



Sangguniang Panlalawigan

BATAAN CAPITOL, BALANGA CITY



EXCERPT FROM THE MINUTES OF THE 76TH REGULAR SESSION OF THE SANGGUNIANG PANLALAWIGAN OF BATAAN HELD AT THE BUNKER, CAPITOL COMPOUND, BALANGA CITY, BATAAN ON MARCH 15, 2021

PRESENT:

Hon. Ma. Cristina M. Garcia, Vice Governor and Presiding Officer

FIRST DISTRICT:

- Hon. Benjamin C. Serrano, Jr., Board Member
- Hon. Jomar L. Gaza J.D., Board Member
- Hon. Reynaldo T. Ibe, Jr., Board Member
- Hon. Godofredo B. Galicia, Jr., M.D., Board Member
- Hon. Maria Khristine G. Dela Fuente, Board Member

SECOND DISTRICT:

- Hon. Maria Margarita R. Roque, Board Member
 - Hon. Manuel N. Beltran, Board Member
 - Hon. Edgardo P. Calimbas, Board Member
 - Hon. Jose C. Villapando, Sr., Board Member
 - Hon. Romano L. Del Rosario, Board Member
- Hon. Noel Joseph L. Valdecañas, Board Member (PCL President)
Hon. Precious D. Manuel, Board Member (SKF President)

ABSENT:

- Hon. Doroteo M. Austria, Board Member (FABC President) (Excused)
- Hon. Rosita N. Sison, Board Member (IPM Representative)

**ORDINANCE NO. 03
Series of 2021**

AN ORDINANCE PROVIDING FOR THE CLEARING OF ROADS OF ALL CLASSIFICATIONS AND OTHER PUBLIC SPACES IN THE PROVINCE OF BATAAN FROM ALL ILLEGAL STRUCTURES, OBSTRUCTIONS, AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF

Sponsored by: Hon. ROMANO L. DEL ROSARIO

WHEREAS, under the Department of the Interior and Local Government (DILG) Memorandum Circular No. 2019-121 dated 29 July 2019, all local officials are enjoined to exercise their powers essential to reclaim public roads which are being used for private ends and in the process, rid them of illegal structures and constructions, in line with President Rodrigo Roa Duterte's directive;

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Provincial Governor

"EXCELLENT PUBLIC SERVICE TOWARDS A BETTER QUALITY OF LIFE FOR ALL"

WHEREAS, the DILG issued Memorandum Circular No. 2020-027 dated 7 February 2020, directing all local government units (LGUs) to clear roads of illegal obstruction, pursuant to Section 17(b) of the Local Government Code of 1991, which mandates all provincial, city, municipal and barangay government units to manage and maintain roads within their jurisdiction as a basic service and facility, and to continue the implementation of the road clearing directive to ensure that the LGUs' efforts to maintain the cleared roads are sustained;

WHEREAS, it has been observed that some of the national highways and provincial roads, as well as streets, avenues, alleys, sidewalks, bridges, pedestrian lanes, parks and other public places in the Province of Bataan are not properly utilized by the road users and the public in general due to illegal structures, constructions and obstructions utilized for private purposes;

WHEREAS, the occupation and use of the national highways and provincial roads, as well as streets, avenues, alleys, sidewalks, bridges, pedestrian lanes, parks and other public places devoted to public use by private individuals for private ends constitute both public nuisance and nuisance *per se*;

WHEREAS, this initiative will ensure that these highways, roads and other public spaces can properly be utilized safely and in accordance with their respective purposes;

NOW THEREFORE, BE IT ORDAINED by the Sangguniang Panlalawigan of Bataan, in session assembled, that:

Section 1. TITLE – This ordinance shall be known as the "**Bataan Roads and Public Spaces Clearing Ordinance.**"

Section 2. DECLARATION OF POLICY – It is a declared policy of the State to safeguard life, health, property and promote the public welfare, and toward this end shall exercise the powers expressly granted, those necessarily implied therefrom, as well as powers necessary, appropriate, or incidental for its efficient and effective governance. It is the main purpose of this Ordinance to regulate the use and maintenance of all public roads and other public spaces by ensuring that they are cleared of illegal structures, in order to facilitate the safe and convenient use thereof, pursuant to Book 1 Chap. 2 Sec. 16, and Chap. 3 Art. 1 Sec. 455 Par. (b) (3) (VI) of the Local Government Code.

Section 3. SCOPE –This Ordinance shall apply to public roads of all classifications, and other public spaces and facilities within the Province of Bataan.

Section 4. DEFINITION OF TERMS -

- a) Road Clearing- Shall mean the removal of illegal or unauthorized obstructions and other structures along the road right-of-way, which encompasses the entire width of the road carriageway (including travel way for motor vehicles and road shoulders) and sidewalks.

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Provincial Governor

b) Road Obstructions- are structures, materials, or activities within the road right-of-way that impede the free and clear passage of motor vehicles or pedestrians and/or pose danger or cause injury to motorists, pedestrians or occupants of nearby structures.

Section 5. REGULATION OF ROADS AND OTHER PUBLIC SPACES

- The use of national highways, provincial roads, streets, sidewalks, avenues, alleys, bridges, pedestrian lanes, parks and other public places in the Province for commercial and personal purposes is prohibited. Such prohibited acts include, but are not limited to the following:

- 4.1 Parking of vehicles in prohibited places as specified in Sec. 46 of Republic Act 4136 or the Land Transportation and Traffic Code, or in sidewalks, paths, alleys or other public places not intended for vehicular parking, pursuant to Sec. 52 of the same Republic Act;
- 4.2 Use of roads and other public spaces as vehicular terminals, except in areas designated by the concerned LGU;
- 4.3. Putting up of vending sites for any kind of item or as store extensions;
- 4.4. Use of sidewalks and streets as house encroachments, such as the installation of protruding gates for vehicle parking that obstruct the road right-of-way;
- 4.5. Conduct of household activities and gatherings in the aforementioned public areas and the putting up of tents thereon, except those being temporarily used for funerals and other similar activities;
- 4.6. To place store encroachments and indiscriminate signage and advertisements;
- 4.7. Obstructing barangay outposts, halls, markers and directories;
- 4.8. Conduct of sports activities and setting up of sport facilities, such as basketball courts;
- 4.9. Drying of rice or other crops or products on or along highways, roads and other public spaces, except as may be allowed by the concerned LGU;
- 4.10. Use of sidewalks or portion of streets for storage of construction materials including sand, gravel, cement, steel bars, logs and the like;
- 4.11. Dumping of garbage, debris, waste materials, and other junked items; and
- 4.12. To place other structures, material, or conduct of such other activities identified by the LGUs as obstructions.

Section 6. OBSTRUCTIONS AS NUISANCE – All obstructions on or along public roads and other public spaces, resulting from or in connection with prohibited activities, are hereby declared as public nuisance.

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Section 7. SUMMARY ABATEMENT, FORFEITURE AND DISPOSAL

- The Province and its municipalities and city are hereby authorized to summarily abate, forfeit and dispose of any obstruction found within public roads and other public spaces within their respective territorial jurisdiction, without need of judicial proceedings, but in strict compliance with the relevant provisions of the law.

Likewise, personal properties and other things found therein, of whatever value, shall be subject to forfeiture and disposal, without need of judicial proceedings.

Enforcers of the local government unit and barangay tanod, acting within the provisions of this ordinance and in accordance with relevant provisions of the law, shall be free from liability arising from such lawful forfeiture and disposal, as prescribed herein.

All costs incurred in relation to the abovementioned forfeiture and disposal shall be charged against those liable under this Ordinance.

Section 8. ADMINISTRATIVE PROVISIONS. -

- 8.a. The Provincial Governor shall ensure the compliance of City and Municipal Mayors to the directive of this ordinance and shall spearhead the clearing operations in all provincial roads and public spaces;
- 8.b. The City and Municipal Mayors shall spearhead clearing operations in all City and Municipal roads and public places, strictly implement this Ordinance and formulate new strategies for the improved and continuous conduct of road clearing operations in each local government unit (LGU);
- 8.c. All City and Municipal Mayors shall monitor the implementation of this Ordinance at the barangay level;
- 8.d. All Punong Barangays shall be in charged of the conduct of road clearing operations in barangay roads and minor public-use streets within their jurisdiction, as well as the maintenance of other local roads turned over by the city or municipal government.

Section 9. PERMIT FOR TEMPORARY USE OF ROADS AND PUBLIC SPACES - The LGUs shall have the power to grant permits for the temporary use of roads and public spaces during special local occasions, such as fiestas and other similar gatherings, and for civic or charitable purposes, in accordance with relevant laws and regulations existing or as may be hereinafter promulgated. Provided that such permits shall clearly designate the scope of the same, as well as the specific duration of the use

Section 10. PENALTIES - In addition to the summary abatement, dismantling, forfeiture, removal and disposal of public nuisance as herein above provided, any person, corporation, trust, firm, partnership, association or entity found in violation of the provisions of this Ordinance shall be imposed a penalty as follows:

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Provincial Governor

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1 st Offense	One Thousand Pesos (₱1,000.00) or Community Service of not more than twelve (12) hours
2 nd Offense	Three Thousand Pesos (₱3,000.00) or Community Service of not more than twenty four (24) hours
3 rd & Succeeding Offenses	Five Thousand Pesos (₱5,000.00) or Community Service of not more than thirty six (36) hours and suspension/cancellation of business permit, if the violator is a business operator.

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Section 11. LGU Share -

The city, municipalities and barangays shall have a share in the penalties that may be collected under this Ordinance as may be provided and fixed in the implementing rules and regulations that may subsequently be issued in connection with this Ordinance.

Section 12. IMPLEMENTING RULES AND REGULATIONS - The Provincial Engineer's Office and Metro Bataan Development Authority (MBDA), shall come up with additional rules and regulations to carry out the provisions of this Ordinance within sixty (60) days from its effectivity, subject to the approval of the Sangguniang Panlalawigan.

Section 13. SEPARABILITY CLAUSE - In the event that any one or more of the provisions of this Ordinance shall, for any reason, be held to be invalid, illegal or unenforceable, the same shall not affect any other provisions, but this Ordinance shall be construed in a manner which, as nearly as possible, reflect its original intent.

Section 14. REPEALING CLAUSE - If any provision of this Ordinance is held invalid, unconstitutional or inconsistent with national laws, rules and regulations, other provisions found herein shall continue to be in full force and effect and all previous ordinances, rules, regulations, executive order or memoranda inconsistent herewith are hereby repealed or amended accordingly.

Section 15. EFFECTIVITY - This ordinance shall take effect upon approval and compliance with the mandatory posting and publication requirement prescribed under Republic Act 7160, otherwise known as the Local Government Code of 1991.

APPROVED UNANIMOUSLY.

MA. LILIOSA B. OCONER
Assistant Secretary to the SP

ALBERT S. GARCIA
Provincial Governor

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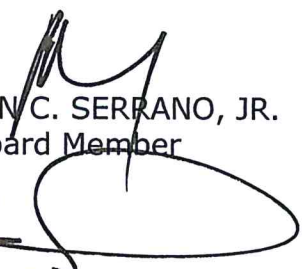
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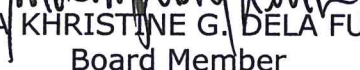
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BENJAMIN C. SERRANO, JR.
Board Member


JOMAR L. GAZA J.D.
Board Member

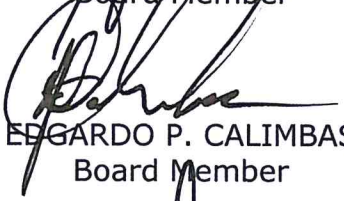

REYNALDO T. IBE, JR.
Board Member


GODOFREDO B. GALICIA, JR., M.D.
Board Member


MARIA KRISTINE G. DELA FUENTE
Board Member

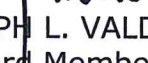

MARIA MARGARITA R. ROQUE
Board Member

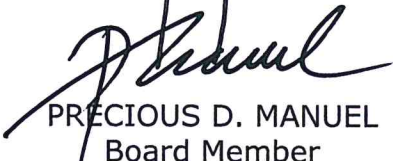

MANUEL N. BELTRAN
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Board Member


ROMANO L. DEL ROSARIO
Board Member


NOEL JOSEPH L. VALDECAÑAS
Board Member
(PCL President)


PRECIOUS D. MANUEL
Board Member
(SKF President)

ATTESTED:


MA. CRISTINA M. GARCIA
Vice Governor
(Presiding Officer)

APPROVED:


ALBERT S. GARCIA
Provincial Governor
Date: _____

