

OFFICE OF THE SANGGUNIANG BAYAN

EXCERPT FROM THE MINUTES OF THE 80<sup>th</sup> REGULAR SESSION OF THE 11<sup>th</sup> SANGGUNIANG BAYAN OF DUMINGAG, ZAMBOANGA DEL SUR HELD AT THE MUNICIPAL SESSION HALL ON JULY 22, 2024.

| OFFICERS/MEMBERS:             | POSITION                 | PRESENT | ABSENT | OB  | OL  |
|-------------------------------|--------------------------|---------|--------|-----|-----|
| Hon. Edgardo G. Jamero        | Municipal Vice Mayor     | ___/___ | ___    | ___ | ___ |
| Hon. Julius G. Jamero         | SB Member                | ___/___ | ___    | ___ | ___ |
| Hon. Jo Vincent J. Morpos     | SB Member                | ___/___ | ___    | ___ | ___ |
| Hon. Dean Kaiser C. Tangalin  | SB Member                | ___/___ | ___    | ___ | ___ |
| Hon. Francis Joeray T. Gumban | SB Member                | ___/___ | ___    | ___ | ___ |
| Hon. Jerson L. Cabahug        | SB Member                | ___/___ | ___    | ___ | ___ |
| Hon. Julito C. Mandac         | SB Member                | ___/___ | ___    | ___ | ___ |
| Hon. Percalixia Y. Bazar      | SB Member                | ___/___ | ___    | ___ | ___ |
| Hon. Efren A. Costanilla      | SB Member                | ___/___ | ___    | ___ | ___ |
| Hon. Domingo M. Gingco        | Ex - Officio Member, LnB | ___/___ | ___    | ___ | ___ |
| Hon. Kirby Tracy V. Estillo   | Ex - Officio Member, SK  | ___/___ | ___    | ___ | ___ |

Municipal Ordinance No. 11<sup>th</sup>-11-2024

AN ORDINANCE ESTABLISHING DISCIPLINARY HOURS FOR MINORS IN THE MUNICIPALITY OF DUMINGAG, ZAMBOANGA DEL SUR, PROVIDING PENALTIES FOR PARENTS/GUARDIANS FOR VIOLATIONS THEREOF AND FOR OTHER PURPOSES.

Be it ordained by the 11<sup>th</sup> Sangguniang Bayan of Dumingag, Zamboanga del Sur, in session assembled, that:

SECTION 1. TITLE

This ordinance shall be known and cited as the "Curfew for Minors Ordinance 2024" in the municipality of Dumingag, Zamboanga del Sur.

SECTION 2. RATIONALE

Reports from barangay officials and the Dumingag Municipal Police Station consistently highlight the prevalence of minor children involved in nighttime infractions. These minors, while loitering or wandering during the evening, frequently engage in various forms of misconduct, intensifying public safety concerns. Recognizing the necessity of promoting public order and safety, it is imperative to regulate the movement of minors during nighttime hours. This regulation not only seeks to reduce delinquent behavior but also endeavors to safeguard minors from neglect, abuse, and exploitation, all of which can profoundly impact their growth and opportunities for the future.

The imposition of disciplinary hours for minors is a delicate balance between ensuring their safety and well-being while respecting their fundamental rights and freedoms. As underscored by legal precedents and legislative mandates, local government units (LGUs) have the authority to enact curfew ordinances to address specific local conditions pertaining to juvenile welfare. It is important to ensure that restrictions are narrowly tailored and that adequate exemptions are provided to accommodate legitimate activities that contribute to the minors' well-being and development.



HON. JULIUS G. JAMERO  
SB Member

### SECTION 3. LEGAL BASES

Section 13, Article II of the Philippine Constitution provides that: "The State recognizes the vital role of the youth in nation-building and shall promote and protect their physical, moral, spiritual, intellectual, and social well-being. It shall inculcate in the youth patriotism and nationalism, and encourage their involvement in public and civic affairs."

Section 447 (1) (V) of Republic Act No. 7160, otherwise known as the Local Government Code of 1991, the LGU of Dumingag is mandated to enact ordinances intended to prevent, suppress and impose appropriate penalties for habitual drunkenness in public places, vagrancy, mendicancy, prostitution, establishment and maintenance of houses of ill repute, gambling and other prohibited games of chance, fraudulent devices and ways to obtain money or property, drug addiction, maintenance of drug dens, drug pushing, juvenile delinquency, the printing, distribution or exhibition of obscene or pornographic materials or publications, and such other activities inimical to the welfare and morals of the inhabitants of the municipality.

Article 3 of Presidential Decree No. 603, also known as the Child and Youth Welfare Code, provides for the Rights of the Child. "All children shall be entitled to the rights herein set forth without distinction as to legitimacy or illegitimacy, sex, social status, religion, political antecedents, and other factors."

Article 139 of Presidential Decree No. 603, also known as the Child and Youth Welfare Code, authorizes Local Government Units to set curfew hours for children. The Code states, "City or municipal councils may prescribe such curfew hours for children as may be warranted by local conditions. The duty to enforce curfew ordinances shall devolve upon the parents or guardians and the local authorities."

Republic Act No. 9344, as amended by Republic Act No. 10630, "An Act Establishing a Comprehensive Juvenile Justice and Welfare System, Creating the Juvenile justice and Welfare Council under the Department of Social Welfare and Development, Appropriating Funds Therefor, and for Other Purposes.", provides procedures in dealing with minors in violation of local ordinances and prohibits the imposition of penalties on minors for status offenses such as curfew violations.

Department of the Interior and Local Government (DILG) - IX Legal Opinion No. 33, s. 2024, authority of the Sangguniang Barangay to enact curfew ordinance for minors.

### SECTION 4. DEFINITION OF TERMS

As used in this ordinance the following terms shall be defined:

- a. child at risk - a child who is vulnerable to and at the risk of committing criminal offenses because of personal, family and social circumstances such as: abused, exploited, abandoned, out of school, street children, gang, etc.
- b. court - refers to a family court or any regional trial court with the authority to adjudicate legal disputes and carry out or dispose of the administration of penalty provided in the herein ordinance with the existing rule of law
- c. disciplinary hours - means the hours from 9:00 every night up to 4:00 a.m. the next morning.
- d. DMPS - refers to the Dumingag Municipal Police Station
- e. emergency - means an unforeseen combination of circumstances or the resulting state that calls for immediate action. the term includes, but is not limited to, a fire, a natural disaster, a vehicular accident or any situation requiring immediate action to prevent serious bodily injury or loss of life.
- f. guardian - means:

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Ex-Officio Member

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Ex-Officio Member

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Municipal Mayor

1. A person who, under court order, is the guardian of the person of a minor.
2. A public or private agency with whom a minor has been placed for custody by a court.
3. A person in charge of the custody or who is taking care of a minor whether relative or not.
4. A person at least eighteen (18) years of age and authorized by a parent or guardian to accompany a minor in a public place or to have the care and custody over him/her.

g. habitual violator - refers to minor/s who frequently or repeatedly violates this ordinance

h. law enforcement officer - refers to the person in authority or his/her agent as defined in Article 152 of the Revised Penal Code, including a barangay tanods and barangay officials

i. minor - means any person seventeen (17) years of age or younger

j. MSWDO - refers to the Municipal Social Welfare and Development Office

k. parent - refers to both biological and adoptive parents who has actual custody of or living together with the minor children

l. public place - a place located within the juridical boundaries of Dumingag, Zamboanga del Sur, where the general public, or substantial group of people, have access, including but not limited to, streets, highways, sidewalks, parking lots, vacant lots, public market and the common areas in and about churches, schools, shops and places of entertainment such as movie theaters and similar places or establishments

m. remain- means to linger or stay, as well as to refuse to leave when requested to do so by a police officer, a barangay public safety officer, or the owner or other person in control of a public place. this term also encompasses activities which may be mobile, such as walking, driving, and riding about in public place

n. residence - means the house or home wherein the minor and his/her parent/s or guardian/s actually lives

## SECTION 5. SCOPE OF APPLICATION

This Ordinance is applicable within the territorial jurisdiction of the municipality of Dumingag, Zamboanga del Sur. Barangays have the option to fully adopt the provisions of this Ordinance or to enact their own tailored ordinances that address their specific needs and local conditions.

## SECTION 6. PROHIBITED ACTS

- a. Minors are prohibited to roam around, loiter, wander, stay or meander in all public places during disciplinary hours - 9:00 P.M. every night up to 4:00 A.M. the next morning - whether singly or in groups without lawful purpose or justifiable reason.
- b. It is unlawful for a parent or guardian of a minor to knowingly permit or by insufficient control, allow the minor to remain in any public place within the territorial jurisdiction of Dumingag, Zamboanga del Sur during disciplinary hours.



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## SECTION 7. CURFEW FOR MINORS ORDINANCE IN THE BARANGAYS

Barangay LGUs may enact their own curfew ordinance for minors to suit their particular requirements and the distinct conditions of their community as long as it is not contradictory to the provisions of this Ordinance. They may set the disciplinary hours before 9:00 P.M. but will not go beyond 9:00 P.M. and the lifting of the disciplinary hours shall be set at 4:00 A.M. the next day as their community circumstances may differ from those of the poblacion. Provided that, the barangay ordinance shall apply solely to minors, seventeen (17) years old and below. Exemptions in acknowledgment of the minor's rights and other valid humanitarian reasons must be in place. It also does not penalize the minors but only the parent/guardian.

## SECTION 8. EXEMPTIONS

- a. Minors who are found to be in public places during the prescribed disciplinary hours and under the following circumstances shall not be covered by the provisions of this ordinance;
- b. Those accompanied by their parents or guardian.
- c. Those on their way to or from a legitimate gathering such as graduation ceremony, religious mass, and/or other extra-curricular activities of their school or organization wherein their attendance are required or otherwise indispensable, or when such minors are out and unable to go home early due to circumstances beyond their control as verified by the proper authorities concerned.
- d. Those attending to, or in experience of, an emergency situation such as fire, earthquake, health emergencies, road accident, and similar incidents.
- e. When the minor is engaged in an authorized employment activity, or going to or returning home from the same place of employment activity, without any detour or stop.
- f. When the minor is in a motor vehicle or other travel accompanied by an adult.
- g. When the minor is out of his/her residence attending an official school, religious, recreational, educational, social, community or other similar private activity sponsored by the barangay, LGU, school or other similar private civic/religious organization/group (recognized by the community) that supervises the activity or when the minor is going to or returning home from such activity, without any detour or stop.
- h. When the minor can present papers certifying that he/she is a student and was dismissed from his/her classes in the evening or that he/she is a working student.
- i. Those running lawful errands such as buying of medicines and the like. The parent /guardian must provide the minor with a written permission and a valid identification card of the parent/guardian. The written permission must contain the name of the parent/guardian, address and if available, a contact number of the parent/guardian for verification purposes.

Events, as enumerated in the exemptions extending beyond 9:00 P.M. must be coordinated by the organizers and/or school officials with the Dumingag Municipal Police Station (DMPS) and the Office of the Municipal Mayor at least one (1) day prior to the event by submitting a letter of notification.

## SECTION 9. ENFORCEMENT PROCEDURES

In compliance with the Juvenile Justice Welfare Act of 2006 or Republic Act No. 9344, the following shall be observed in dealing with a minor or minors believed to be in violation of this Ordinance;

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RA No. 9344, Section 21. Procedure for Taking the Child into Custody - From the moment a child is taken into custody, the law enforcement officer shall:

- a. Explain to the child in simple language and in a dialect that she/he can understand why he/she is being placed under custody and the offense that he/she allegedly committed.
- b. Inform the child of the reason for such custody and advise the child of his/her constitutional rights in a language or dialect understood by him/her.
- c. Properly identify himself/herself and present proper identification to the child.
- d. Refrain from using vulgar or profane words and from sexually harassing or abusing, or making sexual advances on the child in conflict with the law.
- e. Avoid displaying or using any firearm, weapon, handcuffs or other instruments to force or restraint, unless absolutely necessary and only after all other methods of control have been exhausted and have failed.
- f. Refrain from subjecting the child in conflict at risk to greater restraint than is necessary.
- g. Avoid violence or unnecessary force.
- h. The age of a child may be determined from the school identification card, child's birth certificate, baptismal certificate or any other pertinent documents. In the absence of these documents, age may be based on information from the child himself/herself, testimonies of other persons, the physical appearance of the child and other relevant evidence. In case of doubt as to the age of the child, it shall be resolved in his/her favor.
- i. Immediately but not later than eight (8) hours after apprehension, turn over custody of the child to the Municipal Social Welfare and Development Office or other accredited NGOs, and notify the child's apprehension. The Social Welfare and Development Officer shall explain to the child and the child's parents/guardians the consequences of the child's act with a view towards counseling and rehabilitation, diversion from the criminal justice system, and reparation, if appropriate.
- j. Take the child immediately to the proper medical and health officer for a thorough physical examination results shall be kept confidential unless otherwise ordered by the family court. Whenever the medical treatment is required, steps shall be immediately undertaken to provide the same.
- k. Ensure that should detention of the minor be necessary, the child shall be secured in quarter separate from that of the opposite sex and adult offenders.
- l. Record the following in the initial investigation;
  1. Whether handcuffs or other instruments of restraint were used, and if so, the reason for such.
  2. That the parents or guardian of a child, the DSWD, and the PAO have been informed of the apprehension and the details thereof.
  3. The exhaustion of measures to determine the age of a child and the precise details of the physical and medical examination or the failure to submit a child to such examination.
- m. Ensure that all statements signed by the child during investigation shall be witnessed by the child's parents or guardian, social worker, or legal counsel in attendance who shall affix his/her signature to the said statement.
- n. The parent/guardian shall be issued a citation ticket for any violations of the provisions of this Ordinance of which he/she shall be given five (5) working days from the receipt of the citation ticket. If the parent/guardian fails to appear or



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refuses to satisfy the penalty as prescribed in Section 14 of this Ordinance, the Dumingag Municipal Police Station (DMPS) and/or the MSWDO shall coordinate with a government prosecutor to initiate prosecution proceedings against the parent/guardian.

- o. The minor shall only be searched by a law enforcement officer of the same gender and shall not be locked up in a detention cell.
- p. Law enforcement officers are tasked to verify the authenticity of the reasons or circumstances surrounding a minor's presence in public places during disciplinary hours.
- q. Barangay LGUs need not turn over the minor to the DMPS, considering the distance from the Barangay LGU to the DMPS. However, they shall follow the same enforcement procedure, including contacting the parent/guardian, issuing a citation ticket, recording the contact in a separate logbook, and later, coordinating the details of the violation with the DMPS at an appropriate time and day.

#### SECTION 10. USE OF SIRENS

In the implementation of this Ordinance, sirens shall be used at 8:45 P.M. to give warning to the residents. Sirens will be used again at 9:00 PM to signal the start of the disciplinary hours and at 4:00 A.M. the next day for the lifting of the disciplinary hours. To ensure consistency and synchronization, time will be based on the Philippine Standard Time (PST). Barangay LGUs shall also provide a siren in their territorial jurisdiction.

The LGU of Dumingag shall procure an appropriate siren to be used in the poblacion. Appropriate budget for the procurement shall be included in the Annual Budget of the municipal government of Dumingag. Barangay LGUs are also encouraged to procure a siren for the implementation of the curfew ordinance in their territorial jurisdiction.

#### SECTION 11. OBLIGATIONS AND LIABILITY OF PARENTS OR GUARDIANS

The parent/s or guardian/s who are in actual custody or living together with the minor are hereby mandated to supervise the conduct and activities of the minor and see to it that the latter are already in their home prior to and until after the occurrence of the disciplinary hours.

#### SECTION 12. COMMUNITY INVOLVEMENT/PARTICIPATION

Any person who has personal knowledge of the existence of any minor during disciplinary hours must immediately call the attention of the law enforcement officers.

#### SECTION 13. INFORMATION AND EDUCATION CAMPAIGN

Three (3) days following the approval of this Ordinance, the Local Government Unit (LGU) of Dumingag, the DMPS and the Liga ng Barangays will initiate an information and education campaign. This campaign will utilize various channels, including social media, radios, recorded messages (rekoreda), postings in public spaces, and other effective means, to disseminate information and educate the public.

#### SECTION 14. PENALTIES AND MANNER OF DEALING WITH THE VIOLATOR

RA No. 9344 or the Juvenile Justice Welfare Act of 2006, as amended, prohibits imposing penalties on minors for status offenses such as curfew violations. As such, a curfew ordinance cannot impose any form of fine or imprisonment on the minor-violator. The parent/guardian, however, upon violation of Section 6 (b) of this Ordinance shall be penalized with;

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- For 1<sup>st</sup> offense - A fine of one thousand pesos (₱ 1,000.00) or community service for four (4) hours. Counselling shall also be given to the minor and the parent/guardian by the Municipal Social Welfare and Development Office (MSWDO). The MSWDO shall certify the compliance on counselling and provide a copy to Dumingag Municipal Police Station (DMPS).
- For 2<sup>nd</sup> Offense - A fine of one thousand five hundred pesos (₱ 1,500.00) or community service for six (6) hours. Counselling shall also be given to the minor and the parent/guardian by the Municipal Social Welfare and Development Office (MSWDO). The MSWDO shall certify the compliance on counselling and provide a copy to Dumingag Municipal Police Station (DMPS).
- For 3<sup>rd</sup> and every subsequent Offenses - A minor found violating this ordinance for the third time and every time thereafter, given the intervention prescribed in the preceding paragraphs, shall be turned over to the MSWDO and be subjected to the appropriate intervention program of the said office. His/her parent/s or guardian/s shall be penalized with a fine of two thousand five hundred pesos (₱ 2,500) pesos or imprisonment of up to three (3) months or both upon discretion of a competent court of law.

In case where the residence of a minor who violates this ordinance is that of another city or municipality, the same penalties shall apply but the Dumingag Municipal Police Station and/or the MSWDO shall endeavor to contact the parent/guardian of the minor or the local Social Welfare and Development Office where the minor resides.

#### SECTION 15. IMPLEMENTING OFFICES

The Office of the Municipal Mayor, in coordination with the Municipal Social Welfare and Development Office shall be the lead implementing agency for this Ordinance. It shall be enforced by the Dumingag Municipal Police Station, Barangay Tanods and Barangay Officials, Dumingag Task Force Ordinance and Armed Forces of the Philippines (AFP) personnel assigned in the municipality.

#### SECTION 16. REPEALING CLAUSE

This Ordinance effectively repeals Municipal Ordinance No. 5, s. 1997, also known as "An ordinance imposing curfew hours to minors". Any other order or memorandum of local effect inconsistent with the provision/s of this ordinance is also hereby repealed or modified accordingly.

Additionally, barangay curfew ordinances that include individuals of legal age (18 years old and above) shall be declared invalid as they violate their rights to liberty and freedom of movement as guaranteed by the 1987 Philippine Constitution.

#### SECTION 17. SEPARABILITY CLAUSE

If any portion of this ordinance is declared invalid or unconstitutional, other portions hereof not affected by such declaration shall remain in full force and effect.

#### SECTION 18. EFFECTIVITY CLAUSE

This ordinance shall take effect after fifteen (15) days following the completion of the posting requirements in three (3) conspicuous places in the municipality of Dumingag and its publication in any newspaper of general circulation or posting of copies in all the municipalities and one (1) city within the province of Zamboanga del Sur.

Enacted: July 22, 2024

CONCURRED:

SANGGUNIANG BAYAN MEMBERS:

Hon. Julius G. Jamero

Hon. Dean Kaiser C. Tangalin

Hon. Jerson L. Cabahug

Hon. Percalixia Y. Bazar

Hon. Domingo M. Gingco

Hon. Jo Vincent J. Morpos

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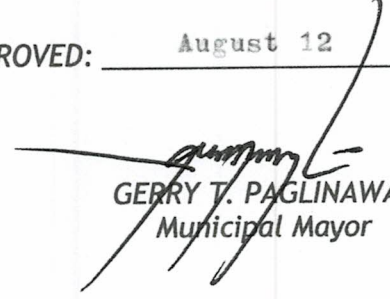
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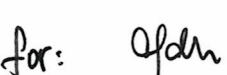
ATTESTED AND CERTIFIED  
TO BE DULY ADOPTED

  
EDGARDO G. JAMERO  
Presiding Officer / Municipal Vice Mayor

APPROVED: August 12, 2024

  
GERRY T. PAGLINAWAN  
Municipal Mayor

I hereby certify that the foregoing Ordinance is true and correct.

for:   
JESSYL B. PALON  
Secretary to the Sanggunian