



Sangguniang Panlalawigan

BATAAN CAPITOL, BALANGA CITY



EXCERPT FROM THE MINUTES OF THE 49TH REGULAR SESSION OF THE SANGGUNIANG PANLALAWIGAN OF BATAAN ON JULY 3, 2023 HELD AT THE SESSION HALL, THE BUNKER, CAPITOL COMPOUND, BALANGA CITY, BATAAN

PRESENT:

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

FIRST DISTRICT:

Hon. Antonino B. Roman III, J.D., LL.M., Board Member

Hon. Benjamin C. Serrano, Jr., Board Member

Hon. Jomar L. Gaza J.D., Board Member

SECOND DISTRICT:

Hon. Maria Margarita R. Roque, Board Member

Hon. Manuel N. Beltran, Board Member

Hon. Noel Joseph L. Valdecañas, Board Member

THIRD DISTRICT:

Hon. Romano L. Del Rosario, Board Member

Hon. Jorge S. Estanislao, M.D., Board Member

Hon. Angelito M. Sunga, Board Member

Hon. Roman Harold R. Espeleta, Board Member

Hon. Jovy Z. Banzon, Board Member (PCL President)

Hon. Doroteo M. Austria, Board Member (FABC President)

Hon. Precious D. Manuel, Board Member (SKF President)

ABSENT:

None

PROVINCIAL ORDINANCE NO. 09 Series of 2023

ORDINANCE REQUIRING THE MANDATORY INSTALLATION OF ROAD WARNING AND SAFETY DEVICES BY ALL CONTRACTORS AND PUBLIC UTILITY COMPANIES ON ALL ON-GOING ROAD AND BRIDGE CONSTRUCTION/MAINTENANCE PROJECTS ALONG THE NATIONAL, PROVINCIAL, MUNICIPAL/CITY AND BARANGAY ROADS WITHIN THE JURISDICTION OF THE PROVINCE OF BATAAN, AND PROVIDING PENALTIES FOR VIOLATION THEREOF.

AUTHORED BY:

HON. JOMAR L. GAZA J.D.

HON. MANUEL N. BELTRAN

HON. NOEL JOSEPH L. VALDECAÑAS

SPONSORED BY:

HON. NOEL JOSEPH L. VALDECAÑAS

WHEREAS, Section 5, Article II of the 1987 Philippine Constitution, provides that the maintenance of peace and order, the protection of life, liberty and

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property and the promotion of the general welfare are essential for the enjoyment by all the people of the blessings of democracy;

WHEREAS, under Article 2189 of the Civil Code of the Philippines, provinces, cities and municipalities shall be liable for damages for the death of, or injuries suffered by, any person by reason of the defective condition of roads, streets, bridges, public buildings and under public works under their control or supervision;

WHEREAS, in 2010, the United Nations General Assembly proclaimed 2011 to 2020 as the Decade of Action for Road Safety. The goal is to stabilize and reduce the road traffic fatalities around the world;

WHEREAS, local as well as national data show that one of the major causes of fatal or serious accidents in land transportation is the lack of warning and safety devices appropriately installed before the actual road construction and/or maintenance operations on or near a roadway;

WHEREAS, the Department of Public Works and Highways (DPWH), through the issuance of Department Order No. 135, Series of 2015 and other department issuances, i.e. Department Order No. 12, Series of 2016, Department Order No. 13, Series of 2008, Department Order No. 41, Series of 2012 and Department Order No. 56, Series of 2005 requires the implementation of requirements on road works safety, traffic management and construction safety and health during project construction and maintenance works;

WHEREAS, the Local Government Units as provided by the Local Government Code of 1991 particularly under the General Welfare Clause are mandated to institutionalize policies that will ensure the safety and security of its constituents especially on road related activities;

NOW THEREFORE, BE IT ORDAINED AS IT IS HEREBY ORDAINED BY THE SANGGUNIANG PANLALAWIGAN OF THE PROVINCE OF BATAAN, IN SESSION ASSEMBLED, THAT:

Section 1. Short Title. - This ordinance shall be known as the "Bataan Road Warning and Safety Devices Ordinance."

Section 2. Declaration of Policy. - It shall be the policy of the Provincial Government of Bataan (PGB) to ensure the safety of motorists, the commuting public, and pedestrians by requiring the installation of Road Warning and Safety Devices in all ongoing road/bridge works implemented by contractors and public utility companies on all public roads in the Province of Bataan.

Section 3. Definition of Terms. - As used in this ordinance, the following terms are defined as follows:

- a. Bridges - structure carrying a pathway or roadway over a depression or obstacle (such as a river);
- b. Contractor - refers to the contracting firm or the owner/s thereof, in favor of which a road/bridge-related project had been awarded to; and includes an individual responsible for the day-to-day oversight of a road/bridge-related construction work and manages the overall operation throughout the course of the project;
- c. Construction Project - any construction or maintenance works undertaken on or along roads and bridges by contractors or public utility companies;

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- d. National Highway - any public road, classified as primary or secondary, declared as a national road by the President of the Philippines upon recommendation of the Secretary of Public Works and Highways, satisfying the conditions set forth under Executive Order No. 113, Establishing the Classification of Roads;
- e. Public Utility Companies - refer to companies that operate as a public-service corporation and provides essential services to the public such as electricity, telephone, water, telecoms and similar services;
- f. Road - refers to the passageway intended principally for vehicles for the movement, circulation or transportation of people and goods. May also be referred to as street, highway or thoroughfare. Could be paved with concrete, asphalt, finger corrals, soil, sand, gravel or any similar material;
- g. Road Warning and Safety Devices (RWSDs) - are temporary traffic warning signages or safety devices compliant with accepted international standards used to alert or notify road-users of hazards involved in or occasioned by Construction Projects on, along or near roads. Aside from to warn, these devices are also meant to guide and direct road-users to safely pass a hazard along the road.

Section 4. Mandatory Use of RWSDs. - The provision, installation and use of proper RWSDs shall be mandatory for all Construction Projects on all roads/bridges within the Province of Bataan. The said RWSDs shall be installed at appropriate distances before, and at the actual area of the Construction Project, in accordance with the approved traffic management plan thereof, and in strict adherence to mandated standards of dimensions, colors, lighting and other relevant parameters under the guidelines promulgated by the DPWH for the purpose.

Section 5. Violations. - The following shall be considered as violations of this Ordinance:

- a. Failure or refusal of a Contractor or Public Utility Company to comply with the mandatory use of RWSDs as provided under Section 4 hereof or the relevant provisions of the Implementing Rules and Regulations of this Ordinance;
- b. The use of substandard and/or inappropriate RWSDs by Contractors or Public Utility Companies, or the toleration or cover-up thereof by any official or employee of the PGB, DPWH or any government agency or office;
- c. Removal, alteration, destruction and/or theft of RWSDs installed and utilized in Construction Projects;
- d. Failure or refusal to follow or properly implement the approved traffic management plan of a Construction Project.

Section 6. Penalties. - Any individual; registered owner, proprietor or manager, or responsible officers/employees of a Contractor or Public Utility Company, who committed the violation provided herein above shall be liable as follows:


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1 st Violation	Fine of PhP3,000.00
2 nd Violation	Fine of PhP4,000.00
3 rd and Succeeding Violations	Fine of PhP5,000 or imprisonment not exceeding (1) year, or both, at the discretion of the court

The foregoing penalties are without prejudice to other penalties imposed and consequences provided under the relevant contract entered into pursuant to the Government Procurement Reform Act and other related laws, rules and regulations.

Section 7. Suspension of Work. – Pursuant to Section 9.1 of Annex E of the Revised Implementing Rules and Regulations of Republic Act No. 9184 (Government Procurement Reform Act), the procuring or implementing agency of a Construction Project in violation of this Ordinance shall cause the suspension of work wholly or partly by written order until the violation is rectified or remedied.

Section 8. Implementing Rules and Regulations. - The Provincial Engineering Office (PEO), in consultation with the DPWH, relevant accredited Civil Society Organizations and other pertinent offices shall draft the Implementing Rules and Regulations (IRR) of this Ordinance within 60 days from approval hereof. The said IRR shall be submitted to the Sangguniang Panlalawigan and shall be subject to its approval.

Section 9. Implementing Offices. – The following shall implement the provisions of this Ordinance:

- a. The PEO, with the assistance of its Municipal/City counterparts, shall ensure the provision, installation and use of RWSDs in the Construction Projects within the Province of Bataan. It shall undertake the periodic inspection of these projects, making sure that the provisions of this Ordinance are being complied with. For Construction Projects being implemented by the DPWH, the PEO shall closely coordinate with the same thus ensuring the ends of this Ordinance are achieved;
- b. The Bataan Police Provincial Office through its Municipal/City Police Stations shall implement this Ordinance specifically in the apprehension of and issuance of citations to violators;
- c. For Construction Projects along National Highways but within the territorial jurisdiction of the Province of Bataan, the DPWH is enjoined to monitor the implementation of this ordinance, without prejudice to and notwithstanding the implementation of its relevant department orders and other issuances;
- d. The Metro Bataan Development Authority (MBDA), within the bounds of its authority, shall assist in the implementation of this Ordinance;
- e. Members of the Barangay Peacekeeping Action Teams or the Barangay Tanods shall report violations of the provisions of this Ordinance to the concerned authorities.


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Section 10. Separability. - If, for any reason any part or provision of this ordinance shall be held to be unconstitutional or invalid, other parts or provisions hereof which are not affected thereby shall continue to be in full force and effect.

Section 11. Repealing Clause. - All any ordinances, rules and regulations found inconsistent with any provision of this Ordinance are hereby repealed and amended accordingly.

Section 12. Effectivity. - This Ordinance shall take effect after compliance with the relevant provisions of the Local Government Code on posting and publication.

UNANIMOUSLY ENACTED this 3rd day of July 2023.

I HEREBY CERTIFY to the enactment of the foregoing ordinance.


ATTY. MARK LORENZ C. QUEZON
Secretary to the Sangguniang Panlalawigan

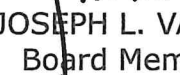

ANTONINO B. ROMAN III, J.D., LL.M.
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ROMAN HAROLD R. ESPELETA
Board Member


JOVY Z. BANZON
Board Member
(PCP President)


DOROTEO M. AUSTRIA
Board Member
(FABC President)


JOSE ENRIQUE S. GARCIA III
Provincial Governor




PRECIOUS D. MANUEL
Board Member
(SKF President)

ATTESTED:


MA. CRISTINA M. GARCIA
Vice Governor & Presiding Officer

APPROVED:


JOSE ENRIQUE S. GARCIA III
Provincial Governor
Date: 7-14-2023 





