

Republic of the Philippines PROVINCE OF SORSOGON MUNICIPALITY OF GUBAT

Office of the Sangguniang Bayan

EXCERPTS FROM THE MINUTES OF THE 13th REGULAR SESSION OF THE SANGGUNIANG BAYAN OF GUBAT, SORSOGON, HELD ON MONDAY, APRIL 23, 2018 AT THE SANGGUNIANG BAYAN SESSION HALL.

PRESENT:

Hon, Sixto F. Estareja

Hon. Cesar D. Esperida, Jr.

Hon. Danilo E. Enaje

Hon. Kenneth D. Escandor

Hon. Anthony C. Callos

Hon. Valentin A. Pura IV

Hon. Aiza E. Encinares

Hon. Ramon E. Entico

Hon. Arnel E. Billones

- Municipal Vice Mayor, P.O.

- Member, Sanggunian Bayan

- Acting Liga President

ABSENT:

Hon. John Paul E. Erlano

- Member, Sanggunian Bayan

MUNICIPAL ORDINANCE NO. 2018 - 003

AN ORDINANCE PRESCRIBING THE GUIDELINES OF THE "KAPWA KO MAHAL KO, ILIGTAS SA LASON NG SIGARILYO" PROGRAM OF THE MUNICIPALITY OF GUBAT AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF.

Principal Author: Hon. Anthony C. Callos
Co Authors: John Paul E. Erlano, Hon. Cesar D. Esperida, Jr., Hon. Danilo E. Enaje, Hon.
Kenneth D. Escandor, Valentin A. Pura IV, Hon. Ramon Entico,
Hon. Aiza E. Encinares and Hon. Arnel E. Billones

BE IT ENACTED BY THE SANGGUNIANG BAYAN IN SESSION THAT:

Section 1. Short Title.- This Ordinance shall be known as the "Kapwa ko Mahal ko, Iligtas sa Lason ng Sigarilyo Ordinance of Gubat, Sorsogon ."



Section 2. Definition of Terms.- As used in this ordinance, the following terms are defined as follows:

- (a) "Advertising and promotion" means any form of commercial communication, recommendation or action with the aim, effect or likely effect of promoting a tobacco products or tobacco use either directly or indirectly.
- (b) "Designated Smoking Area" (DSA) refers to an area of a building or conveyance where smoking may be allowed, which may be in an open space or separate area with proper ventilation subject to the specific standards provided in this order.
- (c) "Enclosed" means being covered by a roof or other structure serving the purpose of a roof, and having one or more walls or sides, wherein the openings on the walls or sides have an aggregate area that is less than half of the total space, regardless of the type of material used for the roof, wall or sides, and regardless of whether the structure is permanent or temporary. Doors and windows that can be opened and shut shall not be considered as opening under this paragraph. The enclosed character of a building or conveyance shall attach to all its areas, including its open spaces.
- (d) "Minor" refers to any below eighteen (18) years old.
- (e) "Non-Smoking Buffer Zone" is a ventilated area between the door of a DSA not located in open space and the smoke free-area. There shall be no opening that will allow air to escape from such Non-Smoking Zone to the smoke-free area, except for a single door equipped with an automatic door closer. Such door is distinct from the door of the DSA, which shall be at least two (2) meters away from the other.
- (f) "Open spaces" refers to those areas forming part of a building or conveyance, which are not covered by a roof or similar structure.
- (g) "Person-in-charge" refers to president/manager in case of a company, corporation, partnership or association, the owner/proprietor/operator in case of a single proprietorship, or the administrator in case of government or private property, facility, office or building or the city/municipality, school superintendent, school president, dean or principal in case of school or the lessee of the property in case there is a legal agreement that lets someone use of the facility, office or building for a period of time in return for payment.
- (h) "Point-of-sale" refers to any location at which an individual can purchase or otherwise obtain tobacco products.
- (i) "Public conveyances" refers to modes of transportation servicing the general population, such as, but not limited to, elevators, airplanes, ships, jeepneys, buses, taxicabs, trains, light rail transits, tricycles and other similar vehicles.
- (j) "Public places" means all places, fixed or mobile, that are accessible or open to the public or places for collective use, regardless of ownership or right to access, including but not limited to, schools, workplaces, government facilities, establishment that provide food and drinks, accommodation, merchandise, professional services, entertainment or other services. It also includes outdoor spaces where facilities are available for the public or where a crowd of people would gather, such as, but not limited to, playgrounds, sports ground or centers, church grounds, health/hospital compounds, transportation terminals, market, parks, resorts, walkways/sideways, entrance ways, waiting areas, and the line.
- (k) "Smoke-Free" refers to air that is 100% free from tobacco smoke. This Definitions includes, but is not limited to, air in which tobacco smoke control cannot be seen, smelled, sensed or measured.
- (l) "Smoking" means being a possession or control of a lit tobacco products regardless of whether the smoke is being actively inhaled or exhaled.

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- (m) "Tobacco Products" means products entirely or partly made of tobacco leaf as raw material which are manufactured to be used for smoking, sucking, chewing or snuffing, such as but not limited to cigarette, cigar, pipe, shisha/hookah and chew tobacco.
- (n) "Workplace" means any place used by people during their employment or work, whether done for compensation or voluntarily, including all attached or associated places commonly used by the workers in the course of their work (for example, corridors, elevators, stairwells, toilets, lobbies, lounges). Vehicles used in the course of work are considered workplaces, such as, but not limited to taxis, ambulances and delivery vehicles.
- (o) Accommodation & Entertainment Establishments refer to establishments that provide food, accommodation, drinks, merchandise, entertainment or other professional services including, but not limited to, restaurant, fast foods, eateries, hotels, motels, lodges, inns, boarding houses, disco houses, videoke bars, resto bars, and movie houses, or any other place with pleasant environment and atmosphere conducive to comfort, healthful relaxation and rest, offering food and/or drinks, sleeping accommodation and recreation facilities to the public for a fee.
- (p) Enclosed or Partially Enclosed Public Places refer to enclosed area to which the public is invited or in which the public is permitted for collective use, regardless of ownership such as: business arcades, town squares, private workplaces, government offices and buildings, educational facilities, both public and private, child care and adult day care facilities, libraries and museum, medical clinics, hospitals, nursing homes and other multiple unit, residential facilities, markets, supermarkets, malls, grocery stores, department stores, convenient stores, financial institutions, hardwares, restaurants, eateries, fast food outlets, bars, nightclubs, conference rooms, polling places, function halls, reception areas, session halls, assembly halls, pools and billiard halls, public transportation facilities, terminals, airport, seaports, places of worship/churches, gaming facilities, recreation centers, movie houses, stage dramas, playgrounds, courtrooms, apartment buildings, hotels and motels, auditoriums, beauty parlors, barber shops, spa and massage clinics, funeral parlors or chapels, cockpits, pedestrian overpasses, indoor car parks, waiting areas, sidewalks, restrooms, lobbies, hallways, and other similar places where smoking may expose a person other than the smoker to cigar and tobacco smoke.
- (q) Public Office or Building refers to the following:
 - a. An office or building or structure owned by the government or by a private person but used, rented or occupied by the government or any of its instrumentalities;
 - b. Any office or building or structure used, or controlled exclusively for public purpose by any department or branch of government, local government unit or barangay without reference to the ownership of the building.
- (r) Public Outdoor Spaces refer to outdoor spaces that are open to the public or places where facilities are available for the public or where a crowd of people gather or congregate regardless of ownership or right to access such as but not limited to parks, playgrounds, sports grounds, or centers, gaming areas, cock

fighting areas, healthcare/hospital compounds, memorial parks, memorial gardens, beaches, resorts, pools, market streets, sidewalks, parking areas, walkways, entrance ways, waiting areas, stairwells, and the like.

- (s) Shisha a device or instrument which may have a single or multi-stemmed pipe for smoking, whether or not it delivers nicotine to the user, in which the smoke is passed through a water basin before inhalation.
- (t) Electronic Device Systems refer to any device such as electronic nicotine device systems, electronic cigarette and similar devices, whether or not it is used to deliver nicotine to the user that resembles the outward appearance of real smoking products.

Section 3. Applicability.- The comprehensive guidelines in the prohibition of smoking in the Municipality of Gubat are enforceable/applicable to the following:

- a) All constituents of Gubat, Sorsogon regardless of age;
- b) All transients/visitors to the Municipality regardless of age;

Section 4. Prohibited Acts, The following acts are declared unlawful and prohibited;

- (a) Smoking any tobacco product or using electronic device system, shisha, and the like in all forms of public conveyances, accommodation and entertainment establishments, public offices and buildings, school campuses both public and private, enclosed or partially enclosed places, public outdoor spaces, workplaces and government owned vehicles except in the duly designated smoking areas within the territorial jurisdiction of Gubat, Sorsogon.
- (b) For persons-in-charge to allow, abet or tolerate smoking in places enumerated in the preceding paragraph, outside of DSAs fully compliant with Section 5 of this Ordinance.
- (c) For any person to sell, distribute or purchase tobacco products to and from minors. It shall not be a defense for the person selling or distributing that he/she did not know or was not aware of the real age of the minor. Neither shall it be a defense that he/she did not know nor had any reason to believe that the cigarette or any other tobacco product was for the consumption of the minor to whom it was sold;
- (d) For a minor to smoke, sell or buy cigarettes or any tobacco products;
- (e) Ordering, instructing or compelling a minor to use, light up, buy, sell, distribute, deliver, advertise or promote tobacco products;
- (f) Selling or distributing tobacco products in a school, public playground, youth hostels and recreational facilities for minors, including those frequented by minors, or within 100 meters from any point of the perimeter of these places;

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- (g) Placing, posting, displaying or distributing advertisement and promotional materials of tobacco products, such as but not limited to leaflets, posters, display structures and other materials within 100 meters from the perimeter of a school, public playground, and other facilities frequented particularly by minors, hostel and recreational facilities for minors, including those frequented by them, or in an establishment when such establishments or its location is prohibited from selling tobacco products.
- (h) Placing any form of tobacco advertisement outside of the premises of point-of-sale retail establishments; and
- (i) Placing any stall, booth, and other displays concerning tobacco promotions to areas outside the premises of point-of-sale locations or adult-only facilities.

Section 5. Standards for DSAs. All DSAs shall strictly comply with the following standards:

- (1) There shall be no opening that will allow air to escape from the DSA to the smoke-free area of the building or conveyance, except for a single door equipped with an automatic door closer; provided that, if the DSA is not located in an open space, such door shall open directly towards a Non-smoking Buffer Zone (Buffer Zone) as defined in this Ordinance.
- (2) The DSA shall not be located in or within ten (10) meters from entrances, exits, or any place where people pass or congregate, or in front of air intake ducts;
- (3) The combined area of the DSA and the Buffer Zone shall not be larger than 20% of the total floor area of the building or conveyance, provided that in no case shall such area be less than ten (10) square meters;
- (4) No building or conveyance shall have more than one DSA;
- (5) The ventilation system for the DSA other than in an open space and for the Buffer Zone shall be independent of all ventilation systems servicing the rest of the building or conveyance;
- (6) Minors shall not be allowed inside the DSA and the Buffer Zone;
- (7) The DSA shall have the following signages highly visible and prominently displayed:
 - (8.1) "Smoking Area" signage;
 - (8.2) Graphic health warnings on the effects of tobacco use; and
 - (8.3) Prohibition on the entry of persons below eighteen (18) years old.
- (8) Other standards and specifications to better ensure a smoke-free environment as may be prescribed by the inter-Agency Committee-Tobacco

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under Republic Act No. 9211 and that persons-in-charge are given sixty (60) days to comply.

However, there shall be no DSAs in the following public places:

- (a) Centers of youth activity such as playschools, preparatory schools, elementary schools, high schools, colleges and universities, youth hostels and recreational facilities for minors;
- (b) Elevators and stairwells;
- (c) Locations in which fire hazards are present, including gas stations and storage areas for flammable liquids, gas, explosives or combustible materials;
- (d) Within the buildings and premises of public and private hospitals, medical, dental, and optical clinics, health centers, nursing homes, dispensaries and laboratories; and
- (e) Food preparation areas.

Nothing in this ordinance shall compel persons-in-charge to establish DSAs nor prevent them from instituting more stringent measures in their buildings and establishments to better ensure a smoke-free environment in their premises.

Section 6. DSA Fee. There shall be an annual fee of P1,000.00 that shall form part of the Mayors' permit requirements for every business establishments with approved DSA.

Section 7. Duties and Obligations of Persons-in-Charge. Persons in charge shall:

(a) prominently post and display the "No Smoking" signage, in the locations most visible to the public in the areas where smoking is prohibited. At the very least, the "No Smoking" signage must be posted at the entrance to the area, which shall be at least 8 x 11 inches in size, where the symbol shall occupy no less than 60% of the signage, while the remaining 40% of the signage shall show the pertinent information, as follows:



As for the DSA, after complying with the specifications in Section 5, prominently display the following elements in the signage:

"DESIGNATED SMOKING AREA" or "SMOKING AREA"

[place Graphic/Picture-Based Health Warning on the effects of tobacco use within the signage]



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[if available, place number of Smoking Cessation Hotline]

- (b) prominently post and display the "No Smoking" signage in the most conspicuous location within the public conveyance. At the very least, a three and a half (3.5) square inch "No Smoking" signage shall be placed on a windshield and a ten (10) square inch "No Smoking" sign at the drivers back seat.
- (c) Remove in the places where smoking is prohibited all ashtrays and other receptacles for disposing of cigarette refuse;
- (d) For persons-in-charge of schools, public playgrounds, youth hostels and recreational facilities for minors, including those frequented by minors, post the following statement in a clear and conspicuous manner.

SELLING, ADVERTISING AND PROMOTING OTHER CIGARETTES OR TOBACCO PRODUCTS NOT ALLOWED WITHIN 100 METERS FROM ANY POINT IN THE PERIMETER OF [name of SCHOOL/PLAYGROUND/FACULTY FOR MINORS/ETC.]

- (e) For persons-in-charge of schools, public playgrounds, youth hostels and recreational facilities for minors, including those frequented by minors, to report to the nearest Smoke-Free Task Force of the municipality any tobacco product selling, advertising and/ or promotion located within 100 meters from its perimeter.
- (f) For persons-in-charge of point-of-sale establishments, post the following notice, together with a graphic/picture-based health warning on the health consequences of tobacco use, as prescribed by the Department of Health, in clear and conspicuous manner.

SALE/DISTRIBUTION OF TOBACCO PRODUCTS TO MINORS IS UNLAWFUL

- (g) Establish internal procedure and measures through which this Ordinance shall be implemented and enforced within the area of which he or she is in charge. This includes compliance with the smoking, sales distribution, advertising and promotions restrictions (e.g. warning smoking violators in banned areas and requesting them to stop smoking), and if they refuse to comply, reporting the incident to the Municipal Health Office, the nearest peace officer, or to any member of the Smoke-Free Task Force;
- (h) Ensure that all the employees in the establishment are aware of this Ordinance and the procedure and measures for implementing and enforcing it;
- (i) For all signage required to be posted under (a), (b) (d) and (f) above, provide for versions of them in the local dialect or in English;

Section 8. Persons Liable. The following persons shall be liable and be punished in accordance with the provisions of this ordinance.

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- (a) Any person or entity who commits any of the prohibited acts stated in Section 4 hereof:
- (b) Persons-in-charge who knowingly allow, abet, authorize or tolerate the prohibited acts enumerates in Section 4, or who otherwise fail to fulfill the duties and obligations enumerated in Section 7 hereof.

Section 9. Smoking Cessation Program. The Municipal Health Officer, in coordination with the Department of Health are enjoined to develop, promote and implement Smoking Cessation Programs consistent with the National Smoking Cessation Program established pursuant to RA No. 9211, and to encourage the participation of public and private facilities which may be able to provide for the requirements of program. Smokers who are willing to quit and/or those found violating this Ordinance may be referred to the Municipal Smoking Cessation Program and its facilities.

Section 10. Composition of the Gubat Smoke Free Task Force.- The Gubat Smoke Free Task Force is hereby created for the advocacy, implementation, monitoring and enforcement of this Ordinance. It shall be composed of the following:

Honorary Chairperson: Municipal Mayor Chairperson

Municipal Health Officer: Vice-Chairperson

MEMBERS: Municipal Health Office, Municipal Engineers' Office, Municipal Treasurers' Office, Municipal Business Permits & Licenses Office, Municipal Legal Office, Municipal Tourism Office, Municipal Social Welfare & Development Office, Municipal Environment and Natural Resources Office, Gubat Police Office, Representative from the Private Sector to be designated by the Municipal Mayor, PSDS of Gubat District, Representative from Colleges/University, ABC President.

Section 11. Functions and Responsibilities of the Gubat Smoke Free Task Force.-For purposes of this Ordinance, the Anti-Smoking Task Force is responsible to:

- i. Craft or formulate an IRR for the implementation of this ordinance;
- ii. Inspect and monitor compliance of all places covered by this Ordinance;
- iii. Certify as to the appropriateness of the designated smoking areas;
- iv. Recommend closure of non-compliant establishments taking into consideration the provisions of existing laws and the purpose of smoking regulations which is to protect non-smokers from the pernicious effects of exposure to tobacco smoke.
- v. Recommend Anti-Smoking advocacy measures
- vi. Recommend amendments or revisions of any provision of this ordinance
- vii. Delegate and collaborate to the Municipal Public Safety Office necessary measures/actions for the effective implementation of this ordinance.
- viii. Cause the preparation of Anti-Smoking stickers and signages and other Anti-Smoking materials.

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The Anti-Smoking signages and stickers shall be purchased from the Municipal Treasurer's Office by public utility vehicle operators and drivers and by proprietors of business establishments.

Sixty (60) days after the effectivity of this Ordinance, the Anti-Smoking Task Force in coordination with the Permits & Licenses Division of the Municipal Mayor's Office and the Municipal Tourism Office shall conduct an ocular inspection of all establishments in Gubat, Sorsogon to determine compliance with the requirements of this Ordinance.

The Gubat Smoke Free Task Force shall task the Traffic Management Committee to inspect the presence of "No Smoking" signs in all public utility vehicles and strictly monitor its compliance.

The Land Transportation Office (LTO) is hereby requested to require all Public Utility Vehicle (PUV) operators and drivers to post "No Smoking" sign in their vehicles to form part of the requirement in the registration of vehicles.

The "No Smoking" signages and stickers posted in the tricycles shall form part of the municipal requirements for the renewal/ issuance of tricycle permit.

Section 12. Barangay Smoke Free Task Force.- All barangays are hereby required to organize their own smoke free task force to coordinate with the Municipal Smoke Free Task Force (the implementing guidelines shall be discussed between the Smoke Free Task Force and the Association of Barangay Captains)

Section 13. Schools, Colleges and Universities Smoke Free Task Force.- Schools, colleges and universities are hereby mandated to organize their own Smoke Free Task Force for the strict compliance of this ordinance.

Section 14. Information Drive.- Consistent with the provisions of this Ordinance, the Municipal Health Office (MHO), in cooperation with the Department of Education Officials stationed in the Municipality and with the assistance of the Gubat Public Information Office, shall undertake a continuing information program on the harmful effects of smoking in all private and public schools, colleges and universities and other government and private offices and establishments and the general public.

All private and public high schools, colleges and universities shall integrate into their existing manual or handbooks the prohibition of smoking.

All cinema houses shall be required to show on screen before every film showing the illeffects of smoking, the film shall be provided for by the Municipal Health Office.

Section 15. LAWFUL TAKING OF PHOTOGRAPHS OF VIOLATORS AS A MODE OF REPORTING TO CONCERNED LOCAL AUTHORITIES. The purpose is to empower the people in terms of allowing them to report violators of this ordinance by sending photographs of the same to an authorized web site or bringing the pictures of violators in the act of their commission to the enforcers.

Reportorial and Photo Submission Guidelines.- The following are some guidelines on how to submit photographs of violators of this ordinance without prejudice to proposing additional guidelines by the Gubat Smoke Free Task Force, to wit:

a. Sending of or bringing these photographs to the Municipal Government shall be free of charge and gives the exclusive right to use them in any way that it sees fit;

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- b. Upon submission of these photographs to the Municipal Government, the latter becomes the sole owner of the copyright of the same;
- c. The picture may have the time and date imbedded by the camera or cellphone visible on the image;
- d. When submitting the photographs, the sender may optionally identify himself or herself and include his/her cellphone or contact number;
- e. Sender shall identify the exact location like streets and barangays where the photographs of the violator were taken
- f. The enforcers concerned shall search the neighborhood where the photographs were taken and soon after identify the violator.

Section 16. Penalties.- The following penalties shall be imposed on violators of this Ordinance:

A. For Smokers:

First Offense -A fine of P500.00 or 15 days imprisonment or both at the discretion of the court

Second Offense - A fine of P1,500.00 or one month imprisonment or both at the discretion of the court.

Third and Subsequent Offenses -A fine of P2,500.00 or two months imprisonment or both at the discretion of the court

B. For business entity or establishments:

First Offense -A fine of P 500.00

Second Offense -A fine of P1,500.00

Third offense -A fine of P2,500.00 and Cancellation of Business Permit for 6 months

Fourth offense- A fine of P2,500 and Cancellation of Business Permit.

In case of minors, the local social welfare and development officer shall meet with the child and his/her parents or guardians for proper cessation counseling, and the development of the appropriate intervention and rehabilitation program, in coordination with the Barangay Council for the Protection of Children and the Municipal Health Office.

Section 17. Citation Tickets.-A citation ticket shall be issued to violators of the provisions of this Ordinance. The citation ticket shall state, among others, the name and address of the violator, the specific violation committed and the corresponding administrative penalty.

The Philippine National Police and such other appropriate enforcers as commissioned by the Municipal Mayor through the Smoke Free Task Force shall have the power to apprehend violators of this Ordinance and issue citation tickets.

The Municipal Mayor through the Smoke Free Task Force may deputize barangay officials or representatives of the private sector, non-government organizations and government organizations, schools organizations in the strict implementation of this Ordinance, as the need arises.

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All commissioned/deputized enforcers of this ordinance and such other municipal ordinances with penal provisions shall undergo training/orientation on the implementation of this ordinance and the proper administration of citation tickets.

Section 18. No Contest Provision.- Persons liable mentioned in Section 7 of this Ordinance who is apprehended or cited for violation and who does not wish to contest the violation and is willing to pay voluntarily the administrative penalty imposed upon him/her prior to the filing of formal charges with the proper court shall be allowed to pay a penalty in the amount of One Thousand (P1,000.00) Pesos with the Municipal Treasurer's Office to avoid being criminally prosecuted within three (3) days from the apprehension. Otherwise, the case shall be prosecuted in court. The no contest provision can only be availed once. All proceeds from payment of the herein penalty imposed shall be accrued to the General Funds.

A smoking cessation counseling in Municipal Health Office (MHO) accredited clinics is required after the penalty has been paid.

Section 19. Implementing Rules and Regulations.- The Gubat Smoke Free Task Force shall promulgate such rules and regulations, with the approval of the Municipal Mayor, as are necessary to ensure the effective implementation of this Ordinance thirty (30) days after the approval of this Ordinance.

Section 20. Funding.- Such funds as may be necessary for the implementation of this Ordinance shall be appropriated by the municipality either in the annual budget or any of its supplemental budgets for this year and for the succeeding years.

Section 21. Repealing Clause.- All Ordinances, rules and regulations, or part/parts thereof, in conflict with, or inconsistent with any of the provisions of this Ordinance are hereby repealed or modified accordingly.

Section 22. Applicability Clause. — The provision of RA 8749 Clean Air Act and RA 9211 or An Act Regulating the Packaging, Use, Sale, Distribution and Advertisements of tobacco products and for other purposes and Joint Memorandum Circular No. 17, series of 2009 of the Department of Health (DOH) and Civil Service Commission (CSC) in so far as applicable, shall be considered suppletory to this ordinance.

Section 23. Separability Clause.- If, for any reason or reasons, any parts or provisions of this Ordinance shall be declared unconstitutional or invalid, other parts or provisions thereof not affected thereby shall continue to be in full force and effect.

Section 24. Effectivity Clause.- This Ordinance shall take effect thirty (30) days after its publication in a newspaper of general circulation in the Province of Sorsogon.

UNANIMOUSLY ORDAINED AND APPROVED.

I HEREBY CERTIFY TO THE CORRECTNESS OF THE FOREGOING:

Secretary to the Sangguniang Bayan

Attested by:

HON. SIXTO F. ESTAREJA Municipal Vice Mayor, Presiding Officer

Approved by:

HON. SHARON ROSE G. ESCOTO

Municipal Mayor