



Sangguniang Panlungsod

REPUBLIKA NG PILIPINAS
PAMAHALAANG LUNGSOD NG MUNTINLUPA
KALAKHANG MAYNILA



ORDINANCE NO. 17-054

AN ORDINANCE AMENDING SOME PROVISIONS IN ORDINANCE NO. 02-030 OTHERWISE KNOWN AS THE CITYWIDE CURFEW HOURS.

Sponsored by:

Hon. Coun. Lucio B. Constantino
Hon. Coun. Atty. Patricio L. Boncayao, Jr.
Hon. Coun. Stephanie G. Teves
Hon. Coun. Ringo A. Teves
Hon. Coun. Louisito A. Arciaga
Hon. Coun. Alexander Diaz
Hon. Coun. Ivey Rhia A. Tadea
Hon. Coun. Christine May A. Abas
Hon. Coun. Marissa Cole-Rongavilla
Hon. Coun. Mark Lester M. Baes
Hon. Coun. Rafael T. Sevilla
Hon. Coun. Victor L. Ulanday
Hon. Coun. Grace B. Gonzaga
Hon. Coun. Walter A. Arcilla – ABC

WHEREAS, on September 19, 1988, Municipal Ordinance No. 88-12, otherwise known as "Kautusang Bayan na nagtatadhana ng "Curfew" mula alas 12:00 ng gabi hanggang alas 4:00 ng umaga para sa mga kabataang may edad na labing pitong (17) taong gulang at pababa at pagpapataw ng kaukulang parusa sa lumalabag sa Kautusang ito" was passed;

WHEREAS, on January 10, 2002 the Sangguniang Panlungsod of Muntinlupa, during its 17th Regular Session passed Ordinance No. 02-030, an ordinance repealing Ordinance No. 88-12;

WHEREAS, Section 458 (par.1 ff), Article 3 of Republic Act No. 7160, otherwise known as the New Local Government Code of the Philippines, mandates the City Council to pass an ordinance to maintain peace and order to preserve public tranquility against lawlessness and violence, etc.;

WHEREAS, the Local Government is duty bound to assist the parents as well as guardians of minor in controlling the latter's behavior and instilling discipline among them, making these young people productive members of our society;

WHEREAS, the Commission on Human Rights of the Philippines sent the letter to the Office of the Mayor dated September 01, 2016 entitled "Position Paper of Enforcement of Curfew Ordinance Among Minors", recommending all LGU's to revisit their curfew ordinance purposely to ensure that they do not provide penalty or impose any act amounting to penalty to children;

WHEREAS, on October 17, 2016, the Committee on Public Order, Security and Safety conducted a public hearing to inquire on the implementation of Ordinance No. 02-030 known as "**Citywide Curfew Hours**" in relation to the Position Paper on Enforcement of Curfew Ordinance from Commission on Human Rights;

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ORDINANCE NO. 17-054

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OTHERWISE KNOWN AS THE CITYWIDE CURFEW HOURS.

Sponsored by: *Hon. Coun. Atty. Patricio L. Boncayao, Jr.*
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WHEREAS, under Republic Act No. 10630, a curfew violation is considered as a status offense defined as, ***“any conduct not considered an offense or not penalized if committed by an adult”***, and hence, should not be considered an offense or penalized/punished if committed by a child.

NOW THEREFOR, BE IT ORDAINED by the 8th Sangguniang Panlungsod of the City of Muntinlupa, during its Regular Session assembled that:

SECTION 1. The following Articles of Ordinance No. 02-030 shall be deleted:

ARTICLE IV
MECHANICS OF ENFORCEMENT

These young people apprehended for violations of this ordinance shall be brought to safekeeping areas or holding centers of each barangay.

As far as practicable and within reasonable period or time, the parents or guardians of those apprehended be notified or their apprehension. They should be releases to their parents or guardians the following day but in all cases they should undergo seminars and or counseling for them to understand and respect the ordinance. These young people shall be treated humanely and at no instance they are labeled a criminals but only victims or circumstances.

However, if upon apprehension, these young people are found to be known users of illegal drugs, in possession of the same and in possession of the deadly weapons and explosive and or committing other acts punishable by law, they are, after proper investigation to be turned over to police authorities within the prescribed period of the law for further investigation and for proper disposition of their cases.

ARTICLE VI
Exemptions

No person 17 years and below shall be allowed outside of their home from 11:00 p.m to 4:00 a.m except in extreme emergency case and abnormal conditions to be considered or likened to force majeure and in activities authorized by the Barangay Curfew Hour Enforcement Council.

ARTICLE VII
Community Service

Any violator of this ordinance maybe compelled to undergo or perform any community services as maybe recommended by the Barangay Curfew Hour Council (BCHC), provided that they shall not adversely affect the mental and physical health of the law violator and at no instance such community service will not subject him to hate and ridicule by the public.

ARTICLE VIII
Penalties

- a) **First Offense** – upon apprehension, orient the violator on the existence and importance of the ordinance and performances of two hours community service;
- b) **Second Offense** – orient the violator on the existence and importance of the ordinance and perform of four (4) hours community service;



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- c) **Third Offense** – orient the violator on the existence and importance of the ordinance and perform eight (8) hours community service. In addition thereto, be conducted by competent barangay officials or counselors. The same shall be held within the barangay or its immediate premises on any day except Saturdays, Sundays and all legal and public holidays on time most convenient to them.

HENCE, the Ordinance on CITYWIDE CURFEW HOURS shall now be read as follows:

ARTICLE I
Title and Scope

SECTION 1. The title of this Ordinance is “CITYWIDE CURFEW HOURS”.

SECTION 2. This Ordinance shall cover young people whose ages are from 17 and below, irrespective of socio-economic status. It commences from 11:00 o'clock in the evening up to 4:00 o'clock in the morning of the following day.

No person of seventeen (17) years of age and below is allowed to stay outside his home or residence from 11:00 o'clock in the evening up to 4:00 o'clock in the morning of the following day,

Any person of such age caught or apprehended during the prohibited time as specified in this Ordinance shall suffer penalties provided therefore.

ARTICLE II
Definition of Terms

a) **Curfew Hours** - 11:00 o'clock in the evening up to 4:00 o'clock in the morning of the following day wherein no young person 17 years and below shall be outside their homes, unless covered by exemptions of this Ordinance and without justifiable reasons;

b) **Safekeeping Stations Or Holding Areas** – temporary rooms or premises especially allotted for the violators of this Ordinance located within or within the vicinity of the Barangay Hall;

c) **Ordinance Enforcers** – refer to the Barangay Officials, Barangay Tanods, Barangay Lupon and other Barangay Volunteers appointed by the Barangay Chairmen where qualification is one of competency and probity. Such ordinance enforcers include police authorities and Public Order and Safety Office (POSO);

d) **Community Service** – a form of penalty imposed upon any violator of this Ordinance in addition to parental counseling;

e) **Parental Counseling** - an orientation in form of penalty for parents and ordinance violator;

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f) **Council** – Barangay Curfew Hour Enforcement Council. They are group of people who will serve as policy-making body for the effective enforcement of this law.

ARTICLE III
Ordinance Enforcers

The Ordinance Enforcers are the:

1. Barangay Chairman;
2. Barangay Lupon;
3. Barangay Tanods;
4. Barangay Volunteers that maybe appointed by the Barangay, qualifications of which is one of competency and known probity;
5. Police authorities;
6. Public order and Safety Office (POSO);

ARTICLE IV
Mechanics Of Enforcement

If it has been determined that the minor taken into custody is **seventeen (17) years old and below**, the authority which will have initial contact with the child, has the duty to immediately release the child within **six(6) hours** to the custody of his/her parents or guardian, or in the absence thereof, the child nearest relative.

The child may be subjected to a community-based intervention programs, such as counseling, attendance in group activities for children, and for the parents, attendance in parenting education seminar, as determined and supervised by the DSWD in coordination with the Barangay Curfew Enforcement Council (BCHEC), unless the best interest of the child requires his/her referral to a youth care facility managed by City Government and/or accredited NGO's monitored by the DSWD.

ARTICLE V
Barangay Curfew Hour Enforcement Council (BCHEC)

SECTION 1. For purposes of this Ordinance a **Barangay Curfew Hour Enforcement Council (BCHEC)** is created composed of the following person and office:

- a) All Barangay Chairman;
- b) SK Chairman of every Barangays;
- c) Representative from religious sector;
- d) Federation President of General Parents Teachers Association;
- e) Federation President of subdivisions and homeowner association;
- f) Representative from business sector;

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SECTION 2. The role of the Council shall be as follow;

- a) As a policy-making body;
- b) Central coordinating agency in the effective implementation of the Ordinance;
- c) Formulate action plans to effectively enforce the Ordinance;
- a. Conduct orientation, seminars and trainings relative to proper and effective enforcement of the law;
- d) Monitoring the activities of the ordinance enforcers;
- e) Provide legal advice, assistance and representation if necessary to ordinance enforcers;
- b. Conduct citywide massive educational and public information campaign relative to enforcement of this ordinance;
- c. To do and perform all acts and activities that maybe necessary relative to proper and effective enforcement of the ordinance;

They shall be appointed by the City mayor, and as far as practicable upon consultations with the City Council, Heads of the Offices of the city, the Barangays and police authorities;

The decision of the City Mayor relative to the appointment of **BCHEC** is final.

Should the Barangay fund are available and within the limits of the law members of Curfew Hour Enforcement Council.

ARTICLE VI

SECTION 1. Parental Obligation. Failure of the parent or the legal guardian to attend the parenting education seminar as mentioned in Article IV hereof, the parent, legal guardian shall be made to perform the following:

- a. **First Offense** - two (2) hours of community service
- b. **Second Offense** - four (4) hours of community service
- c. **Third Offense** - eight (8) hours of community service

ARTICLE VII
Exemptions

No person 17 years and below shall be allowed outside of their home from 11:00 p.m to 4:00a.m except in extreme emergency case and abnormal conditions to be considered or likened to force majeure and in activities authorized by the Barangay Curfew Hour Enforcement Council.

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ARTICLE VIII
Records

Each Barangay shall keep records of any young people whose age are 17 and below who were apprehended for violation of this Ordinance. Said documents are deemed public records and permanent in character.

ARTICLE IX
Separability Clause

If for any reason, any part of provision of this Ordinance shall be declared unconstitutional or invalid, other parts or provisions hereof which are not affected thereby shall continue to be in full force and effect.

ARTICLE X
Repealing Clause

All ordinance or part or parts thereof, which are inconsistent with any of the provision of this Ordinance are hereby repealed or modified accordingly.

ARTICLE XI
Effectivity Clause

This Ordinance shall take effect immediately upon publication in a newspaper of general circulation within the City and upon posting of this Ordinance in conspicuous place within the City.

ENACTED, by the 8th Sangguniang Panlungsod of Muntinlupa this 23rd day of January, 2017, on its 23rd Regular Session.

CONCURRED:

DISTRICT I:

COUN. ATTY. PATRICIO L. BONCAYAO, JR.
Member

COUN. STEPHANIE G. TEVES
Member

COUN. RINGO A. TEVES
Member

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Sangguniang Panlungsod


COUN. LOUISITO A. ARCIAGA
Member


COUN. ALEXANDER B. DIAZ
Member


DISTRICT II:



COUN. MARISSA C. RONGAVILLA
Member


COUN. MARK LESTER M. BAES
Member


COUN. GRACE B. GONZAGA
Member


COUN. WALTER A. ARCILLA
Sectoral Representative
President
Association of Barangay Captains

ABSENT:


COUN. ALLAN REY A. CAMILON
Member

COUN. BAL NIEFES
Member

COUN. MA. DHESIREE G. AREVALO
Member

NO:

COUN. IVEE RHIA A. TADEFA
Member


COUN. LUCIO B. CONSTANTINO
Member

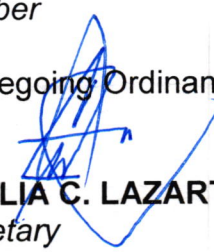
COUN. VICTOR L. ULANDAY
Member

ABSTAIN:

COUN. RAFAEL T. SEVILLA
Member

COUN. CHRISTINE MAY A. ABAS
Member

I HEREBY CERTIFY, as to the correctness of the foregoing Ordinance.


CECILIA C. LAZARTE
Secretary

 **YAN ANG TAMA**  **YAN ANG MUNTINLUPA!**



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ATTESTED:

CELSON C. DIOKO

City Vice-Mayor/Presiding Officer

APPROVED:

ATTY. JAIME R. FRESNEDI

City Mayor

Date: _____

Norie/8th SP

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REPUBLIC OF THE PHILIPPINES

DTS # 08802 220170025

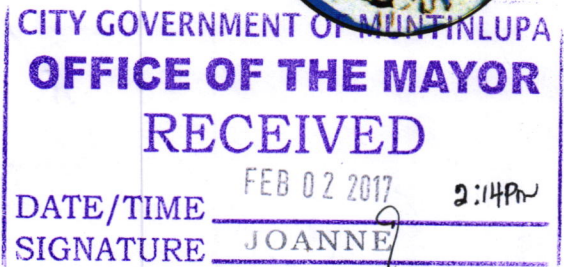
CITY OF MUNTINLUPA

OFFICE OF THE CITY ATTORNEY



01 February 2017

ATTY. JAIME R. FRESNEDI
City Mayor



RE: City Ordinance No. 17-054

Dear **Mayor Fresnedi**:

This pertains to the recently-enacted City Ordinance No. 17-054, entitled "An Ordinance amending some provisions in Ordinance No. 02-030, otherwise known as the Citywide Curfew Hours", which was forwarded to your good Office for approval and/or signature by the Sangguniang Panlungsod.

The subject ordinance aims to prohibit children, 17 years old and below, from leaving their abode and from roaming around in public places from 11:00 in the evening to 4:00 in the morning, except in extreme emergency cases and abnormal conditions to be considered or likened to force majeure and in activities authorized by the Barangay Curfew Hour Enforcement Council.

Since Section 2 of the subject ordinance talks of the imposition "penalties" for those caught or apprehended violating the curfew and even provides in Article 3 for, among others, "community service" and "counselling", as "penalties" for the violators, it is opined that the subject ordinance may still be considered as violative of Section 57 of RA No. 9344, or the Juvenile Justice and Welfare Act, which prohibits the imposition of curfews or punishing minors for curfew violations, to wit:

"any conduct not considered an offense or not penalized if committed by an adult shall not be considered an offense and shall not be punished if committed by a child."

Also, Article VIII of the ordinance appears to run in conflict with Section 43 of RA 9344 making all records and proceedings of children in conflict with the law privileged and confidential and therefore NOT forming part of public records.



ISO 9001:2008 CERTIFIED

CERT. CODE : QMS0708041506KA-001



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3RD FLOOR CITY HALL ANNEX BLDG., PUTATAN, NATIONAL HIGHWAY, CITY OF MUNTINLUPA

DIRECT LINE 861-11-26

TELEFAX 861-11-26

Further, we have noticed the absence of governing provisions relating to the following:

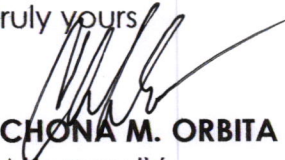
1. the Ordinance does not provide for the procedure and the persons responsible for the holding of violators taken into custody in safekeeping stations or holding areas, and the provision for food or other logistics, if any;
2. while the Ordinance delegated its enforcement to the Barangay Officials, Tanods, Lupons and Volunteers, the police authorities and POSO, the specific function of each is not identified;
3. neither does the Ordinance provide for the procedure for apprehension to be undertaken by the authority first in contact with the violator, the procedure for the violator's turn-over to the designated safekeeping station or holding area, and the procedure for their ultimate release to their parent, guardian or nearest relative, all of which must conform with pertinent provisions of RA 9344; and,
4. it is not clear if the community-based intervention programs mentioned in Article IV are mandatory and the mechanics for the implementation thereof are not specified.

In view of the foregoing gaps, Implementing Rules and Regulations (IRR) are required to be adopted to provide the details of implementation not covered by the Ordinance.


It is also recommended that the Barangay Curfew Hour Enforcement Council include representatives from the SSD/DSWD as members as they have the specialized expertise in dealing with children.

Hoping the foregoing addresses your concerns.

Very truly yours,


ATTY. CHONA M. ORBITA
Attorney IV

Noted by:


ATTY. GENALYN C. ESTRERA
Officer-In-Charge