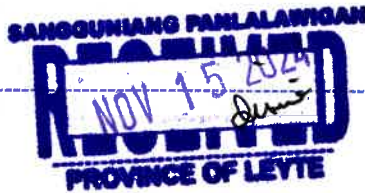




Republic of the Philippines  
**PROVINCE OF LEYTE**  
Provincial Capitol  
Tacloban City

Item No.: **20**  
Date: **19 2024 NOV**

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**PROVINCIAL LEGAL OFFICE**

**2<sup>nd</sup> INDORSEMENT**  
November 15, 2024

Respectfully returning to the Sangguniang Panlalawigan, thru the SP Secretary, the attached SP Resolution No. 2024-438 forwarded to this office for comment and recommendation.

Perusal of the pertinent documents submitted, the following are the observations, comments and recommendations of this Office.

First, the subject Proposed Provincial Ordinance No. 20230 series of 2023 seeks to regulate the use of the provincial roads within the territorial jurisdiction of the province of Leyte. This aims to prevent material damage to provincial roads, posing inconvenience and imminent danger and safety of motorist and pedestrians. Among its key provisions is the prohibition on provincial roads of vehicles exceeding 17,000 kilograms except for the following:

1. Vehicles and/or equipment of the Provincial Government of Leyte, and its component city and municipalities, if any;
  2. Vehicles and/or equipment of the national government doing construction projects, or other governmental activities along or near or within the vicinity of a provincial road, if any;
  3. Vehicles and/or equipment used for humanitarian, emergency, peace and order, disaster, and health operations and analogous activities, if any;
  4. Such other vehicles and/or equipment as may be exempted or authorized by the Provincial Governor or his duly authorized representative.
- Provided, however, and subject to the gross vehicle weight provided for under Section 1 hereof, the owners of private vehicles/equipment and/or vehicles/equipment used by private contractors doing government construction projects, or other governmental activities along or near or within the vicinity of a provincial road, if any, may be allowed to enter, traverse or exit the said provincial roads, upon posting of an appropriate bond in cash or surety to answer for whatever damage that may be caused to the provincial roads as a result of the use thereof, in an amount to be determined by the Provincial

Engineering Office, payable to the order of the Provincial Treasurer's Office, and issuance of permit to use by the Governor or his duly authorized representative.

- Section 4. Penalty. Any person who is found to have violated this Ordinance shall be meted with the civil penalty of Five Thousand (Php5,000.00) Philippine Pesos per meter traversed beginning from the point of entry to exit basis and without prejudice to the filing of a civil and/or criminal action appropriate under the circumstances for violation hereof.

Relative thereto, Hon. Carlos G. Veloso, municipal mayor of Villaba, Leyte, communicated its opposition in a letter submitted to the SP dated October 24, 2023, citing that the Proposed Provincial Ordinance is violative of several provisions of the 1987 Constitution, R.A. No. 7160, otherwise known as the Local Government Code of 1991, and of the Executive Order No. 41, series of 2023. Thus, this Office considers that the main issue pertains to the supposed validity or constitutionality of the subject Proposed Ordinance.

Initially, as to the authority of the Sangguniang Panlalawigan (SP), we refer to Section 468<sup>1</sup> of R.A. No. 7160 which provides that, the SP, as the legislative body of the province, is empowered to enact and approve ordinances and resolutions necessary for an efficient and effective provincial government, for the general welfare of the province and its inhabitants pursuant to Section 16 of the Local Government Code of 1991.

Perusal of the contents thereof, primarily with the use of provincial roads by the subject vehicles, this Office believes that the same is subject to regulation as an exercise of the police power of the state.

The Supreme Court in one case emphasized that police power is far-reaching in scope and is the "most essential, insistent and illimitable" of all government powers. The tendency is to extend rather than to restrict the use of police power. The sole standard in measuring its exercise is reasonableness. What is "reasonable" is not subject to exact definition or scientific formulation. No all-embracing test of reasonableness exists, for its determination rests upon human judgment applied to the facts and circumstances of each particular case.<sup>2</sup>

Moreover, per opposition regarding the excessive penalties in the proposed ordinance or alleged disguised fees or charges, this Office is of the opinion that the said penalty is not within the term "penalty" contemplated under Section 133 (e) of R.A. No. 7160.

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<sup>1</sup> Section 468. Powers, Duties, Functions and Compensation.

(a) The sangguniang panlalawigan, as the legislative body of the province, shall enact ordinances, approve resolutions and appropriate funds for the general welfare of the province and its inhabitants pursuant to Section 16 of this Code in the proper exercise of the corporate powers of the province as provided for under Section 22 of this Code, and shall:

(1) Approve ordinances and pass resolutions necessary for an efficient and effective provincial government xxx

<sup>2</sup> G.R. No. 158793, June 8, 2006;

The amount of Five Thousand (Php 5,000.00) Philippine Pesos per meter in the proposed ordinance refers to civil penalty for a violation of the said ordinance. A civil penalty is defined as a financial punishment for breaking a law or regulation, which serves to compensate the state for the harm done, rather than to punish the wrongdoer. Section 133 (e) of R.A. No. 7160, on the other hand, is provided for the purposes of preventing local governments from imposing taxes that are beyond their taxing powers. The unauthorized imposition of the enumerated fees can significantly increase transportation and logistics costs, which are often passed to consumers.

Assuming the proposed ordinance will be enacted and consequently becomes effective, it shall ripen into a justiciable controversy. A long line of decisions has held that for an ordinance to be valid, it must not only be within the corporate powers of the local government unit to enact and must be passed according to the procedure prescribed by law, it must also conform to the following substantive requirements: (1) *must not contravene the Constitution or any statute*; (2) *must not be unfair or oppressive*; (3) *must not be partial or discriminatory*; (4) *must not prohibit but may regulate trade*; (5) *must be general and consistent with public policy*; and (6) *must not be unreasonable*.

Anent the first criterion, ordinances shall only be valid when they are not contrary to the Constitution and to the laws. The *Ordinance* must satisfy two requirements: it must pass muster under the test of constitutionality and the test of consistency with the prevailing laws. That ordinances should be constitutional uphold the principle of the supremacy of the Constitution. The requirement that the enactment must not violate existing laws gives stress to the precept that local government units are able to legislate only by virtue of their derivative legislative power, a delegation of legislative power from the national legislature. The delegate cannot be superior to the principal or exercise powers higher than those of the latter.<sup>3</sup>

Ordinances, like laws, enjoy a presumption of validity. However, this presumption may be rendered naught by a clear demonstration that the ordinance is irreconcilable with a constitutional or legal provision, that it runs afoul of morality or settled public policy, that it prohibits trade, or that it is oppressive, discriminatory, or unreasonable. Thus, unless the invalidity or unreasonableness is ostensibly apparent, one seeking a judicial declaration of the invalidity of an ordinance is duty-bound to adduce evidence that is convincingly indicate of its infirmities or defects. Courts must exercise the highest degree of circumspection when called upon to strike down an ordinance; for, to invalidate legislation on baseless suppositions would be, to borrow the words of a former Chief Justice, “an affront to the wisdom not only of the legislature that passed it, but also of the executive that approved it.”<sup>4</sup>

Thus, for issues involving the validity and legality of an ordinance, in as much as an ordinance has undergone the procedural process for its enactment under

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<sup>3</sup> G.R. No. 200403, October 10, 2022;

<sup>4</sup> G.R. No. 224825, October 17, 2018;

the Local Government Code, the same shall be considered valid unless declared otherwise by competent courts of justices such as by way of special civil action for declaratory relief in accordance with Section 1 and Section 4 of Rule 63 of the Revised Rules of Court. In other words, once the ordinance has been duly enacted, approved, and effective, questions on its validity shall be made through proper avenues such as the filing of an appropriate case before competent courts.

In the meantime, having been presented a "proposed Ordinance", this Office believes that the subject ordinance has still to go through the procedural process for its enactment pursuant to the Local Government Code of 1991. Thus, it is safe to assume that the same is still subject to the approval and wisdom of the legislature and approval of the provincial governor.

Such being the case, this Office believes that, although the opposition to the proposed ordinance has been received by the legislative body, the same cannot be considered as an injunction contemplated by law, which has the effect of either legally commanding or preventing the SP in the discharge of its functions. It cannot likewise be considered as a valid action to question the validity of the proposed ordinance contemplated under the rules since the ordinance is yet to be enacted and any challenge against its validity shall be considered premature.

Finally, this Office believes that the opposition having been formally communicated to the honorable August body, the same can be considered by the latter as a guide in its deliberation and its consideration in passing the said proposed ordinance.

We hope to have assisted you with this request. Please note that the opinion rendered by this Office are based on the 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*

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Republic of the Philippines  
**PROVINCE OF LEYTE**  
Palo, Leyte

**SANGGUNIANG PANLALAWIGAN**

OCT 24 2023  
DWS

**OPPOSITION**  
**TO**  
**PROVINCIAL ORDINANCE NO. 20230, Series of 2023**

**Prefatory Statement**

**Article II, Section I** of the 1987 Constitution provides that: "The Philippines is a democratic and Republican State. **Sovereignty resides in the people and all government authority emanates from them**".

This provision of the Constitution emphasizes the point that WE, elected public officials, are mere servants and agents of the Sovereign Filipino people. As mere agents, we are not supposed to deprive our principal the "use of Provincial Roads, whether paved or unpaved" (as so provided in Section 2 of the subject ordinance) on the plain excuse that its use by more than 17,000 kilograms in weight of the equipment would cause "material damage" through cracks and potholes that would shorten the "useful life of the concrete roads". Roads, just like clothes, are to be used and not preserved. Taxes are collected precisely to insure their replacement by thicker quality roads.

Neither can WE overburden our principals with a "civil penalty of Five Thousand (5,000.00) Pesos per meter" of the provincial road that is traversed, and

a criminal action as so provided in Section 4 of the proposed ordinance, because under **Section 22, Article XII** of the Constitution, as implemented by **Section 3(e) of RA 3019, as amended** (otherwise known as the Anti-Graft and Corrupt Practices Act) those who will vote for the passage of the subject ordinance are the ones to suffer both civil and criminal liability – they being violators of **Sections 1, 12, 13 and 19, Article XII** of the Constitution as hereinafter discussed.

It is at the back drop of the foregoing that I, as the elected Municipal Mayor of Villaba, Leyte will discuss the legal infirmities of Resolution No. 2023 “approving on Third and Final Reading, Provincial Ordinance No. 20230”.

### **The Proposed Ordinance violates Twelve provisions of the Constitution.**

Construction of roads, provincial roads included, has repeatedly been promised by provincial candidates to ensure their election. They would even explain that roads and other infrastructure projects are where the people’s taxes are being spent. It is therefore deceitful, amounting to **political estafa**, to penalize road users, civilly and criminally, for using provincial roads with vehicles of more than 17,000 kilograms in weight.

Besides, **twelve (12) provisions of the 1987 Constitution** guarantee the use of said road by private vehicle owners and contractors, viz:

1. **Section 4, Article II** of the Constitution explicitly mandates provincial elective officials to serve the people through their constructing vital and important provincial roads, it being the “**prime duty of the Government**”;
2. **Section 5, Article II** of the Constitution explains that “the **promotion of the general welfare are essential for the enjoyment by all the people of the blessings of democracy**”. Construction of provincial roads as

promised by elected provincial officials are indeed blessings of democracy.

3. **Section 9, Article II** of the Constitution mandates:

**"Sec. 9. The State shall promote a just and dynamic social order that will ensure the prosperity and independence of the nation and free the people from poverty through policies that provide adequate social services, promote full employment, a rising standard of living, and an improved quality of life for all."**

Indeed, provincial roads that are constructed "ensure prosperity and independence of the nation". They free the people from poverty, provide adequate social services, promote full employment, a rising standard of living, and an improved quality of life for all.

4. Construction of provincial roads is in compliance with the mandate in **Section 10, Article 11** of the Constitution that "The State shall promote social justice in all phases of national development".

5. **Section 2** of the proposed ordinance, to the extent that it limits the prohibition in the use of Provincial roads to the **private sector** "owners of private vehicles/equipment and/or vehicles/equipment used by private contractors", **contravenes Section 20, Article II** of the Constitution, viz:

**Sec. 20 – The State recognizes the indispensable role of the private sector, encourages private enterprise, and provides incentives to needed investments.**

6. Additionally, such class legislation violates **Section 1, Article III** of the Constitution which mandates that the private sector vehicle owners be

**NOT "denied the equal protection of the laws"**. The protection in laws given to Government vehicles is the measure of protection that private vehicle owners shall enjoy. It is thus anomalous for the Provincial Government of Leyte (which merely collects the taxes from the Private Sector vehicle owners) to use without any penalty the provincial roads constructed out of Private Sector vehicle owner's funds, while the latter is to be penalized by Section 4 of the proposed ordinance for their using the roads that have been built out of their own funds.

7. The proposed ordinance is counterproductive. It violates **Section 21, Article II** of the Constitution which mandates that "(t)he state **shall promote comprehensive rural development**". Private vehicle owners are being told on the one hand, to pay taxes on time because they are the principal sources of funding in the construction of provincial roads, the key to rural development, only to be penalized on the other hand, via Section 4 of the proposed ordinance, for their use of said road. In any case, it is a deterrent to rural development.
8. The prohibition in Section 2 and penalty clause in Section 4 of the proposed ordinance made said ordinance confiscatory without due process of law. It is thus violative of **Section 1, Article III** of the Constitution which prohibits the Province of Leyte from depriving the private sector vehicle owners of "Five Thousand (P5,000.00) Pesos per meter traversed" **without due process of law**.
9. Provincial roads are envisioned to become economic generators in the countryside. It is for said reason that **Section 1, Article XII** of the Constitution mandates that the state shall promote industrialization and full employment. In pursuit of said goal all sectors of the economy, private contractors and private vehicle owners included, are supposed to be given "**optimum opportunity to develop**, through bigger trucks that ironically, are now being prohibited to traverse



provincial roads by the proposed ordinance. Its being unconstitutional cannot be overemphasized.

10. **Section 12, Article XII** of the Constitution mandates that the state shall promote preferential use of domestic materials and locally produced goods, and adopt measures that make them competitive. Constructions of Provincial roads that will be compatible with bigger and heavier trucks/equipment would therefore be in order. The proposed ordinance of the Province of Leyte is thus unconstitutional in such regard.
11. Provincial roads of Leyte are supposed to be the core of a general welfare-based trade policy that assures improved economic welfare of component Municipalities. Improved and heavier transportation equipment are supposed to be compelling reasons why provincial roads should be improved in quality and in thickness. They, more importantly, must be used and well-maintained. NOT using them is not an alternative because their **NON-USE** will only insure stagnation in economy and welfare. On another count, therefore, the proposed ordinance is unconstitutional for being violative of **Section 13, Art XII** of the Constitution.
12. **Section 19, Article XII** of the Constitution prohibits all forms of "restraint of trade". Restraining the growth of sand and gravel traders through their use of bigger and more efficient heavy trucks/equipment, is a form of restraint of trade that favors small truck owners and traders. The proposed ordinance, through Sections 2 and 4 thereof, is therefore unconstitutional.

Pertinently, **Section 22, Article XII** of the Constitution provides that "Acts which circumvent or negate any of the provisions of the Article shall be considered inimical to the national interest and subject to criminal and civil sanctions, as may be provided by law.

Implementing the aforementioned Constitutional provisions are **Sections 3 and 3(e)** of **R.A. 3019** (as amended) otherwise known as the Anti-Graft and Corrupt Practices Act. **Section 3** warns that:

*“Sec. 3. - Corrupt practices of public officers – In addition to acts or omissions of public officers already penalized by existing law, **the following shall constitute corrupt practices** of any public officers and are hereby declared to be unlawful”;*

while **Section 3(e)** explicitly considers the **“Causing (of) any undue injury to any party, including the Government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official, administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence.** This provision shall apply to officers and employees of offices or government corporations charged with the grant of licenses or permits or other concessions.”

Finally, **Section 9 of RA 3019** provides that:

*“Sec. 9 – Penalties for violations – (a) Any public officer or private person committing any of the unlawful acts or omission enumerated in Sections 3, 4, 5 and 6 of this Act shall be punished with **imprisonment** for not less than six years and one month nor more than fifteen years, **perpetual disqualification** from public office, and confiscation or forfeiture in favor of the Government of any prohibited interest and unexplained wealth manifestly out of proportion to his salary and other lawful income.” (emphasis supplied)*

**Those who will vote for the passage or approval of the subject ordinance will consequently suffer criminal, civil and administrative liability for the illegal acts they commit.**

**The proposed Ordinance is violative  
of Republic Act 7160, its alleged  
Legal basis.**

The last whereas clause of the proposed ordinance claims that the same has been crafted on the basis of Section 155 of Republic Act No. 7160. Yet, as hereinafter explained, the subject ordinance appears to be violative of the law it invokes, viz:

1.) **Section 155 of R.A. 7160 provides:**

**"Section 155. Toll Fees or Charges. – The sangguniang concerned may prescribe the terms and conditions and fix the rates for the imposition of toll fees or charges for the use of any public road, pier, or wharf, waterway, bridge, ferry or telecommunication system **funded and constructed by the local government unit concerned**. Provided, That no such toll fees or charges shall be collected from officers and enlisted men of the Armed Forces of the Philippines and member of the Philippine National Police on mission, post office personnel delivering mail, physically-handicapped, and disabled citizens who are sixty-five (65) years older."**(emphasis supplied)

Significantly, the last whereas clause of the proposed ordinance admits that the prohibition in Section 2 thereof will apply only to roads **"funded and constructed by the local government unit"**.

In this regard, I secured a Certification from the current Leyte Third District Engineer, Cesar V. Makabenta (Annex "A" hereof) enumerating twelve (12) vital Provincial Roads in the Third District of

Leyte which were constructed, mainly, out of National Government Funds. It is therefore imperative that a reconciliation be first made between the Leyte Provincial Engineer and the Third Leyte Engineering District Engineer before a deliberation on the proposed ordinance is made.

- 2.) "Section 133(e) of RA 7160 prohibits "Taxes, fees and charges, and other impositions upon goods carried into or out of or passing through, the territorial jurisdiction of local government units in the guise of charges for wharfage, tolls for bridges or otherwise, or other taxes, fees or charges in any form whatsoever upon such goods or merchandise."(emphasis supplied)

The penalty in Sec. 4 of the subject ordinance is actually an "imposition upon goods carried into or out of, or passing through in the guise" of a penalty "upon such goods or merchandise", an imposition that is prohibited by Sec. 133 (e) of R.R. 7160.

3. Section 130 of RA 7160 moreover provides:

"Section 130 – Fundamental Principles. – The following fundamental principles shall govern the exercise of the taxing and other revenue-raising powers of local government units:

- a) Taxation shall be uniform in each local government unit;
- b) Taxes, fees, charges and other impositions shall:
  - 1.) be equitable and based as far as practicable on the taxpayer's ability to pay;
  - 2.) be levied and collected only for public purposes;
  - 3.) not be unjust, excessive, oppressive, or confiscatory;

4.) **not be contrary to law, public policy, national economic policy, or in restraint of trade;**

xxx

xxx

xxx”

Comparatively, the **disguised** fees or charges in the proposed ordinance are:

1. **iniquitous** as it is **not based** on the vehicle owner's ability to pay;
2. **illegal** because it is being collected **NOT for public purposes**;
3. **unjust** because the private vehicle/equipment owner is penalized with Five Thousand (5,000.00) Pesos per meter of the road traversed even if it was **NOT established** that it was his use of the provincial road that exclusively caused the crack, pothole or damage to the road;
4. **excessive** because it ignores the fact that any crack, pothole or damage in a road happens after years of use thereof. To penalize the last private vehicle/equipment user with Five Thousand (P5,000.00) Pesos per meter of the road traversed would accordingly be excessive;
5. **oppressive** because the "Five Thousand (P5,000.00) Pesos penalty imposed by Section 4 of the proposed ordinance is not proportionate to the limited time which the penalized private vehicle/equipment used in traversing said provincial road; and
6. **confiscatory** because the entry bond required in the last paragraph of Section 2 of the proposed ordinance is not anchored on foreseen damage that may be attributed exclusively to the private contractor doing government construction projects or other government activities along or near or within the vicinity of a provincial road. Since the private contractor's posting of a right to enter bond does **not** give him the right to exclusively use the provincial road, a possibility then exists that his "bond" will be confiscated on account of the damage to the provincial road caused by a Third Party.

Lastly, the proposed ordinance is (a) **contrary to law** as it violates not only twelve provisions of the constitution, it likewise violates, as earlier discussed, the Local Government Code the basis of its issuance; (b) **it is contrary to the public policy and national economic policy** laid down in **Executive Order No. 41** as hereinafter discussed; and (c) the proposed ordinance is in **restraint of trade** because as earlier discussed, it restrains the use of provincial roads by big truck/equipment private owners in favor of light vehicle owners, a scheme that violates **Sec. 19 Article XII** of the Constitution **which prohibits all forms of restraint of trade.**

**EXECUTIVE ORDER NO. 41, prohibits as a matter of policy the collection of fees "imposed upon all motor vehicle transporting goods and passing through any local public roads constructed and funded by said LGU's.**

**Executive Order No. 41, dated September 25, 2023 (Annex "B" hereof) urges strongly (in Section 1, Second paragraph thereof) all LGU's to suspend or discontinue the collection of fees, such as but not limited to, sticker fees, discharging fees, delivery fees, market fees, toll fees, entry fees, or Mayor's Permit fees, that are imposed upon all motor vehicles transporting goods and passing through any local public roads constructed and funded by said LGUs. It mandates in Section 2 thereof the Evaluation by the DILG, DTI, DOTR, DPWH, the Anti-Red Tape Authority, and Department of Finance to ensure that such ordinances are consistent with RA 7160 and the policies laid down in the Whereas Clauses of Executive Order No. 41, viz:**

**“WHEREAS, reducing transport and logistics costs is one of the pillars of the 8-Point Socioeconomic Agenda of the Administration, and ensuring the efficient movement of goods across the regions is one of the strategies for revitalizing local industries under the Philippine Development Plan 2023 to 2028;**

**“WHEREAS, in order to uphold the welfare and advance the best interest of the Filipino people, it is the overarching policy of the Administration to consolidate all essential components within the value and supply chain, and reduce the costs of food logistics, which play a pivotal role in effectively tempering the inflation rate in the country; and**

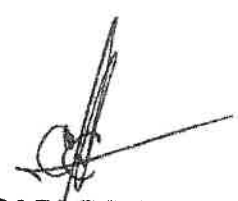
**“WHEREAS, building a robust and collaborative partnership between the National Government and LGU’s is essential in effectively addressing the impacts of inflation and promoting economic prosperity across all region;” (emphasis supplied)**

Section 3 of the Executive Order further embodies sanctions, viz:

**“Section 3. Sanctions. Failure to comply with the directives under this Order shall be a ground for the imposition of administrative or disciplinary sanctions against any erring public official and employee, as provided under relevant laws, rules and regulations, without prejudice to other criminal, civil or other related liabilities under existing laws. For this purpose, and consistent with its mandate of assisting the President in the supervision of local governments, the DILG shall take appropriate actions to ensure that the LGUs shall act within the scope of their prescribed authorities under Sections No. 133(e), 153 and 155 of RA No. 7150.” (emphasis supplied)**

It consequently behooves the Honorable Sangguniang Panlalawigan of Leyte to suspend deliberation on, and eventually abort the passage of Provincial Ordinance No. 20230, Series of 2023.

Respectfully submitted.



ENGR. CARLOS G. VELOSO  
Municipal Mayor  
Villaba, Leyte





### CERTIFICATION

This is to CERTIFY that the following Road Sections listed below are not included in the Inventory of National Road within the 3rd District of Leyte:

1. Campokpok-Butason-Cuta Road
2. Calubian-Jubay-Daja Road
3. Casilion-San Francisco-Cabungahan Road
4. Cabungaan-Caigit Diversion Road
5. Crossing-Cagnocot-Iligay-Tabunok Road
6. Cuta-Consuegra Road
7. Calaguise-Poblacion Road
8. Bugabuga-Jalas-Abijao Road
9. Consuegra-Tapol Road
10. Tigbawan-Parasan-Palid II-Busay Road
11. Capiñahan-Cabungaan-San Jose-San Miguel Road
12. Petrolio-Dulao-Kawayanan-Villanueva Road

Given this 18th day of October 2023 at the DPWH, Leyte 3rd District Engineering Office, Brgy. Suba, Villaba, Leyte.

**CESAR V. MAKABENTA, D.M.**  
District Engineer

ROB.12.1 EBS

Website: [www.dpwh.gov.ph](http://www.dpwh.gov.ph)  
Tel. No(s): (053)552-0036/66611/66612  
Email: [leyte3.planning@gmail.com](mailto:leyte3.planning@gmail.com)





Annex "B"

MALACAÑAN PALACE  
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER NO. 41

**PROHIBITING THE COLLECTION OF PASS-THROUGH FEES ON NATIONAL ROADS AND URGING LOCAL GOVERNMENT UNITS TO SUSPEND THE COLLECTION OF ANY FORM OF FEES UPON ALL TYPES OF VEHICLES TRANSPORTING GOODS UNDER SECTION 153 OR 155 OF REPUBLIC ACT NO. 7160 OR THE "LOCAL GOVERNMENT CODE OF 1991"**

**WHEREAS**, the President exercises general supervision over local government units (LGUs) pursuant to Section 4, Article X of the Constitution:

**WHEREAS**, Section 5, Article X of the Constitution grants LGUs the power to create their own sources of revenue and to levy government taxes, fees or charges subject to such guidelines and limitations as the Congress may provide, consistent with the basic policy of local autonomy;

**WHEREAS**, under Section 153 of Republic Act (RA) No. 7160 or the "Local Government Code of 1991," as amended, LGUs may impose and collect reasonable fees and charges for services rendered;

**WHEREAS**, pursuant to Section 155 of RA No. 7160, a local *sanggunian* may prescribe the terms and conditions, and fix the rates for the imposition of toll fees or charges for the use of any public road, pier or wharf, waterway, bridge, ferry or telecommunications system funded and constructed by the LGU concerned;

**WHEREAS**, Section 133(e) of RA No. 7160 provides that the taxing powers of local governments shall not extend to the levy of taxes, fees, and charges and other impositions upon goods carried into or out of, or passing through, the territorial jurisdictions of LGUs in the guise of charges for wharfage, tolls for bridges or otherwise, or other taxes, fees, or charges in any form whatsoever upon such goods or merchandise;

**WHEREAS**, the unauthorized imposition of pass-through fees has a significant impact on transportation and logistics costs, which are often passed on to consumers, who ultimately bear the burden of paying for the increase in prices of goods and commodities;

**WHEREAS**, reducing transport and logistics costs is one of the pillars of the 8-Point Socioeconomic Agenda of the Administration, and ensuring the efficient movement of goods across the regions is one of the strategies for revitalizing local industries under the Philippine Development Plan 2023 to 2028;

**WHEREAS**, in order to uphold the welfare and advance the best interest of the Filipino people, it is the overarching policy of the Administration to consolidate all essential components within the value and supply chain, and reduce the costs of food logistics, which play a pivotal role in effectively tempering the inflation rate in the country; and

**WHEREAS**, building a robust and collaborative partnership between the National Government and LGUs is essential in effectively addressing the impacts of inflation and promoting economic prosperity across all regions;

**NOW, THEREFORE, I, FERDINAND R. MARCOS, JR.**, President of the Philippines, by virtue of the powers vested in me by the Constitution and existing laws, do hereby order:

**Section 1. Pass-Through Fees for the Use of National and Local Roads.** All LGUs are prohibited from collecting toll fees and charges upon all motor vehicles transporting goods or merchandise, while passing through any national roads and such other roads not constructed and funded by LGUs pursuant to Section 155 of RA No. 7160.

In the interest of public welfare, all LGUs are further strongly urged to suspend or discontinue the collection of fees, such as but not limited to, sticker fees, discharging fees, delivery fees, market fees, toll fees, entry fees, or Mayor's Permit fees, that are imposed upon all motor vehicles transporting goods and passing through any local public roads constructed and funded by said LGUs.

**Section 2. Evaluation of Ordinances.** Within thirty (30) days from the effectivity of this Order, the DILG shall secure copies of existing ordinances of all LGUs on the collection of pass-through fees imposed upon motor vehicles, including those issued pursuant to Sections 153 and 155 of RA No. 7160, and shall evaluate the same together with the Department of Trade and Industry (DTI), Department of Transportation (DOTr), Department of Public Works and Highways (DPWH), Anti-Red Tape Authority (ARTA) and Department of Finance (DOF), to ensure that such ordinances are consistent with RA No. 7160.

**Section 3. Sanctions.** Failure to comply with the directives under this Order shall be a ground for the imposition of administrative or disciplinary sanctions against any erring public official or employee, as provided under relevant laws, rules and regulations, without prejudice to other criminal, civil or other related liabilities under existing laws. For this purpose, and consistent with its mandate of assisting the President in the supervision of local governments, the DILG shall take appropriate actions to ensure that the LGUs shall act within the scope of their prescribed authorities under Sections No. 133(e), 153 and 155 of RA No. 7160.

**Section 4. Reports.** The DTI and DILG shall jointly submit reports to the Office of the President, through the Office of the Executive Secretary, on the compliance of LGUs with the foregoing provisions of this Order.

**Section 5. Implementing Guidelines.** Within thirty (30) days from the effectivity of this Order, the DTI, DILG, DOTr, DPWH, ARTA and DOF shall jointly formulate and issue guidelines as may be necessary, or amend/consolidate existing rules, regulations or issuances as may be appropriate, for the effective implementation of this Order.



**Section 6. Funding.** The funds necessary for the implementation of this Order shall be charged against the current and available appropriations of concerned agencies, subject to pertinent budgeting, accounting, and auditing laws, rules and regulations. Thereafter, the funding requirements for succeeding years shall be included in the annual General Appropriations Act, subject to the usual budget preparation process.

**Section 7. Separability.** If any part or provision of this Order is held unconstitutional or invalid, other parts not affected thereby shall continue to be in full force and effect.

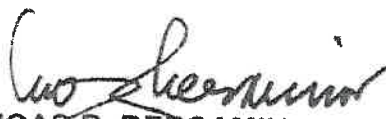
**Section 8. Repeal.** All other orders, guidelines, rules, regulations and issuances, or parts thereof, which are inconsistent with the provisions of this Order are hereby repealed or modified accordingly.


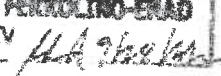
**Section 9. Effectivity.** This Order shall take effect immediately upon its publication in the Official Gazette or a newspaper of general circulation.

**DONE**, in the City of Manila, this 25th day of September in the year of our Lord, Two Thousand and Twenty-Three.

By the President:

  
LUCAS P. BERSAMIN  
Executive Secretary

Office of the President  
MALACANANG RECORDS OFFICE  
**CERTIFIED COPY**  
  
ATTY. CONCEPCION ZERY E. FERROLINO-ENAD  
17-10-2023 DIRECTOR IV  




SK 2 PLD

Province of Leyte  
Legal Office  
10-17-24



Republic of the Philippines  
**PROVINCE OF LEYTE**  
Palo, Leyte  
-oOo-



**OFFICE OF THE SANGGUNIANG PANLALAWIGAN**

**EXCERPTS FROM THE MINUTES OF THE 108<sup>th</sup> REGULAR SESSION OF THE SANGGUNIANG PANLALAWIGAN OF LEYTE CONDUCTED AT THE SESSION HALL, LEYTE PROVINCIAL GOVERNMENT COMPLEX, PALO, LEYTE ON OCTOBER 8, 2024.**

**RESOLUTION NO. 2024-438**

**A RESOLUTION ADOPTING AND APPROVING THE COMMITTEE REPORT OF THE SANGGUNIANG PANLALAWIGAN COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES.**

**WHEREAS**, submitted to the Sangguniang Panlalawigan is the Committee Report of the Sangguniang Panlalawigan Committee on Environment and Natural Resources on the Opposition Letter of the Villaba Mayor, Engr. Carlos G. Veloso, to the Proposed Provincial Ordinance No. 20230, Series of 2023;

**WHEREAS**, on November 10, 2023, the August Body referred the subject documents to the Sangguniang Panlalawigan Committee on Environment and Natural Resources, per SP Resolution No. 2023-504;

**WHEREAS**, said Committee rendered its Committee Report, to wit:

**"COMMITTEE ON ENVIRONMENT and NATURAL RESOURCES**

**COMMITTEE REPORT No. 13  
Series 2024**

Referred to this Committee through SP Resolution No. 2023-504, is the Opposition of Villaba Mayor, Engr. Carlos G. Veloso, to the Proposed Provincial Ordinance No. 20230, series of 2023 entitled: "An Ordinance Regulating the Use of Provincial Roads, Municipal Roads and Barangay Roads Within the Territorial Jurisdiction of the Province of Leyte, Prescribing Penalties, Fees for Violation thereof and for Other Purposes."

The Opposition letter submitted by Hon. Carlos G. Veloso cited that the Ordinance violated twelve (12) Constitutional provisions and is violative of R.A 7160 or the Local Government Code and Executive Order No. 41, S. 2023.

-over-

Nim

X

While the Local Government Units (LGUs) are empowered to enact ordinances for the purposes set forth in R.A. 7160 or the Local Government Code. It is expressly vested with police powers delegated to LGUs under the general welfare clause of R.A. 7160. With this power, LGUs may prescribe reasonable regulations to protect the lives, health, and property of their constituents. LGUs have the power to exercise and discharge such functions and responsibilities as may be necessary, appropriate or incidental to efficient and effective provisions of the basic services and facilities which are financed by their own funds. Likewise, the Ordinance does not contravene with Executive Order 41 considering that what Section 1 of E.O 41, S. 2023 prohibits is the collection of toll fees and charges upon all motor vehicles transporting goods or merchandise passing through the national roads and roads not constructed and funded by LGUs.

In view thereof, the Committee deems it proper to refer the opposition of the Villaba Mayor, Engr. Carlos G. Veloso to the Provincial Legal Office, for comment and recommendation.

Submitted this 1st of October, 2024, Palo, Leyte.

(Original Signed)

**VICE GOV. LEONARDO M. JAVIER JR.**  
Chairman

(Original Signed)

**ATTY. CARLO P. LORETO**  
Vice Chairman

(Original Signed)

**ATTY. RONNAN CHRISTIAN M. REPOSAR**  
Member

(Original Signed)

**HON. RAISSA J. VILLASIN**  
Member

(Original Signed)

**HON. MARIE KATHRYN VELOSO-KABIGTING**  
Member"

Page 3/3 – Res. No. 2024-438 dated October 8, 2024  
adopting and approving Committee Report of the SP Committee on Environment  
and Natural Resources and referring the matter to the PLO for comments and  
recommendations

**NOW, THEREFORE**, on motion presented by Atty. Carlo P. Loreto, duly  
seconded by Honorable Flaviano C. Centino, Jr., be it

**RESOLVED**, as it is hereby resolved, **TO ADOPT THE COMMITTEE REPORT OF  
THE SANGGUNIANG PANLALAWIGAN COMMITTEE ON ENVIRONMENT AND  
NATURAL RESOURCES.**


**RESOLVED FURTHER TO REFER TO THE PROVINCIAL LEGAL OFFICE THE  
OPPOSITION LETTER OF VILLABA MAYOR ENGR. CARLOS VELOSO RELATIVE TO  
THE PROPOSED PROVINCIAL ORDINANCE NO. 20230, SERIES OF 2023 FOR  
COMMENTS AND RECOMMENDATION.**

**Approved unanimously.**

**I HEREBY CERTIFY** to the correctness of the foregoing resolution.

**ATTESTED:**

  
**HON. LEONARDO M. JAVIER, JR.**  
Vice Governor/Presiding Officer

  
**FLORINDA JIL S. UYVICO**  
Secretary to the Sanggunian  
X

Copy furnished:

Hon. Leonardo M. Javier, Jr.  
Chairperson – SP Com. on Environment  
and Natural Resources  
Province of Leyte

Provincial Legal Office  
Province of Leyte

Engr. Carlos Veloso  
Mayor,  
Villaba, Leyte



Rel <sup>7M:</sup> Atty. Lyn PLO  
SP

Palo, Leyte  
-oOo-



**OFFICE OF THE SANGGUNIANG PANLALAWIGAN**

**EXCERPTS FROM THE MINUTES OF THE 62<sup>nd</sup> REGULAR SESSION OF THE SANGGUNIANG PANLALAWIGAN OF LEYTE CONDUCTED AT THE SESSION HALL, LEYTE PROVINCIAL GOVERNMENT COMPLEX, PALO, LEYTE ON OCTOBER 10, 2023.**

**RESOLUTION NO. 2023-476**

**A RESOLUTION APPROVING ON FIRST READING AND REFERRING TO THE SANGGUNIANG PANLALAWIGAN COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES AND TO THE SANGGUNIANG PANLALAWIGAN COMMITTEE ON RULES, LAWS AND PRIVILEGES, THE PROPOSED PROVINCIAL ORDINANCE ENTITLED: "AN ORDINANCE REGULATING THE USE OF PROVINCIAL ROADS, MUNICIPAL ROADS AND BARANGAY ROADS WITHIN THE TERRITORIAL JURISDICTION OF THE PROVINCE OF LEYTE, PRESCRIBING PENALTIES, FEES FOR VIOLATION THEREOF AND FOR OTHER PURPOSES."**

**WHEREAS**, submitted to the Sangguniang Panlalawigan is a Proposed Provincial Ordinance entitled: "An Ordinance Regulating the Use of Provincial Roads, Municipal Roads, and Barangay Roads Within the Territorial Jurisdiction of the Province of Leyte, Prescribing Penalties, Fees for Violation Thereof and for Other Purposes";

**WHEREAS**, the August Body, deemed it proper to approve on First Reading and refer the said Proposed Provincial Ordinance to the SP Committee on Environment and Natural Resources and to the SP Committee on Rules, Laws and Privileges;

**NOW, THEREFORE**, on motion presented by Atty. Carlo P. Loreto, duly seconded by Atty. Ronnan Christian M. Reposar, be it

**RESOLVED**, as it is hereby resolved, to **TO APPROVE ON FIRST READING AND REFER TO THE SANGGUNIANG PANLALAWIGAN COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES, AND TO THE SANGGUNIANG PANLALAWIGAN COMMITTEE ON RULES, LAWS AND PRIVILEGES, THE PROPOSED PROVINCIAL ORDINANCE ENTITLED: "AN ORDINANCE REGULATING THE USE OF PROVINCIAL ROADS, MUNICIPAL ROADS AND BARANGAY ROADS WITHIN THE TERRITORIAL JURISDICTION OF THE PROVINCE OF LEYTE, PRESCRIBING PENALTIES, FEES FOR VIOLATION THEREOF AND FOR OTHER PURPOSES."**

**RESOLVED FURTHER**, TO REQUEST FROM THE PROVINCIAL ENGINEER'S OFFICE THE UPDATED DATA ON THE NUMBER OF KILOMETERS CLASSIFIED AS PROVINCIAL, MUNICIPAL AND BARANGAY ROADS WITHIN THE TERRITORIAL JURISDICTION OF THE PROVINCE OF LEYTE.

-over-

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x

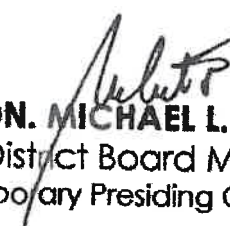


**Approved unanimously.**

**I HEREBY CERTIFY** to the correctness of the foregoing resolution.

  
**FLORINDA JILL S. UYVICO**  
Secretary to the Sanggunian  
x

**ATTESTED:**

  
**HON. MICHAEL L. CARI**  
5<sup>th</sup> District Board Member  
Temporary Presiding Officer

Copy furnished:

Vice Governor Leonardo M. Javier, Jr.  
Chairperson  
Committee on Environment and Natural  
Resources  
Sangguniang Panlalawigan  
Province of Leyte

Atty. Ronnan Christian M. Reposar  
Chairperson  
Committee on Rules, Laws and Privileges

Engr. Roberto B. Lughasin  
Provincial Engineer  
Provincial Engineer's Office  
Province of Leyte



Republic of the Philippines  
PROVINCE OF LEYTE  
Palo, Leyte  
-oOo-



SANGGUNIANG PANLALAWIGAN

EXCERPT FROM THE MINUTES OF THE \_\_\_\_ SESSION OF THE SANGGUNIANG PANLALAWIGAN, PROVINCE OF LEYTE, CONDUCTED AT THE SESSION HALL, LEYTE PROVINCIAL GOVERNMENT COMPLEX, PALO, LEYTE ON \_\_\_\_\_.

PHYSICALLY PRESENT:

VIRTUALLY PRESENT:

RESOLUTION NO. 2023-\_\_\_\_\_

A RESOLUTION APPROVING ON THIRD AND FINAL READING, PROVINCIAL ORDINANCE NO. 2023-\_\_\_\_, ENTITLED: "AN ORDINANCE REGULATING THE USE OF PROVINCIAL ROADS WITHIN THE TERRITORIAL JURISDICTION OF THE PROVINCE OF LEYTE AND FOR OTHER PURPOSES".

WHEREAS, data from the Provincial Engineering Office provides that there are Five Hundred Ninety-Four (594) kilometers, more or less, that are classified as Provincial Roads within the territorial jurisdiction of the Province of Leyte;

WHEREAS, of those classified as provincial roads, eighty-five percent (85%) are already paved, and the rest are still classified as gravel roads;

WHEREAS, the technical design insofar as the thickness is concerned of existing paved provincial roads is either six (6) inches or eight (8) inches only;

WHEREAS, with a such technical design of said provincial roads, thus, can cater only to light vehicles or equipment.

WHEREAS, it has been observed that the unimpeded ingress and egress of heavy equipment or vehicles specifically those that are loaded with quarry or sand and gravel resources along this provincial road network whether paved or unpaved, undeniably, had caused material damage and had, in fact, caused damaged thereof, including but not limited to, cracks, creating potholes or shortening the useful life of the concrete roads, thus, posing inconvenience and imminent danger and safety of motorists and pedestrians;

**WHEREAS**, the interests of the few should not prevail over the good of the greater number in the community whose, among others, the safety, good order and general welfare, to which the elected officials are under a legal obligation to protect.

**WHEREAS**, every local government unit has the sworn obligation to enact measures that will enhance, among others, the safety and convenience, and promote the general prosperity of the inhabitants of the local units.

**WHEREAS**, Section 155, Republic Act No. 7160, authorizes the Sanggunian to *prescribe the terms and conditions* and fix the rates for the imposition of toll fees or charges for the use of any public road, pier or wharf, waterway, bridge, ferry or telecommunication system funded and constructed by the local government unit concerned. x x x.

**NOW, THEREFORE**, on motion by the Honorable \_\_\_\_\_, duly seconded by the Honorable \_\_\_\_\_, be it.

**RESOLVED**, as it is hereby **ENACTED**, on third and final reading, the following:

**PROVINCIAL ORDINANCE NO. 20230-\_\_\_\_**  
**Series of 2023**

AUTHOR :

Co-Author :

**Be it ordained by the Sangguniang Panlalawigan of Leyte, that:**

**Section 1. TITLE.** This Ordinance shall be known as the **“Use of Provincial Roads Within the Territorial Jurisdiction of the Province of Leyte, Prescribing Penalties Fess for Violation Thereof.”**

**Section 2. – PROHIBITED VEHICLES** - The use of Provincial Roads, whether paved or unpaved is hereby regulated, any and all vehicle or equipment of whatever type with a Gross Vehicle Weight of more than Seventeen Thousand (17000) Kilograms,<sup>1</sup> is strictly prohibited from entering, traversing or exiting all provincial roads within the territorial jurisdiction of the Province of Leyte.

<sup>1</sup> Maximum Allowable GVW per RA No. 8794 is 16880 kgs. [Truck with 2 axles – (6 wheels)]

Excepted from the coverage of this Ordinance, to wit:

1. Vehicles and/or equipment of the Provincial Government of Leyte, and its component city and municipalities, if any;
2. Vehicles and/or equipment of the national government doing construction projects, or other governmental activities along or near or within the vicinity of a provincial road, if any;
3. Vehicles and/or equipment used for humanitarian, emergency, peace and order, disaster, and health operations, and analogous activities, if any;
4. Such other vehicles and/or equipment as may be exempted or authorized by the Provincial Governor or his duly authorized representative.

Provided, however, and subject to the gross vehicle weight provided for under Section 1 hereof, the owners of private vehicles/equipment and/or vehicles/equipment used by private contractors doing government construction projects, or other governmental activities along or near or within the vicinity of a provincial road, if any, may be allowed to enter, traverse or exit the said provincial roads, upon posting of an appropriate bond in cash or surety to answer for whatever damage that be caused to the provincial roads as a result of the use thereof in an amount to be determined by the Provincial Engineering Office payable to the order of the Provincial Treasurer's Office and issuance of permit to use by the Governor or his duly authorized representative.

**Section 3. DEPUTIZATION OF MUNICIPAL AND BARANGAY TREASURERS –**

Subject to bonding requirements, the respective Municipal and Barangay Treasurer of each component city, municipalities, and barangays of the Province of Leyte are hereby deputized and authorized to issue citation tickets for violations of this ordinance committed within its jurisdiction.

The deputized collectors shall be entitled to collect an honorarium in the amount equivalent to ten percent (10%) of the total amount paid to the Provincial Treasurer's Office on a weekly basis as a result of their performance as deputized officers.

**Section 4. PENALTY –** Any person who is found to have violated this Ordinance shall be meted with the civil penalty of Five Thousand (5,000) Pesos per meter traversed beginning from the point of entry to exit basis and without prejudice to the filing of a civil and/or criminal action appropriate under the circumstances for violation hereof.

**Section 5. SEPARABILITY CLAUSE** – If for any reason or reasons, any part of this Ordinance is held to be unconstitutional or invalid, other parts or provisions hereof which are not affected thereby shall continue to be in full force and effect.

**Section 5. REPEALING CLAUSE** – All other Ordinances, orders, issuances, and rules, and regulations inconsistent with this Order are hereby modified and/or repealed accordingly.

**Section 6. EFFECTIVITY** – This Ordinance shall take effect fifteen (15) days after its publication in a newspaper of general circulation.

**Approved unanimously.**

**I HEREBY CERTIFY** to the correctness of the foregoing resolution.

**FLORINDA JILL S. UYVIVO**  
Secretary to the Sanggunian

**ATTESTED:**

**RONNAN CHRISTIAN M. REPOSAR**  
1<sup>st</sup> District Board Member

**WILSON S. UY**  
1<sup>st</sup> District Board Member

**TRINIDAD G. APOSTOL**  
2<sup>nd</sup> District Board Member

**RAISSA J. VILLASIN**  
2<sup>nd</sup> District Board Member

**MARIE KATHRYN VELOSO-KABIGTING**  
3<sup>rd</sup> District Board Member

**MA. CORAZON E. REMANDABAN**  
3<sup>rd</sup> District Board Member

**FLAVIANO C. CENTINO, JR.**  
4<sup>th</sup> District Board Member

**VINCENT L. RAMA**  
4<sup>th</sup> District Board Member

**MICHAEL L. CARI**  
5<sup>th</sup> District Board Member

**CARLO P. LORETO**  
5<sup>th</sup> District Board Member

**NOLIE C. CAÑA**  
Liga ng mga Brgy. President  
Ex-Officio Member

**CARMEN L. CARI**  
PCL President  
Ex-Officio Member

**JO VANILLE CHUA - MERILO**  
SK Federation President  
Ex-Officio Member

**LEONARDO M. JAVIER, JR.**  
Vice Governor/Presiding Officer

**Approved:**

**CARLOS JERICHO L. PETILLA**  
Governor