

MUNICIPAL ORDINANCE NO. 2021-01
Series of 2021

AN ORDINANCE ON CLEARING OF ROADS AND BANNING OF ALL OBSTRUCTIONS ON PUBLIC ROADS UNDER THE TERRITORIAL JURISDICTION OF THE MUNICIPALITY OF BONGABONG

WHEREAS, it is a declared policy of the state to safeguard life, health, property and public welfare, consistent with the principles of environment management and control; and to this end, make it the purpose of this ordinance to regulate the use and maintenance of public roads, sidewalks and setbacks and to clear the same from illegal commercial and private structures, in order to facilitate the safe and convenient use thereof, pursuant to Book 1, Section 16 and Chapter 3 Article III, Section 447 (5) (V,VI) of the Local Government Code of 1991.

WHEREAS, in the 1992 case of *Dacanay vs Mayor Asistio, Jr.* (208 SCRA 404), among other cases, the Supreme Court of the Philippines declared that “a public street is property for public use hence outside the commerce of men. The right of the public to use the municipal streets may not be bargained away through contract. The interests of a few should not prevail over the good of the greater number in the community where health, peace, safety, good order and general welfare, the city officials are under legal obligation to protect”.

WHEREAS, the Civil Code of the Philippines provides in part, that “anything which obstructs or interferes with the free passage of any public highway or street is nuisance, and is subject to abatement, without judicial proceedings. It also states that “any person who obstructs or interferes with the free passage of any public street is liable for damages in addition in having such obstruction summarily abated.

WHEREAS, in line with the President’s directive during the 2019 State of the Nation Address, all local officials are enjoined to exercise their powers essential to recover public roads which are being used for private ends and in the process, rid them of illegal structures and constructions.

NOW THEREFORE, be it ordained by the Sangguniang Bayan of Bongabong in a session assembled, that:

SECTION 1. SHORT TITLE. This ordinance shall be known as the “**PUBLIC ROAD CLEARING ORDINANCE**” of the Municipality of Bongabong, Oriental Mindoro, and shall hereafter be called the Ordinance.

SECTION 2. DEFINITION OF TERMS

Obstructions- refers to any structure, permanent or otherwise, movable or immovable, erected along, standing on, abutting, or in any manner impeding safe and convenient passage through any public road or sidewalk but does not include structures erected or installed by the government for the purpose of regulating the flow of traffic. A person who sells goods and commodities along public road and sidewalk is also considered an obstruction.

Public Roads – all streets, roads, bridges, highways and other thoroughfares constructed and maintained by the national government or by the local government unit; provided, that any road or sidewalk not falling under this definition but which upon the

determination by the Municipality of Bongabong is deemed vital to pedestrian access of safety, shall be deemed a public road sidewalk for the purpose of this ordinance.

Sidewalk Obstruction – means any structure, whether permanent or temporary, immovable or movable, erected along, standing on, adjoining, or in any manner impeding safe and convenient passage through any public road or sidewalk.

Sidewalk Vendor – means any persons who sells or offers for sale any consumer products, whether agriculture or manufactured cooked foods and/or dry goods, items or articles, including any person who attends to these products intended to be sold at any temporary location, sidewalk, alley, vacant space or portion thereof.

Setback – is the horizontal distance, measured from the outermost face of the building/structure to the property lines must be absolutely free of all forms of physical obstructions that can negatively affect natural light and ventilation, or that can impede access to the sides and near area.

SECTION 3. PROHIBITED ACTS. The use public roads and sidewalks for commercial and personal purposes which constitutes obstruction shall be penalized. The use of streets, sidewalks, roads alleys, bridges, pedestrian overpass, parks and other places in Bongabong for commercial and personal purposes shall be prohibited. The prohibition shall apply to private property intended as parking space for public customers. Such prohibited acts include, but not limited, to the following:

1. Parking of cargo trucks, PUJs, tricycles and other vehicles along the shoulders of the national highways at all times;
2. Parking, loading, unloading of passenger vehicles in areas of the municipal/barangay roads not designated as such and to enforce other traffic regulations;
3. Use of roads or shoulders of national, provincial and municipal roads as solar dryer for palay and other agricultural crops, per DPWH Department Order No. 41, series of 2013 and DPWH Department Order No. 52, series of 2003, and pursuant to provisions of Section 23 of Presidential Decree No. 17; multi-purpose pavements designed as a road and is actually being used as a road are included;
4. Vending or selling of foods, magazines, newspaper, cigarettes, brooms, watches, or jewelries, shoes, and other footwear, and/or any other items;
5. Conduct of “religious”, activities, such as preaching and seeking alms;
6. Doing house chores such as washing clothes, hanging of clothes, and bathing;
7. Vehicle garage and/or repair;
8. Dumping of garbage;
9. Setting of basketball court/goal;
10. Use of sidewalk to install pens of animals on chains;
11. Storing soft drinks or wine/liquor bottles and cases, drink liquor and beverages and holding picnics/ gatherings;
12. Storing of junk and recyclable materials;
13. Use of sidewalk for storage of construction materials for sale (pipes, tubing’s, lumber, cement, and the likes);
14. House extension or stall/store extension including installation of roofs and canopies;
15. Installation of permanent or picket fence;
16. Use of sidewalks for plants, trees, and plant boxes;

17. Signs or signboards on or above sidewalks and detached from the business;
18. Use of sidewalk for displaying and selling furniture

SECTION. 4. APPREHENDING/IMPLEMENTING AGENCY OR PERSONS. The Local Chief Executive shall organize a monitoring team in the Municipal and Barangay level with the task of monitoring/apprehending violators of this ordinance and issuing citation tickets.

SECTION. 5. EXCEPTIONS. The Local Executive may, upon application, grant a permit for the temporary and limited use of municipal and barangay roads and sidewalks during any of the following:

- a. Special occasions in the locality such as fiestas, wakes, and other social gatherings; and
- b. Sale promotion days and activities for civic or charitable purposes.
- c. Tiangge, provided that necessary permit has been obtained.

SECTION. 6. PENALTIES. Any violation of the provision of this ordinance shall be subjected to summary abatement, dismantling, forfeiture, and disposal of the subject sidewalks and/or setback obstructions.

Any person, corporation, trust, firm, partnership, association or entity, found violating this ordinance, shall be penalized a fine, as follows;

First Offense: Written warning

Second Offense: Confiscation of items

Third Offense: Fine of One thousand pesos (P1,000.00)

SECTION. 7. FORMULATION OF IMPLEMENTING RULES AND REGULATIONS. The formulation of Implementing Rules and Regulations for better implementation of this ordinance shall be directed by the Local Executive with the Approval of the Sangguniang Bayan.

SECTION. 8. INFORMATION DISSEMINATION. Upon the approval of this Ordinance, the Local Chief Executive and the Office of the Association of Punong Barangays shall cause the dissemination of this Ordinance to all the constituents.

SECTION 9. SEPARABILITY CLAUSE. If any of provision of this ordinance is held invalid or unconstitutional, other provision not affected shall continue to be in full force and effect.

SECTION 10. REPEALING CLAUSE. Previous ordinances, rules and regulations, executive orders of the Municipality of Bongabong that are repugnant to or inconsistent with this Ordinance re hereby, amended, superseded, modified or repealed accordingly.

SECTION. 11. EFFECTIVITY. This Ordinance shall take effect upon approval and after posting at the bulletin boards of the Municipal Hall, the public market in Poblacion, and of the thirty six (36) barangays of the Municipality.

Certified true:

Atty. EDUARDO M. MAGSINO
Secretary to the Sangguniang Bayan

Attested by:

Hon. RICHARD S. CANDELARIO
Vice-Mayor and Presiding Officer

Approved:

Hon. ELEGIO A. MALALUAN, O.D.

Municipal Mayor

Date: