

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 JANUARY 19, 2016 AT 2:00 PM AT THE SP SESSION HALL.

RECORD OF ATTENDANCE

HON. MARK FIDENCIO L. AURELIA	(Presiding Officer)	Present
HON. PETER PAUL F. RENACIA		Present
HON. MARK ANTHONY A. DUQUE		Present
HON. LUIS J. SUMALPONG		Present
HON. ERNESTO T. TIJING		Present
HON. SHARLOU F. JAMIN		Present
HON. DANILO G. LAMIS		Present
HON. JONAS M. TRIAS		Present
HON. ALEX D. TIZON		Present
HON. HENRY E. CARREON, JR.		Present
HON. NARCISO N. CASIPONG	(LNMB Vice President)	On-Leave

RESOLUTION NO. 69

“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 Republic Act 9003 provides that, “Pursuant to the relevant provisions of RA 7160, otherwise known as the Local Government Code, the LGUs shall be primarily responsible for the implementation and enforcement of the provisions of this Act within their respective jurisdictions”;

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

“Whereas, open burning emits greenhouse gases 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;

“Now Therefore, on motion of Honorable Councilor Duque and duly seconded by Honorable Councilor Sumalpong, the Council

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

ORDINANCE NO. 6

AN ORDINANCE BANNING THE BURNING OF DOMESTIC WASTE, AGRICULTURAL WASTE, CONSTRUCTION AND DEMOLITION WASTE AND SPECIAL WASTE IN BAYAWAN CITY AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF

Section 1: Definition of Terms

Burning- refers to the combustion of any material in such manner that the smoke is emitted directly into the ambient air.

Campfire - A campfire is a fire lit at a campsite, usually during camping conducted annually by schools as part of Girl Scout/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 same fire lit for cultural and religious purposes.

Cooking - a process of food preparation which is either done indoor or outdoor with the fire contained in a stove, a barbecue grill, barbecue or roasting pit or other similar enclosures with the use of charcoal, untreated wood, biogas, kerosene and propane.

Construction and demolition wastes – means waste materials including but not limited to gravel, lumber, treated wood, painted wood, wirings, plastics, insulation and debris that result from construction, remodeling, repair, and demolition operations on a house, commercial or industrial buildings, or other structures.

Domestic waste- refers to solid waste generated in the households, establishments, institutions and other wastes sources which include biodegradable, recyclable, residual and special wastes as defined in RA 9003.

Agricultural waste- refers to solid waste generated in the agricultural areas

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 and for educational purposes.

Fogging –refers to the minimal burning of non-toxic biodegradable materials to emit smoke for the purpose of mosquito control and agriculture.

Nuisance burning- refers to a situation in which the fire creates smoke, soot, fumes, vapors, noxious gases, products of combustion and heat which is considered to be unhealthy, hazardous, reasonably annoying, uncomfortable, unsafe, creating a traffic hazard, creating a persistent odor, or would cost resources to eliminate the odor from the property.

Person - refers to any individual person. The term also applies to people who take responsibility for households, establishments, farms, industries and religious or academic institutions.

Special wastes - refers to hazardous waste including but not limited to 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.

Section 2: Prohibited Acts

No person shall kindle, start, maintain or allow open burning of domestic wastes, construction and demolition wastes special waste except as provided in this Ordinance.

No person shall kindle, start, maintain or allow all forms of nuisance burning.

Section 3: Penalties

Any person caught violating paragraphs a) and b), Section 2 of this Ordinance shall be penalized as follows:

First Offense- a maximum of one written warning shall be given to the violator;

Second Offense- a fine of 300.00 shall be paid to the Office of the City Treasury

Third Offense- a fine of 500.00 shall be paid to the Office of the City Treasury

Fourth and Succeeding Offenses- a fine of 1,000.00 shall be paid by the violator to the Office of the City Treasury, or imprisonment may be imposed upon the violator of not

less than one (1) day but not more than fifteen (15) days or both at the discretion of the court.

In case open burning is committed in agricultural areas regardless of size, where biodegradable waste such as cane trash and rice straw are burned, violators shall be penalized as follows:

Rice straw:

First Offense-a maximum of one written warning shall be given to the violator;

Second and Succeeding Offenses- a penalty of 1,000.00 pesos shall be paid to the Office of the City Treasury or 1,000

Third Offense-a maximum of 2,000.00, or imprisonment may be imposed upon the violator of not less than one (1) day but not more than fifteen (15) days or both at the discretion of the court.

Sugarcane Trash:

First Offense-a maximum of one written warning shall be given to the violator:

Second Offense- a fine of 2,000.00 shall be paid to the Office of the City Treasury;

Third and Succeeding Offenses- a fine of 5,000.00 shall be paid by the violator to the Office of the City Treasury, or imprisonment may be imposed upon the violator of not less than one (1) day but not more than fifteen (15) days or both at the discretion of the court

For violation of the conditions and permit requirements as specified under Section 5 of this Ordinance, a penalty of 1,000.00 shall be imposed for very violation committed. Computation of penalty shall be as follows:

No Permit to Burn- 1,000.00

Conditions Not Observed-1,000.00

Section 4: Exemptions

The following acts and activities are specifically exempted from the prohibitions stated in Section 3 of this Ordinance:

Cooking;

Campfire;

Fire training;

Burning of rice hulls specifically to be used in the Urine Diversion Dehydration Toilet (UDDT) toilets;

Burning of rice hulls as an additive for fertilizer;

Fogging;

Burning of farm residues in case of contamination of endemic pests and diseases; and

Permitted charcoal making

Section 5: Permit

Except for paragraphs a), d), e) and f) of Section 4 of this Ordinance, a permit shall be required from any person, groups or entities who wish to undertake exempted acts and activities.

The permit shall be issued by the City Environment and Natural Resources Office (City ENRO) of the Local Government Unit of Bayawan City.

The permit issued shall require compliance with all the applicable provisions of this Ordinance. In addition, concerned parties shall be required to undertake any of the following activities (number of trees or hours of which shall be determined by the City ENRO):

Tree planting or tree growing activities;

Coastal cleanup;

Street sweeping;

Information dissemination and other related socio-civic activities deemed relevant by the City ENRO.

For paragraph g), a certification has to be secured by concerned parties from the City Agriculture Office before the permit can be issued by the City ENRO. Such certification must attest that the farm is contaminated by endemic diseases.

For paragraph h), concerned party must be able to present applicable permit for charcoal making. After the presentation of applicable permit, concerned party or parties shall be required to undertake any of the activities specified under this Section.

Any violation of the conditions and requirements of the permit issued shall be deemed a violation of this Ordinance which shall void the permit and shall penalize the violator of the penalty as specified under Section 3 of this Ordinance.

Section 6: Enforcement

The deputized Solid Waste Management Enforcers, Philippine National Police, Barangay *Tanods* and Barangay Officials are authorized to enforce the provisions of this Ordinance. They have the right to inspect any property for the purpose of ascertaining compliance with the provisions of this Ordinance.

An annual report on enforcement activities must be prepared and submitted by the regular enforcement team to the Waste and Pollution Management Board. The report must include violations, apprehensions and the penalties paid to the City Treasury. Moreover, positive developments, issues and other enforcement concerns shall also be considered in the report.

Section 7: Procedure for Apprehension

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

Issuance of Citation Tickets

Any person caught in *flagrante delicto* by a person charged with the enforcement of this ordinance shall be immediately issued a citation ticket indicating the penalty as indicated under Section 3 of this Ordinance. 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 thirty (30) days from its issuance, the offender may 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 (City ENRO). The latter shall extend all assistance to verify the allegations in the complaint and in order to fully enforce the provisions of this Ordinance.

Prosecution in Court

Any offender who refuses to pay the compromise fee, those found to have violated paragraphs a) and b) Section 2 of this Ordinance, may be prosecuted accordingly in the proper court.

Section 8: Applicability

This Ordinance shall be initially enforced in the seven (7) urban barangays namely Banga, Boyco, Poblacion, Suba, Tinago, Ubos and Villareal after its effectivity. After the first three (3) years of enforcement, the coverage shall expand to another four (4) barangays to include barangays Malabugas, Maninihon, Nangka and Pagatban.

The inclusion of other barangays not mentioned above in the coverage of the enforcement of this Ordinance shall be determined by the Bayawan Pollution and Waste Management Board (PWMB) in coordination with the City ENRO.

Section 9: Education and Public Information

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

Section 10: Payment and Management of Fines

Fines collected out of penalties for violation of this Ordinance shall be paid directly by the violators to the Office of the City Treasury. Revenue arising from fines collected shall form part of the total income of the LGU. Provided, however that such income shall be spent for solid waste management programs, projects and activities.

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

Section 11: 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 on 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.

Section 12: 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 13: 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 14: Effectivity Clause

This ordinance shall take effect immediately after a copy thereof is posted in a bulletin board at the entrance of and in at least two (2) conspicuous places of the City Hall and the ordinance has been published twice in a local newspaper of general circulation in the city.

“Enacted.”

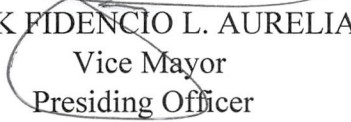
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I hereby certify to the correctness of the foregoing resolution.

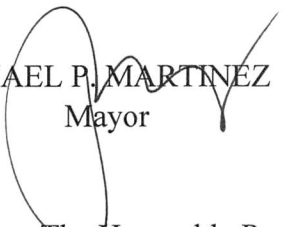
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JULIUS T. ESPARTERO
Secretary to the Sangguniang Panlungsod

ATTESTED:


MARK FIDENCIO L. AURELIA
Vice Mayor
Presiding Officer

APPROVED: FEB 11 2016


ISMAEL P. MARTINEZ
Mayor

Copy for:
- The Honorable Provincial Board, Dumaguete City