

Republika ng Pilipinas
SANGGUNIANG PANLUNGSOD NG MARIKINA

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04-0033414



ORDINANCE No. 87
Series of 2004

ORDINANCE AMENDING ORDINANCE NO. 59, SERIES OF 1993, ENTITLED –
“ORDINANCE REGULATING THE USE OF STREETS AND SIDEWALKS IN THE
MUNICIPALITY OF MARIKINA”, AS AMENDED BY ORDINANCE NO. 16,
SERIES OF 2001.

Introduced by: Councilor VICTORIANO A. SABINIANO, JR.

WHEREAS, on August 20, 1993, the then Sangguniang Bayan of Marikina passed Ordinance No. 59, Series of 1993, entitled – “Ordinance regulating the use of streets and sidewalks in the Municipality of Marikina”;

WHEREAS, on January 31, 2001, the penalty clause under Section 5 of the above mentioned ordinance was amended by Ordinance No. 16, Series of 2001, which provides that:

“SECTION 5 – PENALTIES. Any person or persons caught in the act for violating the prohibitions provided for under Section 1 of this Ordinance shall immediately be apprehended and be required to pay a fine of One Thousand Pesos (Php1,000.00) in addition to confiscation and forfeiture of his commercial goods/articles. Pending payment of said fine the offender shall temporarily be deprived of his liberty in the custody of the Office of Public Security and Safety (OPSS) for a minimum of 10 hours to a maximum of 18 hours”

WHEREAS, for a more efficient enforcement of the law, there is a need to amend the aforesaid provision;

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

SECTION 1. Section 1 of Ordinance No. 16, Series of 2001, is hereby amended to read as follows:

“SECTION 5 – PENALTIES. Any person or persons caught in the act of violating the prohibitions provided for under Section 1 of this ordinance shall be penalized as follows:

1. FOR MARKET STALL HOLDERS/OWNERS OF PUBLIC AND PRIVATE/FLEA MARKETS AND OTHER COMMERCIAL/BUSINESS ESTABLISHMENTS:

- a. *A fine of One Thousand Pesos (Php1,000.00) in addition to confiscation and forfeiture of his commercial goods/articles.*

b. If the offender/violator committed the same offense for three (3) consecutive times, his business permit/license to operate a stall shall be revoked and the store shall be permanently closed.

c. Refusal or failure to pay the fine within five (5) days upon issuance of the order of payment, the market stall or business establishment shall be temporarily closed until such time that the fine has been paid.

2. FOR ILLEGAL SIDEWALK/AMBULANT VENDORS:

Immediate apprehension of the offender and confiscation and forfeiture of his commercial goods/articles. In addition, he/she shall be liable to pay a fine of One Thousand Pesos (Php 1,000.00). In case of inability/non-capacity to pay the fine, the offender shall be temporarily deprived of liberty under the custody of the Marikina Public Market Office and/or the Office of the Public Safety and Security (OPSS) for a minimum of 10 hours to a maximum of 18 hours.

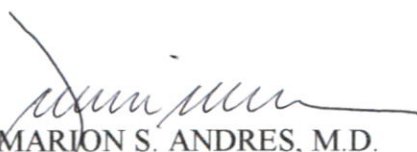
SECTION 2. This ordinance shall take effect upon approval.

APPROVED BY THE SANGGUNIANG PANLUNGSOD OF MARIKINA this 15th day of September, 2004.


I hereby certify to the passage of the foregoing Ordinance which was duly approved by the Sangguniang Panlungsod of Marikina during its 11th Regular Session held on the 15th day of September 2004.


LOLITA E. DE LEON
City Council Secretary

ATTESTED & CERTIFIED
TO BE DULY APPROVED:


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

APPROVED by the Honorable City Mayor on 10-11-04


MA. LOURDES C. FERNANDO
City Mayor

Republika ng Pilipinas
SANGGUNIANG PANLUNGSOD NG MARIKINA

Ord. 87-01



ORDINANCE No. 16
Series of 2001

ORDINANCE AMENDING ORDINANCE NO. 59, SERIES OF 1993, ENTITLED -
"ORDINANCE REGULATING THE USE OF STREETS AND SIDEWALKS IN THE
MUNICIPALITY OF MARIKINA"

Sponsored by: Councilor SERAFIN Y. BERNARDINO

NOW THEREFORE, BE IT ORDAINED by the CITY COUNCIL of MARIKINA, in
session duly assembled that:

SECTION 1. Section 5 of Ordinance No. 59, Series of 1993, is hereby amended to read
as follows:

"SECTION 5. PENALTIES. Any person or persons caught in the act for
violating the prohibitions provided for under Section 1 of this Ordinance shall
immediately be apprehended and be required to pay a fine of One Thousand
Pesos (P1,000.00) in addition to confiscation and forfeiture of his commercial
goods/articles. Pending the payment of said fine the offender shall temporarily
be deprived of his liberty in the custody of the Office of Public Security and
Safety (OPSS) for a minimum of 10 hours to a maximum of 18 hours.

SECTION 2. REPEALING CLAUSE. The provisions of Ordinance No. 165, Series of
2000 is hereby repealed for being repugnant to or inconsistent with the provision of this
Ordinance.

SECTION 3. This Ordinance shall take effect upon its approval.

APPROVED by the CITY COUNCIL of MARIKINA this 31st day of January, 2001.

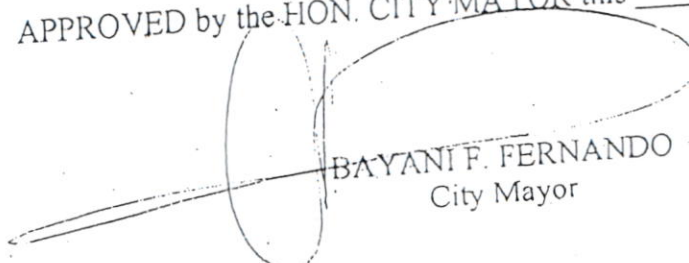
CERTIFIED:


LOLITA E. DE LEON
City Council Secretary

ATTESTED:


DEL R. DE GUZMAN
Vice-Mayor/Presiding Officer

APPROVED by the HON. CITY MAYOR this 16 FEB 2001


BAYANI F. FERNANDO
City Mayor

REPUBLIKA NG PILIPINAS
SANGGUNIANG BAYAN NG MARIKINA
KALAKHANG MAYNILA



Ordinance No. 59
Series of 1993

ORDINANCE REGULATING THE USE OF STREETS AND SIDEWALKS
IN THE MUNICIPALITY OF MARIKINA

Introduced by: Coun. JOSEPH B. BANZON

WHEREAS, in the case of "Umali vs. Aquino 1 C.A. Rep 339, the Supreme Court ruled that "the occupation, and use by private individuals of sidewalks and other public places devoted to public use constitute both public nuisances and nuisances per se";

WHEREAS, same ruling states that such use of sidewalk "applies even to cases involving the use or lease of public places under permits or licenses issued by competent authority upon the theory that such holders could not take advantage of their unlawful permits and licenses and claim that the land in question is a part of a public street or a public place devoted to public use hence beyond the commerce of man";

WHEREAS, the Office of the President issued on November 6, 1992 a Memorandum to All the National Capital Region Mayors and the Director General of the Philippine National Police for strict enforcement of traffic laws and removal of street and sidewalk obstructions, including among others, "makeshift stalls, basketball courts, and other illegal structures" xxx "in order to effect the smooth flow of traffic in Metro Manila";

WHEREAS, the local government of Marikina is governed by a Municipal Ordinance No. 15, Series of 1964, "Prohibiting the Use of Street Sidewalks for carrying the Shoeshine Occupation, Sale of Fruits, Vegetables, magazines, Newspapers, Cigarettes, Tobaccos, Softdrinks and the Like and Imposing Penalties for Violations Therefor;"

WHEREAS, a supplementary ordinance was enacted by the Sangguniang Bayan of Marikina as Ordinance No. 3, Series of 1993, entitled "Prohibiting the Use of Sidewalks for Bathing, Laundering or other similar purposes;"

WHEREAS, R.A. 7160 otherwise known as the Local Government Code of 1991 provides that the Sangguniang Bayan is empowered, among others, to "Prescribe reasonable limits and restraints on the use of property within the jurisdiction of the municipality;"

WHEREAS, the public shall be better guided if all existing ordinances and laws regulating the use of sidewalks be amended and consolidated into one issuance;

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Ordinance No. 9
Series of 1993

NOW THEREFORE BE IT ORDAINED by the Sangguniang Bayan of Marikina in session duly assembled to regulate the use of streets and sidewalks in the Municipality, and amend Ordinance No. 15, Series of 1964 as follows:

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Section 1. Definition: Sidewalk - any paved or unpaved footwalk at the side of the street or roadway.

Section 2. It shall be unlawful for any person, natural or juridical to occupy any portion of the streets and/or sidewalks within the Municipality of Marikina for purposes other than for purely pedestrian walk, including but not limited to the following:

- a. Vending or selling of foods, magazines, newspapers, cigarettes, brooms, watches or jewelries, shoes and other footwear, and/or any other items;
- b. Conduct of shoe-shine occupation;
- c. Conduct of "religious" activities, such as preaching and seeking alms;
- d. Doing housechores such as washing clothes, hanging clothes, and bathing;
- e. Vehicle garage and/or vehicle repair;
- f. Dumping garbage;
- g. Setting up basketball court/goal
- h. Use of sidewalk to install pens of animals or keep animals in chains;
- i. Storing softdrinks or wine/liquor bottles and cases; drinking liquor and beverages and holding picnics/gatherings;
- j. Storing of junks and recycleable materials;
- k. Use of sidewalk for storage of construction materials for sale (pipes, tubings, lumber, cement, and the like);
 - l. House extension or stall/store extension including installation of roofs or awnings;
 - m. Installation of permanent or picket fence;
 - n. Use of sidewalks for plants, trees and plant boxes;
 - o. Signs or signboards on or above sidewalks and detached from the business establishment;

Section 3. All items found on sidewalks shall be confiscated by the government without prior notice. The same shall be treated as common or ordinary garbage and shall be disposed of as such. The government shall thus, not be held liable for any damage arising from the removal, confiscation or disposal of the said items.

Section 4. Any use of the sidewalk on a temporary basis and for a definite period only shall require a special permit from the Municipal Office of Marikina.

Section 5. Voluntary Fines. Within seventy-two (72) hours from his receipt of the duplicate copy of the notice of violation, the violator may elect in lieu of prosecution to voluntarily pay the corresponding fine provided herein as follows:

<u>Frequency</u>	<u>Fine</u>
First Offense	Five Hundred Pesos (P 500.00)
Second Offense	One Thousand Pesos (P 1,000.00)
Third Offense	Two Thousand Pesos (P 2,000.00)
Fourth Offense	No fine. The case shall be filed with the Provincial Fiscal's Office for prosecution

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Provided however, that for the first, second and third offenses the violator within seventy two hours from the time and date of his violation must present the duplicate copy of the notice of violation issued to him to the Municipal Mayor or his authorized representative who shall endorse the same to the Municipal Treasurer for payment of the corresponding fine; Provided, further that if the violator fails to appear or refuse to pay the voluntary fine prescribed above, the Municipal Mayor shall direct the Municipal Legal Officer to initiate, within twenty-four (24) hours, prosecution proceedings against the violator with the Provincial Fiscal's Office.

Section 6. Penalties. The following penalties shall be imposed if the violator is prosecuted and is subsequently convicted by the competent court of justice: fine of Two Thousand Five Hundred Pesos (P 2,500.00) or in case of insolvency, one (1) day imprisonment for every One Hundred (P100.00) fine, or both fine and imprisonment at the discretion of the court.

Section 7. At the option of the government, the property owner shall be charged in addition to penalties stipulated under the preceding section, an amount not less than Five Hundred Pesos (P 500.00) to cover the cost of collection, storage or disposal of the confiscated items or debris;

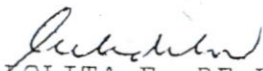
Section 8. Repealing Clause. All ordinances, resolutions, local executive orders, rules and regulations or parts thereof in conflict or inconsistent with this Ordinance are hereby repealed and/or modified accordingly.


Section 9. 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 full force and effect.

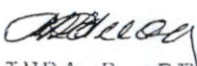
Section 10. This ordinance takes effect upon approval.

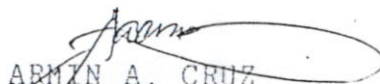
APPROVED by the Municipal Council on 20 AUGUST 1993.

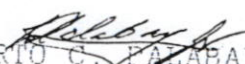
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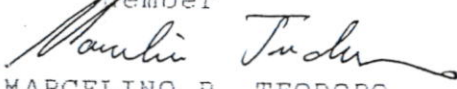

LOLITA E. DE LEON
Secretary to the Sanggunian

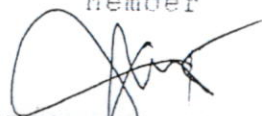

TITO F. ORTIZ
Member


ERLINDA R. DE LEON
Member


ARMIN A. CRUZ
Member

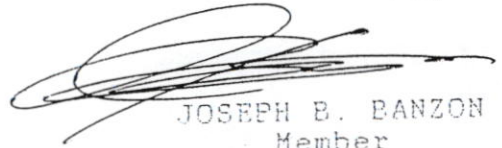

ROBERTO C. PALABAY, JR.
Member


MARCELINO R. TEODORO
Member


ALFREDO S. AGAPITO
Member

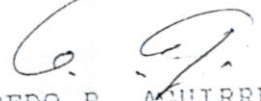
Ordinance No. 59
Series of 1993

JOSE PARSONS A. NABIULA
Member

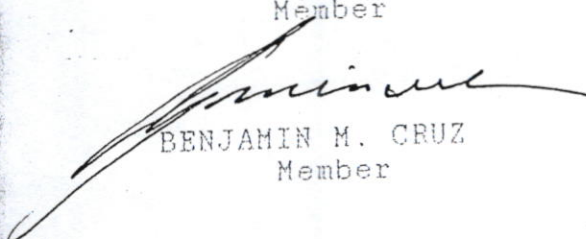

JOSEPH B. BANZON
Member

MARION S. ANDRES
Member


ALFREDO N. FAJARDO
Member


ALFREDO R. AGUIRRE
Member

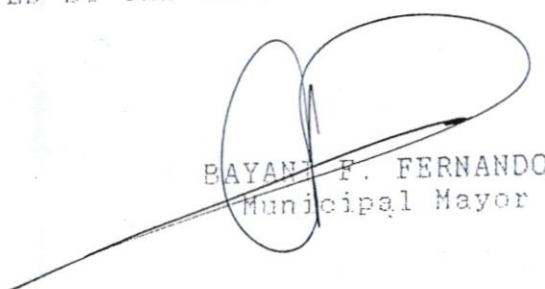

ROBERTO C. PONCE
Member


BENJAMIN M. CRUZ
Member


ROGELIO S. DELA PAZ
Member


DEL P. DE GUZMAN
Vice-Mayor/Presiding Officer

APPROVED BY THE MAYOR ON AUG 23 1993 1993


BAYANI F. FERNANDO
Municipal Mayor

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