

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 OCTOBER 20, 2008 AT 2 O'CLOCK P. M. AT THE SP SESSION HALL.

RECORD OF ATTENDANCE

Hon. Rene G. Gaudiel	(Vice Mayor & Presiding)	Present
Hon. Clayborne Clyde L. Lim		Present
Hon. Raul P. Martinez		Present
Hon. Oscar T. Villamil		On Leave
Hon. Luis J. Sumalpong		Present
Hon. Mark Fidencio L. Aurelia		Present
Hon. Douglas T. Tijing		Present
Hon. Francisco T. Diao		Present
Hon. Victoriano D. Alabastro		Present
Hon. Serafin Ra. Albito		Present
Hon. Urbistondo C. Renacia		Present
Hon. Hermelie T. Saraña	(ABC President)	Present
Hon. Flintzel Dyan S. Diao	(SK Fed. Pres.)	Present

RESOLUTION NO. 643

“WHEREAS, the wearing of helmet for motorcycle riders can be utilized by some bad elements such as hired killers or assassins, hold-uppers, motorcycle and carnappers and bag and cell phone snatchers, etc. to conceal their identities in the performance of their criminal activities;

“WHEREAS, several killings and robbing incidents with the use of helmets or bonnets has been the method of most of these incidents in the entire country as we have read in newspapers, radios and televisions;

“WHEREAS, Bayawan City is not an exemption as what recently happened to the late RTC Judge Velasco and the robbing of Mrs. Fe Bollos Araula in front of her gasoline station in broad daylight at not far distance from the group of Habal-Habal drivers where they park to wait for their passengers;

“WHEREAS, Section 458 [a(1) II] of the Local Government Code of 1991, the Sangguniang Panlungsod is authorized to enact ordinances and pass resolutions necessary for an effective city government such as to maintain peace and order to prevent and suppress lawlessness, disorder, riot, violence, rebellion or sedition and impose penalties for the violation of the said ordinance;

“WHEREAS, Section 458 [a (5) VI] of the same Code provides that the Sangguniang Panlungsod may enact ordinances that may regulate traffic on all street and bridges;

“WHEREAS, the speed limitations as provided in section 14 (1&2) of ORDINANCE NO. 14 of the “NEW TRAFFIC CODE OF THE MUNICIPALITY (now city) OF BAYAWAN NEGROS ORIENTAL” is 30 kph within the highway from Bayawan/Sta. Catalina Boundary to Bayawan Bridge; and 20 kph on other streets within the municipality (now city) of Bayawan’ so that the use of helmets in these areas is not necessary because accidents rarely happen at this speed unless the driver exceeds this speed limitations so that it is already the obligation of the traffic enforcers to strictly impose these speed limitations in order to avoid accidents.

“WHEREAS, the Administrative Order of the Land Transportation Office did not consider the security aspect and the financial capability of the motorcycle users knowing that the use of motorcycle is the only means of transportation used by the average Filipino Family in going to and from their place and in bringing their children to school and other errands, and besides most of these motorcycles users acquire their units on installments basis and to require them to buy helmets and other paraphernalia when most of them are playing only within the city streets of Bayawan;

“WHEREAS, Section 2(a) of the General Provisions of the Code of 1991 states that the State

shall provide for a more responsive and accountable local government structure instituted through a system of decentralization whereby local government units shall be given more powers, authority and responsibility:

"WHEREAS, Section 2 (c) of the same Code states that it is the policy of the state to require all national agencies and offices to conduct periodic consultations with appropriate local government units, Non-Government and People's Organization and the other concerned sectors of the community before any project or program is implemented in their respective jurisdictions.

"WHEREAS, Section 2 on rules of interpretation of the General Provisions of the Local Government Code of 1991 states that:

Any provision on a power of a local government unit shall be liberally interpreted in each favor, and in case of doubt any question thereon shall be resolved in favor of devolution of powers and any fair and reasonable doubt as to the existence of the power shall be interpreted in favor of the local government concern.

"WHEREAS, Section 2 (a) of the same Code on Rules of Interpretation states that in the resolution of controversies arising under this code where no legal provision or jurisprudence applies, resort may be had to the customs and traditions in the place where controversies take place:

"NOW THEREFORE, on motion of Honorable Raul P. Maritan and duly seconded by Honorable Victoriano D. Albasano, the council

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

ORDINANCE NO. 42

AN ORDINANCE REGULATING THE USE OF HELMETS, BONNETS AND SIMILAR HEADGEAR FOR MOTORCYCLE RIDERS PLYING THE CITY STREETS AND VARIOUS BARANGAYS OF THE CITY OF BAYAWAN AND FOR OTHER PURPOSES.

Be it ordained that:

SECTION 1. Title: This Ordinance shall be known as "An Ordinance regulating the Use of Helmets, Bonnets and Similar Headgear for Motorcycle Riders Plying the City Streets and Various Barangays of the City of Bayawan and for Other Purposes."

SECTION 2. Definition of Term - When used in this Ordinance, the term:

- (a) "Helmets" means a headgear used as protective covering of the head to protect it from damage due to possible accidents.
- (b) "Bonnets," a headgear usually made of cloth and similar material used to cover a person's head with only the eyes and mouth being exposed.
- (c) "Similar Headgear," any type of conaption or clothing used to cover a person's head so that facial identity will be difficult.
- (d) "Motorcycle Riders" - means all motorcycle riders either two-wheeled or three-wheeled for hire and not for hire.

SECTION 3. PROHIBITED ACT. It shall be prohibited for any motorcycle rider to wear bonnet or similar headgear while plying the streets of Bayawan City.

SECTION 4. REGULATED ACT. It shall be optional for any motorcycle rider to wear helmet while plying the streets of Bayawan City and within the Highway from the Police Outpost in barangay Villanac to the Police Outpost in Barangay Banga and the proposed Outpost at the junction of Bayawan - Kainabayan Road and the North Division Road and in the highly populated barangay proper of the locality provided, that those motorcycle rider who are wearing helmets shall be subject to identity check by any person of authority.

shall provide for a more responsive and accountable local government structure instituted through a system of decentralization whereby Local Government Units shall be given more powers, authority and responsibility;

“WHEREAS, Section 2 (c) of the same Code states that it is the policy of the state to require all national agencies and offices to conduct periodic consultations with appropriate Local Government Units, Non-Government and People’s Organization and the other concerned sectors of the community before any project or programs is implemented in their respective jurisdictions.

“WHEREAS, Section 5 on rules of Interpretation of the General Provisions of the Local Government Code of 1991 states that:

Any provisions on a power of a Local Government Unit shall be liberally interpreted in each favor, and in case of doubt any question thereon shall be resolve in favor of devolution of powers and any fair and reasonable doubt as to the existence of the power shall be interpreted in favor of the Local Government concern;

“WHEREAS, Section 5 (a) of the same Code on Rules of Interpretation states that, in the resolution of controversies arising under this code were no legal provision or jurisprudence applies, resort maybe had to the customs and traditions in the place where controversies take place;

“NOW THEREFORE, on motion of Honorable Raul P. Martinez and duly seconded by Honorable Victoriano D. Alabastro, the council

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SECTION 5. Penalty – Infraction or violation of this Ordinance shall be subject to the following offenses.

- (1) First Offense – Reprimand by enforcing officers and traffic aides, to demand for their licenses and list their names in a log book and require them to sign..
- (2) Second Offense - a fine of P500.00
- (3) Third Offense - a fine of P1,000.00
- (4) Fourth Offense - Imprisonment of not more 8 months with a fine of P2,000.00 and ban them from renewing their Drivers License.

SECTION 6. Appropriation. The City Public Safety Office shall include their budget for 2009 the initial amount of One Hundred Thousand Pesos (P100,000.00) for the use in making signage and/or information drive for the implementation of this Ordinance. Any additional need for appropriation shall be prepared by the same office in subsequent budget preparation as needed.

SECTION 7. Separability Clause. If a competent court declares ant provision of this Ordinance unconstitutional or illegal, the same shall not effect the validity and effectivity of the other provisions.

SECTION 8. Effectivity. This Ordinance shall take effect after the compliance with the provision of the Local Government Code of 1991.

“Enacted.”

* * *

I hereby certify to the correctness of the foregoing resolution.

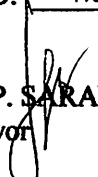
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JULIUS T. ESPARTERO
Secretary to the Sangguniang Panlungsod

ATTESTED:


RENE G. GAUDIEL
Vice Mayor
Presiding

APPROVED: NOV 15 2008


GERMAN P. SARAÑA JR.
Mayor

Copy For:

- The Honorable Provincial Board, Dumaguete City