training firefighters to enhance their skills.
- k. **Fish Cage** – refers to the recycling of waste used for aquaculture in rearing underwater resources.
- l. **Flagrante delicto** – caught in the act of committing an offense.
- m. **Fuel** – refers to the any material or agricultural waste for power generation purposes.
- n. **Home Based Category** – refers to any domestic generated material waste or other garbage or rubbish generated from household premises.
- o. **Kindle of fire** – refers to the process of starting the fire.
- p. **Nuisance burning** – refers to a situation in which the fire creates smoke, soot, fumes, vapors, noxious gases, and heat which is considered to be unhealthy, hazardous, reasonably annoying, unsafe and creating a persistent odor.
- q. **Open Burning** – refers to the burning of any material in such manner that the smoke emits directly into the ambient air.

- r. **Person** – refers to any individual person. The term applies to people who take responsibility for households, establishments, farms, industries and religious or academic institutions.
- s. **Solid wastes** – refer to discarded non-hazardous household, commercial, institution and industrial wastes.
- t. **Special wastes** – refer to hazardous waste such as discarded bulbs, fluorescent lights, appliances, photo negatives, expired medicines and batteries. The term also applies to paints, household chemicals, pesticides, used oil, gasoline, varnishes and solvents including containers of such materials. Tires and plastic materials will also be considered special wastes under this ordinance since they are potential health hazards when burned.
- u. **Populated barangay areas** - refer to those areas composed of 10 or more inhabited houses.
- v. **Shredding** – refers to the tearing to small pieces of agricultural waste product by a machine for agricultural purposes.

SECTION 4. Prohibited Acts.

- a. No person shall kindle, start, maintain or allow burning of solid waste, agricultural waste, special wastes, construction and demolition waste except as provided in this ordinance.
- b. No person shall kindle, maintain or allow forms of nuisance burning.

SECTION 5. Penalties. Persons in violation of Section 4 shall be categorized with corresponding penalty as follows:

5.1 Home Based Category. Any person caught violating paragraphs (a) and (b), section 4 of this Ordinance shall be penalized as follows:

- a. **First Offense** – A written warning to every individual violator;
- b. **Second Offense** – a penalty of P 1,000.00 to be paid to the Office of the City Treasurer
- c. **Third Offense** – a penalty of P 1,500.00 to be paid to the Office of the City Treasurer
- d. **Fourth and Succeeding Offenses** – a penalty of P 2,000.00 to be paid to the Office of the City Treasurer or imprisonment of not less than one (1) day but not more than fifteen (15) days or both at the discretion of the Court.

5.2 Agricultural Based Category. The owner, lessee, buyer and sugar cane cutters shall be jointly liable for any violation of this Ordinance, provided, however, that the liabilities of individuals that deliberately violated Section 4 of this Ordinance for burning less than or equal to 1 hectare of agricultural waste shall be penalized as follows:

- a. **First Offense**- A penalty of P2, 000 to be paid to the City Treasurer.
- b. **Second Offense** – A penalty of P3, 000 to be paid to the City Treasurer.
- c. **Third Offense and Succeeding Offense** – A penalty of P 5,000 to be paid to the City Treasurer and imprisonment of not less than 16 days and not more than 30 days at the discretion of the Court.

Provided, further, that in excess of 1 hectare there shall be an additional penalty of 1 thousand pesos (P1,000.00) for every succeeding excess hectare or a fraction thereof.

SECTION 6. Exemptions.

The following acts and activities are specifically exempted from the prohibitions stated in Section 4 of this Ordinance.

- a. Cooking
- b. Campfire
- c. Fire training
- d. Authorized charcoal making;
- e. Burning of rice hulls as an additive for fertilizer;
- f. Burning of farm residues in case of contamination of endemic diseases;
- g. Accidental burning of standing cane and other crops; and
- h. fireworks

For subparagraph (g) (accidental burning of standing cane and other crops), concerned parties shall immediately secure a certification from the Barangay Captain of the place where accidental burning took place. The Barangay Captain shall issue the Certification within seven (7) days after the investigation has been conducted. The certification shall specify that burning of standing cane was due to accidental causes with a corresponding investigation report from the Barangay. Non-compliance of this provision shall be considered subject to the penalties specified under **Section 5** of this Ordinance.

SECTION 7. Permit.

- a. In cases of subsection (b) (campfire), (c) (fire training), (d) (authorized charcoal making) and (h) (fireworks) of **Section 6**, no person, groups or entities shall be allowed to kindle, start, maintain or allow acts and activities covered in aforementioned Section 6 without permit issued by the City Environment and Natural Resources Office (CENRO) of Bayawan City, Bureau of Fire and Protection (BFP) or City Agriculture Office of Bayawan City, as the case maybe.

For subsection (f) (Burning of farm residues in case of contamination of endemic diseases), a certification has to be secured by the concerned parties from the City Agriculture Office before the permit can be issued by the CENRO. Such certification must attest that the farm is contaminated by endemic diseases.

SECTION 8. Enforcement.

The deputized personnel of City Environment and Natural Resources Office (CENRO), Bureau of Fire and Protection, Philippine National Police, City Public Safety Office (CPSO) and Barangay Deputized Enforcers, as well as Barangay Agriculture Technicians are authorized to enforce the provisions of this Ordinance. The aforementioned shall be considered the Regular Enforcement Team for purposes of this ordinance with the following composition:

- CENRO – Leader
- CPSO – Assistant Leader
- Philippine National Police Representative – Member
- Bureau of Fire Protection Representative – Member
- City Agriculture Office Representative – Member

A quarterly report on enforcement activities shall be prepared and submitted by the said regular enforcement team to the Waste and Pollution Management Board. The report shall include violations, apprehensions and penalties paid to the Office of the Treasurer. Moreover, positive developments, issues and other enforcement concerns shall be likewise considered in the report.

SECTION 9. Procedure for Apprehension.

The following procedure shall be observed in case of violation of this Ordinance:

9.1 Issuance of Notice of Warning or Citation Tickets

Any person caught in flagrante delicto by a person charged with the enforcement of this ordinance shall be immediately issued a notice of violation warning or a citation ticket as the case maybe, indicating the penalty as indicated under Section 5 hereof. Payment of the amount indicated shall serve as the compromise settlement and shall extinguish the liability of the offender. Should the offender refuse to pay the indicated penalty within (30) days from its issuance, the offender shall be prosecuted in court.

In all other cases, any person may initiate the prosecution of any violation of this Ordinance by filing an affidavit-complaint either directly to the City Prosecutor's Office or through the City Environment and Natural Resources Office (CENRO) in which the latter shall extend the necessary assistance in verifying the allegations in the complaint.

The deputized barangay personnel are authorized to apprehend and to make the necessary collection of fines in case of violation. As such, they are entitled to fifty percent (50%) of the fines collected of the violations they have apprehended. The Barangay Treasurer shall remit all the fines collected directly to the City Treasurer's Office (CTO) and subsequently, the City Treasurer shall allocate and remit back to the concerned barangay their 50% share.

SECTION 10. Applicability.

This Ordinance shall be enforced in all Barangays within the 1 kilometer radius from the residential, commercial and populated Barangay areas. Provided further, that populated Barangay areas shall be composed of 10 or more inhabited houses.

SECTION 11. Education and Public Information.

The Solid Waste Management Information, Education and Communication (IEC Team), in coordination with the City Health Office, the City Agriculture Office and Barangay Councils shall conduct information dissemination activities in all barangays of the City.

SECTION 12. Payment and Management of Fines.

Fines collected for violation of this Ordinance shall be paid directly by the violators to the Office of the City Treasurer. However, in case of apprehensions made by the barangays, the barangay treasurer shall collect the same with their barangay official receipt and turn them over to the City Treasurer.

Revenue arising from fines collected shall form part of the General Fund.

The Office of the City Treasurer shall submit a quarterly report on such fines collected to the Waste and Pollution Management Board.

SECTION 13. Options to Open Burning

1. Composting.

Households, establishments, institutions and farms are encouraged to compost biodegradable materials such as wet papers, tree branches, logs, stumps, leaves, grass clippings, fruit peelings, rice stalks, cane trash and other agricultural wastes at-source.

Farmers and households have the right to ask for assistance in composting at the City Environment and Natural Resources Office and City Agriculture Office. However, support is limited only to the provision of technical information and advice.

2. Shredding

3. Fuel

4. Artificial Reefs

5. Fish Cage

SECTION 14. Separability Clause.

If, for any reason or reasons, any part or provision of this ordinance shall be held unconstitutional or invalid, other parts or provisions hereof which are not affected thereby shall continue to be in full force and in effect.

SECTION 15. Repealing Clause.

All previous ordinances, executive orders, rules and regulations or parts thereof which are inconsistent with this ordinance are hereby repealed, modified or amended accordingly.


SECTION 16. Effectivity Clause. This ordinance shall take effect in accordance with R.A. 7160.

“Enacted.”

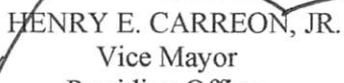
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I hereby certify to the correctness of the foregoing resolution.

* * *


JULIUS T. ESPARTERO
Secretary to the Sangguniang Panlungsod

ATTESTED:


HENRY E. CARREON, JR.
Vice Mayor
Presiding Officer

APPROVED:


PRYDE HENRY A. TEVES
Mayor

Date: 06 APR 2021

Copy for:

- The Honorable Provincial Board, Dumaguete City