



Republic of the Philippines
PROVINCE OF LEYTE
Provincial Capitol
Tacloban City

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Province of Leyte
Provincial Office
Received:
Time: 9:00
Date: 9-10-24

SANGGUNIANG PANLALAWIGAN
RECEIVED
SEP 17 2024
PROVINCE OF LEYTE

PROVINCIAL LEGAL OFFICE

2nd INDORSEMENT
September 9, 2024

Respectfully returned to the Sangguniang Panlalawigan of Leyte, through SP Secretary, the attached Ordinance No. 24-012 of the Sangguniang Bayan of Mahaplag, Leyte.

Issues/concerns for review/recommendation/legal opinion is/are as follows:

- Ordinance No. 24-012 entitled: **“An Ordinance Establishing Guidelines for the Use, Operation, and Maintenance of the Municipal Cemetery, Including the Collection of Burial Permit Fee and Rental Fee, and Imposing Penalties for Violations Thereof.**

REVIEW/RECOMMENDATION/LEGAL OPINION:

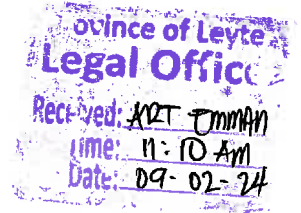
This office is of the opinion that the Subject Ordinance is in accordance to its power under Section 129¹, and Section 447 (1)(iii)² and Section 447(3)(i)³ of the Local Government Code of 1991 (R.A 7160). Hence, recommending for the declaration of its validity.

We hope to have assisted you with this request. Please note that the opinion rendered by this Office are based on facts available and may vary or change when additional facts and documents are presented or changed. This opinion is likewise without prejudice to the opinions rendered by higher and competent authorities and/or the courts.

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

¹ Section 129 Every local government unit shall exercise its power to create its own sources of revenues and to levy taxes, fees and charges subject to the provision herein, consistent with the basic policy of local autonomy. Such taxes, fees, and charges shall accrue exclusively to the local government units.
² Section 447(1)(iii) Approve ordinances imposing fine not exceeding Two Thousand Five Hundred Pesos (P2,500.00) xxx
³ Section 447(3)(i) Fix and impose reasonable fees and charges for all services rendered by the municipal government to private persons or entities xxx

OFFICE OF THE SANGGUNIANG PANLALAWIGAN



1ST ENDORSEMENT
30 August 2024

Respectfully endorsed to the **PROVINCIAL LEGAL OFFICE** the herein **ORDINANCE NO. 24-012** of the **MUNICIPALITY OF MAHAPLAG, LEYTE,** **"AN ORDINANCE ESTABLISHING THE GUIDELINES FOR THE USE, OPERATION, AND MAINTENANCE OF THE MUNICIPAL CEMETARY, INCLUDING THE COLLECTION OF BURIL PERMIT FEE AND RENTAL FEE, AND IMPOSING PENALTIES FOR VIOLATIONS THEREOF"**, for review and recommendations.


FLORINDA JILI S. UYVICO
Secretary to the Sanggunian

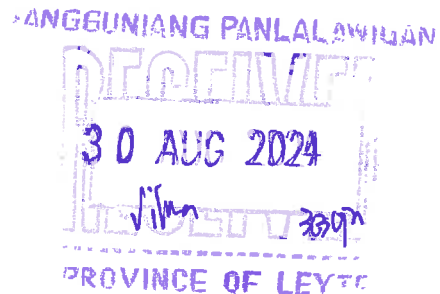


Republic of the Philippines
PROVINCE OF LEYTE
Municipality of Mahaplag
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Office of the Sangguniang Bayan

TRANSMITTAL

FLORINDA JILL S. UYVICO
Provincial Government Department Head
Secretary to the Sangguniang Panlalawigan
Office of the Sangguniang Panlalawigan
Province of Leyte
Tacloban City



Attention: Records Office

Madam:

Transmitting to your good office these duly approved **Municipal Ordinance No. 24-011** and **Municipal Ordinance No. 24-012** of the Municipality of Mahaplag, Leyte for review by the Sangguniang Panlalawigan of the Province of Leyte, as follows:

- 1. MUNICIPAL ORDINANCE NO. 24-011: AN ORDINANCE ESTABLISHING THE RENTAL FEES, OCCUPANCY BOND, AND THE RULES AND REGULATIONS IN THE MANAGEMENT AND OPERATION OF THE NEWLY CONSTRUCTED TWO-STOREY PUBLIC MARKET BUILDING (DRY GOODS SECTION).**
- 2. MUNICIPAL ORDINANCE NO. 24-012: AN ORDINANCE ESTABLISHING THE GUIDELINES FOR THE USE, OPERATION, AND MAINTENANCE OF THE MUNICIPAL CEMETERY, INCLUDING THE COLLECTION OF BURIAL PERMIT FEE AND RENTAL FEE, AND IMPOSING PENALTIES FOR VIOLATIONS THEREOF.**

Thank you and more power.

Respectfully yours,


ATTY. JASON E. ALONZO
Board Secretary V



Republic of the Philippines
PROVINCE OF LEYTE
Municipality of Mahaplag
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SANGGUNIANG BAYAN

OFFICE OF THE SANGGUNIANG BAYAN

EXCERPT FROM THE MINUTES OF THE REGULAR SESSION OF THE 11TH SANGGUNIANG BAYAN OF MAHAPLAG, LEYTE HELD ON AUGUST 19, 2024 AT THE SESSION HALL OF THE MUNICIPAL HALL, BRGY. POBLACION, MAHAPLAG, LEYTE.

PRESENT:

- | | | |
|--------------------------|---|--|
| HON. MYRA P. SOLIS | - | Municipal Vice Mayor/Presiding Officer |
| HON. ARLENE O. GIGANTO | - | Sangguniang Bayan Member |
| HON. AIDA L. DIZON | - | Sangguniang Bayan Member |
| HON. CARMELITO C. ALONZO | - | Sangguniang Bayan Member |
| HON. JEFFREY M. RELEVO | - | Sangguniang Bayan Member |
| HON. REYNALDO M. KANEN | - | Sangguniang Bayan Member |
| HON. GLENN H. BARTOLINI | - | Sangguniang Bayan Member |
| HON. HARLIN O. GONZAGA | - | Sangguniang Bayan Member |
| HON. OSCAR S. REALES | - | Sangguniang Bayan Member |
| HON. EDGARDO R. CAMASIN | - | Ex officio Sangguniang Bayan Member
President, Liga Ng Mga Barangay |

ABSENT:

- | | | |
|--------------------------|---|---|
| HON. REINA ROSE A. DEDAL | - | Ex officio Sangguniang Bayan Member
President, Sangguniang Kabataan Federation |
|--------------------------|---|---|

MUNICIPAL ORDINANCE NO. 24-012

AN ORDINANCE ESTABLISHING THE GUIDELINES FOR THE USE, OPERATION, AND MAINTENANCE OF THE MUNICIPAL CEMETERY, INCLUDING THE COLLECTION OF BURIAL PERMIT FEE AND RENTAL FEE, AND IMPOSING PENALTIES FOR VIOLATIONS THEREOF.

WHEREAS, this is pursuant to the pertinent provisions of Republic Act No. 7160 otherwise known as the Local Government Code of 1991, primarily Section 129 thereof which provides that each Local Government Unit shall exercise its power to create its own sources of revenue and to levy taxes, fees, and charges subject to the provisions of the said Code, which shall accrue exclusively to the Local Government Unit, consistent with the basic policy of local autonomy;

WHEREAS, this is also pursuant to general welfare provision under Section 16 and the proper exercise of the corporate powers of the municipality under Section 22 of Republic Act No. 7160 otherwise known as the Local Government Code of 1991, in relation to the legislative power under Section 447 (a)(3)(i)(iii) of the said Code which provides:

Subject to the provisions of Book II of this Code, grant franchises, enact ordinances authorizing the issuance of permits or licenses, or enact ordinances levying taxes, fees and charges upon such conditions and for such purposes intended to promote the general welfare of the inhabitants of the municipality, and pursuant to this legislative authority shall:

(Handwritten signatures and initials)

- (i) Fix and impose reasonable fees and charges for all services rendered by the municipal government to private persons or entities;
- (iii) Prescribe the terms and conditions under which public utilities owned by the municipality shall be operated by the municipal government or leased to private persons or entities, x x x;"

WHEREAS, the municipal government deems it necessary to provide and operate a public cemetery to address the clamor of constituents, most especially the less fortunate, for a decent and affordable final resting place for their dearly departed;

WHEREAS, the Municipal Local Government Unit of Mahaplag have recently acquired a lot with an area of Seven Hundred Thirty-Four (734) Square Meters, more or less, and have developed it as a public cemetery with ready apartment niches;

NOW THEREFORE, BE IT ENACTED, as it is hereby enacted by the Sangguniang Bayan of Mahaplag, Leyte, in session assembled:

Section 1. Title. This Ordinance shall be known as "An Ordinance Establishing the Guidelines for the Use, Operation, and Maintenance of the Municipal Cemetery, Including the Collection of Fees and Charges, and Imposing Penalties for Violations Thereof".

Section 2. Scope. This ordinance shall govern the use, operation, maintenance of the new municipal cemetery located in Sitio Vecinal, Brgy. Upper, Mahaplag, Leyte containing a lot area of Seven Hundred Thirty-Four (734) Square Meters, more or less, subject to possible expansion of its area in the future.

Section 3. Purpose. This Ordinance is enacted for the following purposes:

1. To guide, control, and regulate the development and use of the new municipal cemetery in order to provide an adequate, decent, and affordable burial facilities in the Municipality of Mahaplag;
2. To promote an orderly system of burial and exhumation without sacrificing the sacredness of the place and the sacredness of the human remains; and
3. To institute a system of collecting fees and charges.

Section 4. Definition of Terms. As used in this Ordinance, the following terms shall be interpreted as follows:

- a) **Apartment Niche** – the concrete niche intended to accommodate a cadaver inside a coffin above ground interment, consisting of several levels/decks.
- b) **Bone Niche** – the small concrete niche to accommodate skeletal and cremated remains.
- c) **Burial Permit** – a permit issued by the office of the Municipal Mayor after a Death Certificate has been issued by the Office of the Municipal Civil Registrar.
- d) **Cemetery Supervisor** – the person assigned in the management of the municipal cemetery.
- e) **Cemetery** – a parcel of land for burial of the dead and other uses intended for cemetery purposes, to include landscape grounds, driveways, walkways, chapel, crematorium, parking areas, public toilets and other amenities.
- f) **Common Bone Depository** – a place which shall serve as a common depository for unclaimed or exhumed skeletal remains.
- g) **Death Certificate** – a document issued by the attending physician or in his absence by the Municipal Health Officer or other duly authorized government officer using the prescribed form certifying the death of a person.
- h) **Excavation** – the digging out, or being dug out, or hole made from excavating.
- i) **Exhumation** – the act of removing a dead body from the ground or place of interment after it has been buried.
- j) **Immediate Family** – one's parents, siblings, spouse, and children.

Signature

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- k) **Interment** – the process by which the cadaver that is sealed in a coffin is sacredly put in a sealed niche with the consent of the family of the dead person.
- l) **Municipal Cemetery** – a public cemetery owned and operated by the Municipal Local Government Unit of Mahaplag located in Sitio Vecinal, Brgy. Upper, Mahaplag, Leyte containing a lot area of Seven Hundred Thirty-Four (734) Square Meters, more or less, subject to possible expansion of its area in the future.

Section 5. Cemetery Supervisor. Any personnel under the Municipal Treasurer's Office may be assigned/designated by the Municipal Mayor as the Cemetery Supervisor. He/she shall be the person in-charge in the management of the municipal cemetery. He/she shall have a journal or list of the deceased persons buried in the municipal cemetery, their respective designated location number, and the names, addresses, and contact numbers of the contracted persons/immediate families/relatives of the said deceased persons. He/she shall compile the original copies of the Contract of Lease for all leased apartment niches. He/she shall be responsible in sending notices to the contracted persons/immediate families/relatives of the deceased persons buried in the apartment niches to pay the rental fees, sent the notices of exhumation or disinterment, and for other purposes.

Section 6. Cemetery Caretaker. The Municipal Mayor may also hire a Cemetery Caretaker who shall take charge in maintaining the cleanliness and orderliness in the municipal cemetery. He/she shall have a journal or list of the persons buried in the municipal cemetery, their respective designated location number, and the names, addresses, and contact numbers of the contracted persons/immediate families/relatives. He/she shall be under the direct supervision of the Cemetery Supervisor, Municipal Health Office, and Municipal Engineering Office.

Section 7. Apartment Niche. The Municipal Local Government Unit of Mahaplag shall construct apartment niches consisting of several levels/decks, the design and specification of which must be as prescribed by the Municipal Engineering Office in coordination with the Municipal Health Office.

Section 8. Burial Procedure. The procedure in the lease of the apartment niches in the municipal cemetery shall be as follows:

1. Present the Death Certificate (of the deceased person to be buried) to the Municipal Treasurer's Office/Cemetery Supervisor;
2. Apply for a Burial Permit in the Mayor's Office and pay the Burial Permit Fee in the Municipal Treasurer's Office in the amount of Two Hundred Pesos (₱200.00);
3. Sign the Lease Contract for the Apartment Niche;
4. Pay the rental or lease of the apartment niche in the amount of Seven Thousand Pesos (₱7,000.00) covering for a period of seven (7) years lease;
5. After seven (7) years, pay One Thousand Pesos (₱1,000.00) per year for every succeeding year of lease of the occupied apartment niche;
6. In case of failure of the contracted person/immediate family/relatives of the buried deceased person to pay the One Thousand Pesos (₱1,000.00) per year for the succeeding years of lease, the Municipal Treasurer's Office/Cemetery Supervisor shall notify in writing at least once a year the contracted person/immediate family/relatives of the buried deceased person in order to demand payment of the rent of the occupied apartment niche;
7. After another three (3) years following the original seven (7) years lease contract without the contracted person/immediate family/relatives of the buried deceased person having paid the payable rent for the succeeding years, and after the Municipal Treasurer's Office/Cemetery Supervisor having sent demand letters/notices for at least three (3) times to the contracted person/immediate family/relatives of the buried deceased person in order to demand payment for the payable rent, a Notice of Exhumation or Disinterment of the skeletal remains of the buried deceased person shall be sent to the contracted person/immediate family/relatives of the said buried deceased person/s;
8. If after giving the above-mentioned notices/letters and the contracted person/immediate family/relatives of the buried deceased person still fails to pay the



payable rent for the occupied apartment niche, the Municipal Local Government Unit of Mahaplag shall have the right to conduct the exhumation or disinterment on the said apartment niche under the supervision of the Municipal Health Office;

9. The exhumated skeletal remains of the deceased person shall be carefully transferred to the constructed Common Bone Depository;
10. Thereafter, the vacated apartment niche can be leased to another person in accordance to the procedure under this Ordinance.

Section 9. Niche Order of Occupancy. The order of occupancy of the apartment niches shall be by sequence starting from Level 1 to Level 4 and from left to right. No reservation shall be allowed.

Section 10. Cover of the Leased Apartment Niche. The lessee shall be responsible in covering the leased apartment niche after interment and shall also shoulder the cost thereof.

Section 11. Lease Contract. The Municipal Mayor is hereby authorized to sign the lease contracts for the lease and occupancy of the apartment niches in the municipal cemetery for and in behalf of the Municipal Local Government Unit of Mahaplag as Lessor in accordance to the provisions of this Ordinance.

Section 12. Fiscal Management. All collection of fees and charges from the operation, management, and administration of the municipal cemetery must be paid directly to the Municipal Treasurer's Office and it shall accrue to the General Fund of the Municipal Local Government Unit of Mahaplag.

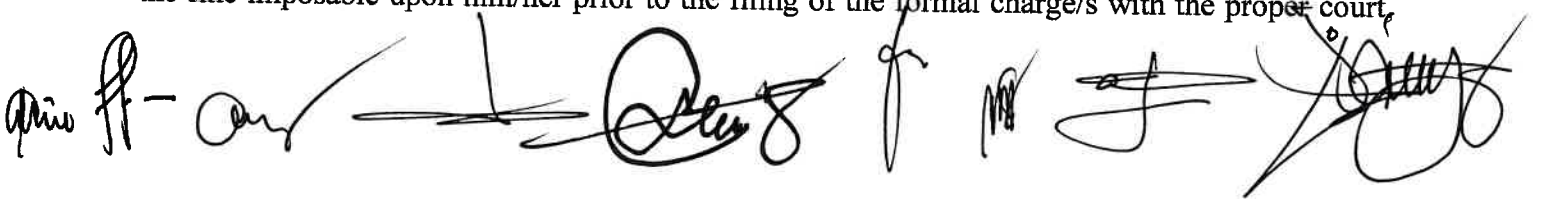
Section 13. Prohibited Acts. The following acts shall be prohibited within the municipal cemetery, as follows:

1. Vandalism, littering, urinating or defecating within the municipal cemetery or in its facilities.
2. Shepherding or pasturing of domestic animals inside the municipal cemetery.
3. The selling, conveyance, or transfer by the lessee to third parties/persons of the rights or interest to the apartment niche/s.
4. Desecrating the apartment niches by destroying its structure and/or tampering its identification markings or gravestone.
5. Allowing stray animals inside the municipal cemetery. The Cemetery Caretaker is authorized to catch such stray animals, impound them, and turn-over it to the barangay authorities.
6. Private person/s conducting exhumation and/or transfer of any cadaver or skeletal remains from its interment inside the municipal cemetery without first securing a Mayor's Permit and without coordinating with the Municipal Health Office, unless such exhumation is conducted upon the direction by and for and in behalf of the Municipal Local Government Unit of Mahaplag.

Section 14. Penalties. Any person who violates any of the prohibited acts or any of the other provisions of this Ordinance, upon conviction, shall suffer the following penalty:

1. First Offense – A fine of Five Hundred Pesos (₱500.00) or imprisonment for ten (10) days, or both at the discretion of the court
2. Second Offense – A fine of One Thousand Five Hundred Pesos (₱1,500.00) or imprisonment for twenty (20) days, or both at the discretion of the court.
3. Third and Succeeding Offenses – A fine of Two Thousand Five Hundred Pesos (₱2,500.00) or imprisonment for thirty (30) days, or both at the discretion of the court.

Section 15. No Contest Provision. Any person who is apprehended or cited for violation of this Ordinance and who does not wish to contest the violation and is willing to pay voluntarily the fine imposable upon him/her prior to the filing of the formal charge/s with the proper court,

The bottom of the page features several handwritten signatures and initials in black ink. On the left, there is a signature that appears to be 'Miguel'. In the center, there are several overlapping signatures, including one that looks like 'Dela Cruz'. On the right side, there is a vertical signature that reads 'Sumang'.

shall be allowed to pay the appropriate penalty of fine in the Municipal Treasurer's Office to avoid being criminally prosecuted within ten (10) days from apprehension. Otherwise, the case shall be prosecuted in court. In the event that the apprehension is held during a Saturday, Sunday, or holiday, the voluntary payment of fine shall be made on the next following working day. All proceeds from the payment of the herein penalty shall accrue to the General Fund of the Municipal Local Government Unit of Mahaplag.

Section 16. Separability Clause. If, for any reason, any item, section, or provision of this Ordinance is declared invalid or unconstitutional, the other items, sections, or provisions thereof which are not affected thereby shall continue to be in full force and effect.

Section 17. Repealing Clause. All ordinances, resolutions, or parts thereof, whose provisions are in conflict with or contrary to the provisions of this ordinance are hereby repealed, amended, or modified accordingly.

Section 18. Effectivity Clause. This Ordinance shall take effect after fifteen (15) days from the approval by the Municipal Mayor, its posting in at least three (3) conspicuous and publicly accessible places in the Municipality of Mahaplag for three (3) consecutive weeks, and its publication in the newspaper of general or local circulation, whichever occurs later.

ENACTED on this 19th day of August 2024 in Mahaplag, Leyte.

APPROVED BY THE SANGGUNIANG BAYAN MEMBERS:


HON. ARLENE O. GIGANTO
SB Member


HON. AIDA L. DIZON
SB Member

HON. CARMELITO C. ALONZO
SB Member

HON. JEFFREY M. RELEVO
SB Member


HON. GLENN H. BARTOLINI
SB Member


HON. REYNALDO M. KANEN
SB Member


HON. HARLIN O. GONZAGA
SB Member



HON. OSCAR S. REALES
SB Member

HON. EDGARDO R. CAMASIN
President, Liga Ng Mga Barangay


CERTIFIED TRUE AND CORRECT:


ATTY. JASON L. ALONZO
Board Secretary V

ATTESTED BY:


HON. MYRA P. SOLIS
Municipal Vice Mayor/ Presiding Officer

APPROVED BY:


HON. RONALDO T. LLEVE
Municipal Mayor
Date of Approval: AUG 19 2024