



ORDINANCE NO. 161
Series of 2001

ORDINANCE PROHIBITING THE CONDUCT OF BUSINESS
OF BUYING AND SELLING OF JEWELRY AND/OR PAWNSHOP
PAPERS ON SIDEWALKS AND OTHER PUBLIC PLACES
WITHIN THE CITY OF MARIKINA

Introduced by: Councilor LEA F. CARLOS

WHEREAS, the Supreme Court of the Philippines, in its landmark decision in the case of Umali vs. Aquino (1 C. A. Rep. 339) ruled that "The occupation and use of sidewalks and other public places devoted primarily for public use constitute public nuisance...."

WHEREAS, Section 458, Paragraph (3) of the Local Government Code of 1991 provides that the Sangguniang Panlungsod, as the legislative body of the city, shall enact ordinances granting franchises and authorizing the issuance of permits or licenses x x x x, and pursuant to the legislative authority shall:

"(ii) Regulate or fix license fees for any business or practice of professions within the City and the conditions under which the license for said business or practice of profession may be revoked and enact ordinances levying taxes thereon;"

WHEREAS, Paragraph (4) of the same Section likewise provides that the Sangguniang Panlungsod shall regulate activities relative to the use of land, buildings, and structures within the city in order to promote the general welfare and for said purpose shall:

"(i) Declare, prevent or abate any nuisance;"

WHEREAS, Paragraph (5) of the said Section also provides that the Sangguniang Panlungsod shall ensure the efficient and effective delivery of basic services and facilities and in addition thereto, shall:

"(v) Regulate the use of streets, avenues, alleys, sidewalks, bridges, parks and other public places x x x x ;"

WHEREAS, the Local Government of Marikina enacted Ordinance No 16, Series of 2001 entitled "Ordinance Amending Ordinance No. 59 Series of 1993, Regulating the use of Streets, Sidewalks and Public Places;"

WHEREAS, in consonance with the above mandates, the then Municipal Council of Marikina enacted the following ordinances:

(1) Ordinance No. 15, Series of 1964 prohibiting the use of streets and sidewalks for carrying the shoeshine occupation, sale of fruits, vegetables, magazines, cigarettes, tobaccos, softdrinks and the like and imposing penalties for violations thereof;

(2) Ordinance No. 3, Series of 1993 prohibiting the use of sidewalks for bathing, laundrying or other similar purposes;

(3) Ordinance No. 59, Series of 1993 regulating the use of streets and sidewalks in the Municipality of Marikina.

WHEREAS, the City Government seeks to discourage the proliferation of fencing, as well as, the sale by minors of articles of value such as jewelry and pawnshop ticket emanating from unknown source or sources.

WHEREAS, persons engaged in the buying of jewelry on streets and sidewalks cause obstruction and have no business license and permit;

WHEREAS, the City Government desires a lawful and orderly conduct of business within its jurisdiction to foster discipline among its constituents.

NOW THEREFORE BE IT ORDAINED BY THE SANGGUNIANG PANLUNGSOD OF MARIKINA, in session duly assembled, that,

SECTION 1. The City government of Marikina hereby prohibits the conduct of business of buying and selling of jewelry , pawnshop tickets and other similar articles of value on sidewalks, streets and other public places within the City .

SECTION 2. Definition of terms:

1. SIDEWALK – Any paved or unpaved footwalk at the side of the street or roadway.
2. PAWNSHOP TICKET – Ticket evidencing an act of pawning a piece or pieces of article, appliances or any instrument with value, known in the vernacular as “Papel de Aliencia”
3. “ALAHAS, GINTO, PILAK” – Any piece of jewelry embedded with precious stones, made of gold or silver, and/or gold-laden piece of jewelry or ornaments; including wristwatches, earrings, necklaces, rings and gold or silver coins of any kind.

SECTION 3. Fines and Penalties. Any person found violating this Ordinance shall be penalized as follows:

FIRST OFFENSE – Fine of Five Hundred Pesos (P500.00) and Confiscation of items.

SECOND OFFENSE – Fine of One Thousand Pesos (P1000.00) and Confiscation of items

THIRD OFFENSE- Fine of Three Thousand (P3,000.00) and Confiscation of items without redemption or imprisonment of not less than 6 months but not more than 1 year or both at the discretion of the Court.

SECTION 4. The item for sale shall be confiscated by the city government represented herein by the Office of the Market Administrator. The confiscated items shall be deposited at the Treasury Office, duly accounted for and the same shall be disposed of pursuant to the provisions of the succeeding Sections.

SECTION 5. In the case of First and Second Offense, the owner or owners of the confiscated items, after payment of corresponding fines may redeem said things within 7 working days. If, after the lapse of the 7-day prescriptive period herein provided the items confiscated have not been redeemed, such items shall be disposed of by auction.

SECTION 6. In case of insolvency of the violator for the First and Second Offenses respectively, one (1) day imprisonment for every One Hundred Pesos (P100.00) fine shall be his penalty. In case of insolvency of the offender for the Third Offense, one (1) day imprisonment for every One Hundred Pesos (P100.00) fine shall be added to the penalty imposed by the Court.

SECTION 7. The Office of the Marikina Public Market shall be tasked to enforce this Ordinance.

SECTION 8. The government shall not be held liable for any damage arising from the confiscation or disposal of the items.

SECTION 9. Any person who lawfully wants to engage in the trade of selling or buying jewelry or pawnshop papers is not precluded per se. He may pursue the operation of his business provided he complies with the following requirements:

- A) The business is conducted in a fixed and designated place, either owned or rented
- B) The operator/owner has a business license or business permit
- C) The operator/owner possesses other requirements required by existing Ordinances


SECTION 10. Repealing Clause. All Ordinances, Resolutions, Local Executive Orders, Rules and Regulations or parts thereof in conflict or inconsistent with this Ordinance are hereby repealed and/or modified accordingly.

SECTION 11. Separability Clause. If, for any reason or reasons, 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 force and effect.

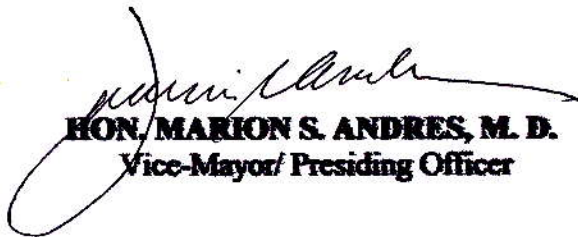
SECTION 12. This Ordinance shall take effect 15 days after approval of the City Council and after copies of the same have been posted conspicuously in public places.

I hereby certify to the passage of the foregoing Ordinance which was duly approved by the City Council of Marikina during its 8th Regular Session held on August 28, 2001.

CERTIFIED:



LOLITA E. DE LEON
Secretary to the Sanggunian

**ATTESTED & CERTIFIED
TO BE DULY APPROVED:**



HON. MARION S. ANDRES, M. D.
Vice-Mayor/ Presiding Officer

APPROVED by the HON. CITY MAYOR 11 SEP 2001



HON. MARIDES C. FERNANDO
City Mayor