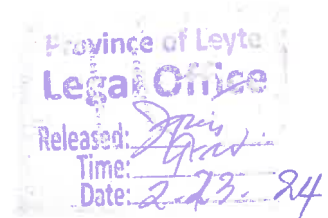


Item No.: 09
Date: 06 2024 MAR

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Republic of the Philippines
PROVINCE OF LEYTE
Palo, Leyte

PROVINCIAL LEGAL OFFICE

2nd INDORSEMENT
February 21, 2024



Respectfully returned to the Sangguniang Panlalawigan of Leyte, through the SP Secretary, the attached Ordinance No. 2023-06 of the Sangguniang Bayan of Hindang, Leyte, recommending for the declaration of its validity, pursuant to its power under Section 56 (C) of R.A. 7160, to the opinion of the Provincial Legal Office (PLO), for it is within the powers of the Local Council to repeal/amend its prior acts either expressly or by the passage of an essentially inconsistent resolution (Constantino vs Desierto, 288 SCRA 654), in compliance with R.A. 11188¹

Furthermore, the opinions rendered herein are without prejudice to opinions rendered by higher authorities.

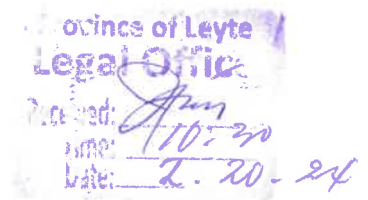

ATTY. JOSE RAYMUND A. ACOL
Asst. Provincial Legal Officer ↗

¹ "An Act Providing for the Special Protection of Children in Situations of Armed Conflict"


Republic of the Philippines
PROVINCE OF LEYTE
Palo, Leyte

OFFICE OF THE SANGGUNIANG PANLALAWIGAN

1ST INDORSEMENT
19 February 2024



The Provincial Legal Office is respectfully requested to review and submit recommendations on the herein enclosed **ORDINANCE NO. 2023-06** of the **MUNICIPALITY** of **HINDANG, LEYTE**, entitled: **AN ORDINANCE PROVIDING AMENDMENTS OF ORDINANCE NO. 04 SERIES OF C.Y. 2014 "HINDANG CODE FOR CHILDREN", EXPANDING SOME OF ITS EXISTING ARTICLES AND PROVISIONS, ADHERENCE TO THE NEW ISSUANCES PERTAINING TO EXISTING LAWS AND FOR OTHER PURPOSES.**


FLORINDA JIL SUYVICO
Secretary to the Sanggunian



Republic of the Philippines
Province of Leyte
MUNICIPALITY OF HINDANG

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OFFICE OF THE SANGGUNIANG BAYAN



12 February 2024

HON. LEONARDO M. JAVIER, JR.
Vice Governor/Presiding Officer
Sangguniang Panlalawigan
Province of Leyte

THRU: FLORINDA JILL S. UYVICO
Sangguniang Panlalawigan Secretary
Province of Leyte

Sir:

I am submitting herewith to your office Sixteen (16) sets of ORDINANCE No. 2023-06 of the Sangguniang Bayan, Hindang, Leyte, RE: *"An Ordinance providing amendments of Ordinance No. 04 series of CY 2014 "Hindang Code for Children", expanding some of its existing articles and provisions, adherence to the new issuances pertaining to existing laws and for other purposes"*, for review and approval of this Body.

Hoping for consideration on this matter.

Thank you.

Very truly yours,

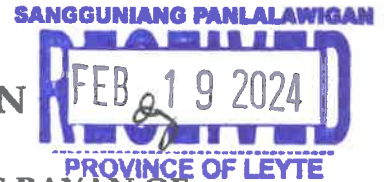

ANNABEL A. MABALE
Secretary to the Sanggunian



Republic of the Philippines
Province of Leyte
MUNICIPALITY OF HINDANG

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OFFICE OF THE SANGGUNIANG BAYAN



EXCERPT FROM THE MINUTES OF THE SANGGUNIANG BAYAN OF
HINDANG, LEYTE, IN ITS REGULAR SESSION HELD ON DECEMBER 21, 2023
AT THE SB SESSION HALL

ORDINANCE NO. 2023-06

Authored by Hon. Serafin A. Cavero

AN ORDINANCE PROVIDING AMENDMENTS OF ORDINANCE NO. 04 SERIES OF C.Y. 2014 "HINDANG CODE FOR CHILDREN", EXPANDING SOME OF ITS EXISTING ARTICLES AND PROVISIONS, ADHERENCE TO THE NEW ISSUANCES PERTAINING TO EXISTING LAWS AND FOR OTHER PURPOSES."

BE IT ORDAINED by the Sangguniang Bayan of Hindang, Leyte in its regular session assembled this date:

SECTION 1. SHORT TITLE. This ordinance shall be known as the "Amended HINDANG CODE FOR CHILDREN".

SECTION 2. AMENDMENTS and INSERTIONS:

Amendment to Section 33 (Ordinance No. 04, Series of 2014) "Hindang Code of Children of the Municipality of Hindang, Leyte and for other purposes".

Original Version:

Section 33. Children in Situation of Armed Conflict. Children in situations of armed conflict shall be considered victims and shall be afforded full protection in accordance with the provision of RA 7610 or the Anti Child Abuse Act and RA 11188.

Amended version: Children in situation of armed conflict

Children in Situation of Armed Conflict shall be protected from all forms of abuse, violence, neglect, cruelty, discrimination and other conditions prejudicial to their development, taking into consideration their gender, cultural, ethnic and religious background. The children in situation of armed conflict are considered victims and they shall be afforded full protection in accordance with RA 7610 or the "Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act" and RA 11188 otherwise known as the "Special Protection of Children in Situations of Armed Conflict Act of 2019".

Additional Section

Definition of terms:

(a) Abduction of children-refers to the seizure, apprehension, taking into custody, detention or capture of one or more children either temporarily or permanent by force, threat of force or coercion, or deception for the purpose of any form of exploitation of such children in situations of armed conflict.

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(ORDINANCE NO. 2023-06 of the Municipality of Hindang, Leyte, entitled: "The amended HINDANG CODE FOR CHILDREN...continued")

(b) Act of gender based violence - refer to the physical or sexual violence other than rape and psychosocial harm that is committed against a person as a result of power inequities that are based on gender roles. These includes battering, sexual slavery and abuse of children, female genital mutilation, prostitution, forced marriage, forced pregnancy or forced sterilization.

(c) Armed conflict - refers to the confrontation occurring between government forces and one or more armed groups, or between such groups arising in the Philippine territory. These shall include activities which may lead to or are undertaken in preparation of armed confrontation or armed violence that put the children's lives at risk and their rights violated.

(d) Armed group refers to an armed non State actor or non-State entity engaged in armed violence against the State or its government forces or against other non-State armed groups, actors or non-State entities.

(e) Attacks on schools, hospitals, places of worship, child development or day care centers, evacuation centers and other public places such as recreation parks, playgrounds and malls refer to the occupation, shelling or targeting for propaganda of schools, hospitals or places of worship; causing damage to such places, or harm or injury to their personnel; or causing the total or partial physical destruction of such facilities; or disruption of educational activities and health services. These also refer to attacks of such places which have been temporarily abandoned by the community as a result of armed conflict;

(f) Camps refer to structures or spaces occupied by government forces and armed groups.

(g) Child refers to (1) A person below eighteen (18) years of age; or (2) A person eighteen (18) years of age or older but who is unable to fully take care of one's self; or protect one's self from abuse, neglect, cruelty, exploitation or discrimination; and unable to act with discernment because of physical or mental disability or condition.

(h) Child protection refers to measures, structures and activities that ensure the prevention and response to abuse, neglect, exploitation and violence affecting children. It shall include the promotion of their development and psychosocial well-being.

(i) Children affected by armed conflict refer to all children population experiencing or who have experienced armed conflict.

(j) Children involved in armed conflict (CIAC) refer to children who are either forcibly, compulsorily recruited, or who voluntarily joined a government force or any armed group in any capacity. They may participate directly in armed hostilities as combatants or fighters; or indirectly through support roles such as scouts, spies, saboteurs, decoys, checkpoint assistants, couriers, messengers, porters, cooks or as sexual objects.

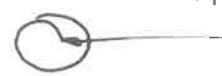
(k) Children in situations of armed conflict refer to all children involved in armed conflict, children affected by armed conflict and internally displaced children.

(l) Extrajudicial killings refer to all acts and omissions of State actors that constitute violation of the general recognition of the right to life embodied in the Universal Declaration of Human Rights, the United Nations Covenant on Civil and Political Rights, the UNCRC and similar other human rights treaties to which the Philippines is a State party.

(m) False branding of children or labeling children as children involved in armed conflict refers to the voluntary and intentional act of referring to calling, defining, reporting or any other form of communication that incorrectly defines children as children involved in armed conflict, when the status or condition of such children are such that they are not involved in armed conflict.

(n) False reporting of a child in custody refers to the voluntary and intentional act of any person of providing false, incorrect or mistaken information in relation to a child in custody in relation to situations of armed conflict.

(o) Food blockade refers to an armed conflict tactic of forcibly cutting off of food entry of food supplies in a particular area where children can be found.



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(ORDINANCE NO. 2023-06 of the Municipality of Hindang, Leyte, entitled: "The amended HINDANG CODE FOR CHILDREN....continued")

(p) Government forces refer to the Armed Forces of the Philippines (AFP), Philippine National Police (PNP) paramilitary and other law enforcement agencies.

(q) Grave child rights violations refer to the crimes committed against children that constitute flagrant violations of their human rights and have severe consequences on their lives. These crimes includes killing or maiming children, recruitment , rape and other forms of sexual violence against children, abduction of children, attacks against schools or hospitals, or denial of humanitarian access to children.

(r) Hamleting refers to an armed conflict strategy used by one party involved in armed conflict that isolates a community of importance to the other party which is inhabited by children, including relocating a community away from crucial zones and could be used to control the activities of the people in said areas.

(s) Hospitals or health facilities refer to any structure including diagnostic clinics or multispecialty clinics recognized and known by the community as a facility where the sick and wounded are provided with medical or health care services.

(t) Humanitarian access refers to the right of vulnerable populations to receive international protection and assistance from an impartial humanitarian relief operation to complement efforts of national authorities. Such action is subject to the consent of the State or parties concerned and does not prescribe coercive measures in the event of refusal, however unwarranted.

(u) Humanitarian assistance refers to any aid that seeks to save lives and alleviate suffering of a crisis-affected population. Humanitarian assistance must be provided in accordance with the basic humanitarian principles of humanity, impartiality, independence and neutrality. Assistance may be divided into three (3) categories: direct assistance, indirect assistance, and infrastructure support, which have diminishing degrees of contact with the affected population;

(v) Internally displaced children refer to children or group of children, whether separated or together with their families, who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular, as a result of or in order to avoid the effect of armed conflict and situations of generalized violence;

(w) Killing of children refers to acts of all kinds in the context of armed conflict that result in the death of one or more children. They include the death of children as a result of direct targeting and indirect actions, such as cross fire, use of landmines and improvised explosive devices (IED), cluster munitions, biological weapons of destruction, all other forms and types of explosives; or house demolitions, search and arrest campaigns, suicide attacks and torture; they also include murder, homicide and such other similar crimes as defined in the Revised Penal Code, as amended, and other special laws;

(x) Maiming of children refers to acts of all kinds in the context of armed conflict that result in serious or permanent or disabling injury, scarring or defacing, or mutilation of children. It shall cover intentional maiming of children where they are directly targeted, and causal maiming of children which result from indirect actions, such as cross fire, use of landmines, IED, cluster munitions, biological weapons of destruction, all forms and types of explosives, or in the context of house demolitions, search and arrest campaigns, suicide attacks and torture;

(y) Parents refer to any of the following: (1) Biological parents of the child; (2) Adoptive parents of the child; (3) Individuals who have custody of the child; or (4) A duly licensed foster parent, pursuant to Republic Act No. 10165, otherwise known as the Foster Care Act of 2012";

(z) Rape refers to a sexual assault that violates a person's right to personal security and bodily integrity with the essential lack of consent and shall include those enumerated in Section 2 of Republic Act No. 8353, otherwise known as "The Anti-Rape Law of 199T ,

(aa) Recruitment refers to compulsory, forced or voluntary conscription or enlistment of children into the governmental armed force or forced or voluntary membership into the armed group;



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(bb) Release of children refers to the process of formal and controlled disarmament and demobilization of children and their release from a government force or armed group as well as informal ways in which children leave by escaping, being captured or by other means. It entails a disassociation from the government force or armed group and the beginning of transition from military to civilian life. Release can take place during a situation of armed conflict; it is not dependent on the temporary or permanent cessation of hostilities; and it is not dependent on children having weapons to forfeit;

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(cc) School refers to any structure or space, with or without marked visible boundaries, which is either recognized by the government or known by the community as a learning space for children; and

(dd) Zone of Peace refers to a site with sacred, religious, historic, educational, cultural, geographical or environmental importance, which is protected and preserved by its own community. It is not merely a "Demilitarized Zone", but a sanctuary that operates within ethical principles of nonviolence, free from weapons, acts of violence, injustice and environmental degradation. The recognition of the Zone of Peace expresses commitments on the part of its community, governmental authority and, if appropriate, religious leadership to preserve the peaceful integrity of the designated site. Its custodians, members, participants and visitors exemplify mutual respect and nonviolent behavior while on the site, and share their resources for furthering peace and cooperation.

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Children as zones of peace.

Children are hereby declared as Zones of Peace. As such, they shall be treated in accordance with the policies stipulated under Article X, Section 22 of Republic Act No. 7610, otherwise known as the "Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act". Treatment of children as Zones of Peace shall extend beyond territorial or geographical boundaries and shall focus on the person of the child whose rights shall be promoted and protected at all times, especially in situations of armed conflict or violence. The State and all sectors concerned shall have the responsibility to resolve armed conflict in order to promote the goal of children as Zones of Peace. As such, the community, governmental authority and, if appropriate, religious leadership shall preserve the peaceful integrity of children, exemplify mutual respect and nonviolent behavior in the presence of children, and share their resources to further peace and cooperation

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Rights of Children in situations of armed conflict

Children in situations of armed conflict shall have the following rights:

- a) The right to life, survival and development;
- (b) The right of special respect and protection against any form of abuse, neglect, exploitation and violation, especially in the context of armed conflict;
- (c) The right to be treated as victims. They shall be treated in accordance with this Act and other applicable laws, consistent with the State obligations under international law, within the framework of restorative justice, social rehabilitation and promotion of their protection;
- (d) The right to be accorded with special respect and to be protected from any form of direct or indiscriminate attacks and acts of violence, especially protection from the grave child rights violations;
- (e) The right to be protected from recruitment into government forces or armed groups and from participation in armed conflict including the right to be protected from torture or any cruel, inhuman or degrading practices that compel compliance or punish non-compliance with recruitment or participation in armed conflict; torture.

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(f) The right to be protected from maiming, tort abduction, rape and killing, especially extrajudicial killing;

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(g) The right to be immediately provided and have safe access to essential, adequate and culturally appropriate food and nutrition; basic shelter and housing; culturally appropriate clothing; water, sanitation and hygiene; basic health services including essential drugs, medicines and vaccines, minimum initial service package for reproductive health, and health professional evaluation and appropriate intervention; education, including religious and moral education; early childhood care and development programs, psychosocial support and social services. All services provided for them must be child-specific, gender sensitive and responsive;



(h) The right to enjoy their freedom of thought, conscience, religion or belief, opinion and expression; to associate freely and participate equally in legitimate community affairs; to communicate in a language they understand even in situations of armed conflict and whether or not they have been internally displaced or are having in evacuation centers or settlements;

(i) The right to be treated humanely in all circumstances, without any adverse distinction founded on race, color, religion or faith. Sexual Orientation, Gender Identity and Expression (SOGIE), birth, wealth or any other similar criteria;



(j) The right not to be interned or confined in camp;



(k) The right of the injured, the wounded and the sick, those with disabilities, those who are separated and unaccompanied, expectant and lactating mothers, to care, protection and assistance required by their condition and treatment which takes into account their special needs such as their health needs, reproductive health care, appropriate counselling, prevention of infectious diseases and Mental Health Psychosocial Support Services;



(l) The right to be with their families, especially with their mothers, during evacuations and in evacuation centers;

Death

(m) The right to be reunited with their families in case of separation due to armed conflict;

(n) The right to privacy and confidentiality in all proceedings;

(o) The right to nondiscrimination;

(p) The right to liberty of movement and freedom to choose their residence; in particular, internally displaced children and their families have the right to move freely in and out of evacuation centers or other settlements, subject to existing rules and regulations in those centers or settlements and to other government regulations and directives;

(q) The right especially of internally displaced children and their families to: leave the country; seek safety in another part of the country; seek other service providers; seek asylum in another country; and be protected against forcible return to resettlement in any place where their safe, safety, liberty or health would be at risk;

(r) The right to obtain necessary documents to enjoy their legal rights. The State shall have the duty to expedite services in the issuance of new documents or the replacement of documents lost in the course of displacement, without imposing unreasonable conditions and without discrimination against female child and male child, who shall have equal rights to obtain and to be issued the same in their own names;



(s) The right of access to justice including free legal aid when filing cases against the perpetrators;

(t) The right to the protection of their family's properties and possessions in all circumstances; and

(u) The right to be consulted and to participate in all matters affecting them.



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Prevention, response and rehabilitation

The Local Government Unit thru the Municipal Council for the Protection of Children (MCPC), shall:

(a) Take all feasible measures to prevent the recruitment, re-recruitment, use, displacement of, or grave child rights violations against children involved in armed conflict.

(b) Prioritize children's issues in the peace program of the government and include children's concerns, specifically the effects of armed conflicts, in peace negotiations.

(c) Surrendered and turned over children shall be given provided free basic services, free legal services and optimum protection to ensure safety of his/her life.

(d) Encourage children in situation of armed conflict pursue their education either thru formal or alternative system.

(e) Provide educational assistance whether formal or thru alternative learning system.

(f) Children in Situation of Armed Conflict should be given top priority in availing training and livelihood programs.

(g) Provide capacity building on Local Governance and Community Development, and ensure their participation in the Local Councils for the Protection of Children, various organizations, especially of children's and people's organizations at the community level.

(h) Provide basic health services in health facilities in all affected areas. Culturally-sensitive nutrition programs and activities including supplementary feeding shall also be made available.

(i) Establish basic facilities and infrastructure needed;

(j) Ensure that child protection mechanisms are present and functional.

(k) Establish a comprehensive, effective and efficient system for monitoring and reporting and response for violations as provided in Section 9 of RA 11188

Prohibited acts

(a) It shall be unlawful for any person to commit the following acts of grave child rights violations:

(1) Killing of children;

(2) Torture committed against children. For purposes of this Act, torture shall include those enumerated in Section 4 of Republic Act No. 9745, otherwise known as the "Anti-Torture Act of 2009";

(3) Intentional maiming of children; and 15 (4) Rape of children and other forms of sexual violence.

(b) The following acts of grave child rights violations are also hereby prohibited;

(1) Cruel, inhuman and degrading treatment or punishment committed against children. For purposes of this Act, cruel, inhuman and degrading treatment or punishment shall include those acts enumerated in Section 5 of the "Anti-Torture Act of 2009"; shield;

(2) Abduction of children;

(3) Causal maiming of children;

(4) Taking children as hostages or using them as human

(5) Recruitment, conscription or enlistment of children into government forces and other armed groups;



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- (6) Acts of gender-based violence against children;
- (7) Refusal or denial of humanitarian access or assistance to children;
- (8) Use or involvement of children involved in armed conflict in any capacity as defined in Section 5(i) of this Act; and
- (9) Attack on schools, hospitals, places of worship, evacuation centers and settlements and other public places such as recreation parks, playgrounds and malls.

(d) Likewise, it shall be unlawful for any person to commit the following acts:

- (1) Hamleting;
- (2) Food blockade;
- (3) Intentional delayed reporting of a child in custody;
- (4) False reporting of a child in custody;
- (5) False branding of children or labeling children as children involved in armed conflict; and
- (6) Arrest, arbitrary detention or unlawful prosecution of children allegedly associated with armed groups or government forces.

(e) Parental accountability of children in situations of armed conflict are subject to the existing provisions of Presidential Decree No. 603, otherwise known as "The Child and Youth Welfare Code"; Republic Act No. 7610; Republic Act No. 9208, otherwise known as the "Anti-Trafficking in Persons Act of 2003"; Republic Act No. 9231 on the Elimination of Worst forms of Child Labor; Republic Act No. 9851, otherwise known as the "Philippine Act on Crimes Against International Humanitarian Law, Genocide, and Other Crimes Against Humanity"; and Republic Act No. 10364, otherwise known as the "Expanded Anti-Trafficking in Persons Act of 2012": Provided, That the involvement of the child was due to parental action or inaction; or the parent directed or ratified the involvement of the child; or the child acted as the parent's agent or servant; or the child was entrusted a dangerous weapon or instrument

Penalties

Any persons, group of persons violating the rights of the child in situation of armed conflict and committed crimes as stipulated under the prohibited acts of this ordinance shall be penalized under the provisions of RA 7610 and RA 11188 and other relevant laws pertaining to children.

Budgetary appropriations

Appropriations of Programs for Children in Situation of Armed Conflict. All funds needed for the prevention, response and rehabilitation of children in situations of armed conflict shall be charged to the 1% of the National Tax Allocation (NTA) for the strengthening and implementation of the programs, projects and activities of the Municipal Council for the Protection of Children (MCPC).

SECTION 3. REPEALING CLAUSE. All ordinances, resolution, circular, memoranda or rules and regulations inconsistent with the provisions of this code are hereby repealed and modified accordingly.

SECTION 4. SUPPLEMENTARY CLAUSE. In matters not provided in this code, existing applicable laws and their corresponding implementing rules and regulations, executive fiats and relevant issuances therefore, shall apply in supplemental manner.



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(ORDINANCE NO. 2023-06 of the Municipality of Hindang, Leyte, entitled: "The amended HINDANG CODE FOR CHILDREN...continued")

SECTION 5. EFFECTIVELY CLAUSE. This ordinance shall take effect after three (3) consecutive weeks of publication by way of posting copies at the bulletin board of the Municipal Building and in at least in two (2) in conspicuous places within the Municipality of Hindang, Leyte.

ENACTED this 21st day of December, 2023 by this Sanggunian in its regular session held for the purpose at the SB Session Hall, this Municipality, with the following votes:

Yes (7)

No (0)

Abstain (0)



LEONIDA A. CAVITE
SB Member



ROMULO D. BASAÑEZ
SB Member



BENEDICTO L. YANOLA
SB Member



SERAFIN A. CAVERO
SB Member



SORIANO E. DELALAMON
SB Member

(On leave)
SALVADOR E. BAÑEZ, JR.
SB Member



SEVERINO C. ABERCA
Ex Officio Member LNB President




ADRIAN PAUL G. ASTORGA
Ex- Officio Member-SK Fed President

(ORDINANCE NO. 2023-06 of the Municipality of Hindang, Leyte, entitled: "The amended HINDANG CODE FOR CHILDREN...continued")

CERTIFIED CORRECT:


ANNABEL A. MABALE
Secretary to the Sanggunian

ATTESTED TO BE DULY ADOPTED:


JOSE NAPOLEON D. MONTERO
SB Member-Presiding Officer
Acting Municipal Vice Mayor

APPROVED:


MIKHAEL ANNE GELO D. ABOYME
SB Member
Acting Municipal Mayor



Republic of the Philippines
Province of Leyte
MUNICIPALITY OF HINDANG
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OFFICE OF THE SANGGUNIANG BAYAN

CERTIFICATION

TO WHOM IT MAY CONCERN:

THIS IS TO CERTIFY *that* ORDINANCE NO. 2023-06 of the Sangguniang Bayan, Hindang, Leyte, *"An ordinance providing amendments of Ordinance No. 04 series of CY 2014 "Hindang Code for Children", expanding some of its existing articles and provisions, adherence to the new issuances pertaining to existing laws and for other purposes"*, had been correspondingly posted in three (3) conspicuous places of the municipality as prescribed under the Local Government Code of 1991 otherwise known as Republic Act 7160.

GIVEN this 2nd day of February, 2024 at Hindang, Leyte, Philippines.


ANNABEL A. MABALE
Secretary to the Sanggunian