



Republic of the Philippines
Region IX
PROVINCE OF ZAMBOANGA SIBUGAY
Municipality of Buug
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OFFICE OF THE SANGGUNIANG BAYAN

Excerpt FROM THE MINUTES OF THE 7th REGULAR SESSION OF THE SANGGUNIANG BAYAN NG BUUG, ZAMBOANGA SIBUGAY HELD AT THE MUNICIPAL SESSION HALL ON FEBRUARY 16, 2009 AT 10:30 IN THE MORNING.

PRESENT:

HON. ARNULFO D. LIM,	Municipal Vice Mayor/Presiding
Hon. Ernita A. Paderanga,	Member
Hon. Julieta T. Casas,	Member
Hon. Marvin Jessie G. Gako,	Member
Hon. Flordeliz C. Curiba,	Member
Hon. Rey Christian P. Famor,	Member
Hon. Alfonso B. Becada,	Member
Hon. Genison T. Pague,	Member, ABC President
Hon. Joel L. Langha,	IP Representative

ABSENT:

Hon. Leo Jose L. Jumawan,	Member
Hon. Daryl John S. Uba,	Member, SKFP
Hon. Randie L. Piscos,	Member

LATE: NONE

MUNICIPAL REGULATORY ORDINANCE NO. 02-2009

AN ORDINANCE PRESCRIBING RULES AND REGULATIONS IN THE ESTABLISHMENT AND OPERATION OF INTERNET CAFES, DEFINING DUTIES AND RESPONSIBILITIES, AND PROVIDING PENALTIES FOR VIOLATION THEREOF.

WHEREAS, the globalization trend worldwide propelling advances in information is manifested in the Municipality of Buug by the increase of Internet establishments all throughout the locality;

WHEREAS, unregulated operations of these Internet establishments have significantly contributed to the rise of internet pornography, particularly involving and/or victimizing women and children;

WHEREAS, the women and children, being the most vulnerable sectors of our society, have the rights to be shielded from all forms of sexual exploitation and sexual abuse, including their exploitive use in pornographic performances and materials through the internet;

Protection of Children Against Child Abuse, Exploitation and Discrimination Act," mandates for the provision of special protection to children from all forms of abuse, neglect, cruelty, exploitation and discrimination, and other conditions prejudicial to their development, protect them from being gravely threatened or endangered by circumstances which affect or will affect their normal development and over which they have no control, and that every effort shall be exerted to promote the welfare of children and enhance their opportunities for a useful and happy life;

Secretary's Office
Municipality of Buug
Zamboanga Sibugay
2009
Time: 10:00 AM

WHEREAS, under Section 16 and 458 subsection 5 of the New Local Governance Code, RA 7160, local government units are vested with powers to regulate operations and maintenance of establishments, to include internet establishments or cafes, and expressly authorizes the local government units to enact ordinances for the general welfare of its inhabitants by way of preventing, suppressing, and imposing appropriate penalties for such activities inimical to the welfare and morals of the inhabitants of the municipality. The Sangguniang Bayan of the Municipality of Buug, Zamboanga Sibugay hereby **ORDAINS**:

Article 1

TITLE

SECTION 1. TITLE OF THE ORDINANCE. – This Ordinance shall be known as "AN ORDINANCE PRESCRIBING RULES AND REGULATIONS IN THE ESTABLISHMENT AND OPERATION OF INTERNET CAFES, DEFINING DUTIES AND RESPONSIBILITIES, AND PROVIDING PENALTIES FOR VIOLATION THEREOF.

Article 2

DEFINITION OF TERMS

SECTION 2. DEFINITION OF TERMS.- The following words and phrases used in this Ordinance shall be defined as:

- a. **COMPUTER**- herein referred to as an electronic device that accepts process, stores, and outputs data at high speeds according to programmed instruction.
- b. **COMPUTER RELATED EQUIPMENTS AND ACCESSORIES**- are electronic devices attached to the computer that input store and transmit program, data and presentation. These devices are commonly referred, but not limited, to as webcams, modems, printers, scanners, digital cameras and storage disks.
- c. **INTERNET PORNOGRAPHY**- refers to the visual representation or images showing the prohibited acts mentioned in section 3 of this ordinance through any of the electronic devices or means, with the end in view of satisfying the lust or sexual desire of another, regardless of geographic location, including but not limited to the following: digital camera, camera-equipped mobile phones, web cam, head set and microphones or similar gadgets.
- d. **INTERNET CAFÉ**- refers to the internet café, arcades, lounges, including mansions, residential houses which regularly and customarily offers internet services to the public for a fee or any other consideration.
- e. **KNOWINGLY**- means having actual or constructive knowledge of obscene or pornographic contents of the subject matter.
- f. **MINOR**- also termed herein as children refers to any boy or girl below 18 years old.
- g. **PERSON**- refers to any natural or juridical entity.

- h. USER'S LOG- refers to the computer data filled up by the user or customer of the internet establishment prior to the use of computer. The data shall include the name, age, address, school and a valid ID Cars or any legitimate proof of identification.
- i. USER'S LOGBOOK- refers to the logbook or notebook, which contains the personal circumstances of the user as mentioned above.
- j. WEBCAM- is a video or digital camera, usually attached directly to a computer, designed to take photographs or images and transmit them over the internet.
- k. WORKSTATION- refers to booths and cubicles inside internet cafes, including those occupied by the manager and/or employees of the same.
- l. BOARD- Internet Cafes Regulatory Board.

ARTICLE 3

CREATION OF INTERNET CAFES REGULSTORY BOARD

SECTION 2. CREATION- There shall be created a local Internet Café Regulatory Board (ICRB) to monitor strict compliance with the provisions of this ordinance whose composition are as follows:

- | | |
|--|-------------|
| a) Municipal Mayor | Chairperson |
| b) Chief of Police | Member |
| c) MSWDO | Member |
| d) PNP Women's Desk | Member |
| e) District Supervisor | Member |
| f) SKFP | Member |
| g) Chairman, Comm. On
Peace and Order | Member |
| h) MLGOO | Member |

SECTION 3. POWERS AND FUNCTIONS- The Regulatory Board shall have the following powers and functions:

- 1) To inspect internet cafes to determine compliance with the provisions of this ordinance;
- 2) To receive and investigate complaints for violation of the provisions of this ordinance;
- 3) To invite any person to testify before the board in connection with a complaint for violation of any provisions of this ordinance;
- 4) To recommend to the Municipal Mayor, for the suspension, revocation of the license and closure of the concerned internet café, after a summary hearing wherein the owner of the internet café subject of the complaint may be heard.

- 5) The power to inspect the Internet Cafes to determine compliance with the provision of this ordinance may be delegated by the Board in writing to the PNP Women's Desk Personnel.

SECTION 4. NOTICE OF HEARING.- In the conduct of the hearing of a complaint, the board shall:

- a) Notify the owner/proprietor of the Internet Café subject of the complaint of and order the owner/ proprietor to file his/her answer to the complaint within three (3) days from receipt of the copy of the complaint.
- b) Hear and investigate the complaint during which the board may consider any evidence, including evidence of the general reputation of the place or premises. However, the concerned owner/proprietor of the internet café shall have the opportunity to present evidence in his/her defense.
- c) To resolve the complaint within ten (10) days from the termination of the summary hearing and make the corresponding recommendations pursuant to Section 3 of this ordinance. The resolution of the Board recommending the suspension, or revocation of the license, or closure of the internet café subject of the complaint shall not be a bar to the criminal prosecution of the owner or proprietor for violation of any provisions of this ordinance, if the evidence warrants.

ARTICLE 4

OBLIGATIONS OF INTERNET CAFÉ OWNERS

SECTION 5. In addition to business permit requirements, clearances and other licensing prerequisites established by duly constituted authorities for the operation of internet cafés, the owner, proprietor, manager, or officer responsible therefore in the case of corporations, partnerships, or associations, shall submit to the Internet Regulatory Board a list containing the following:

- a) Name of the owner, operator and address;
- b) Number of computer units;
- c) Nature and number of computer accessories such as but not limited to the following: webcams, headset, microphones, computer disk writers, and printers;
- d) Installed software on the computer units;
- e) Hours of the day during which the Internet café is open for the public; and the number, names and addresses of the employees;

SECTION 6. Internet Establishment shall be required through the owner, proprietor, lessee, and manager to perform and undertake the following measures:

- a) To maintain a centralized user's logbook;
- b) To ensure that the Internet rooms are visible to public view;
- c) To refuse the entry of children, playing computer games during school hours from **7:00 am to 5:00 pm**, except during Saturday, Sunday and Special Holidays. Provided that for the purposes of school related works, students after proper identification are allowed in internet cafes from **5:00 pm to 9:00 pm** only during nighttime. **Strictly no overnights for all minors in internet cafés. Except for minors below 18 years of age who enrolled in college shall be allowed for overnight.**

- d) To report any violation of this act to the concerned authorities.

**ARTICLE 5
PROHIBITED ACTS AND ACTS PUNISHABLE**

SECTION 7. PROHIBITED ACTS- It shall be unlawful for any person with or without any consideration, promise or reward, to perform or exhibit in front of a digital camera, computer video camera, camera equipped-mobile phones, web cam and the like any of the following acts:

- a) Actual or simulated sexual-intercourse, including genital-genital, oral-genital, anal-genital, oral-anal, whether between the same persons or of opposite sex;
- b) Bestiality or any sexual activity by a human to non-human or animals;
- c) Masturbation or the manual excitation of the sexual organs, most often to the point of orgasm performed alone;
- d) Sadistic or masochistic abuse. Sadism as herein referred is the sexual pleasure or gratification in the infliction of pain and suffering upon another person. Masochistic is sexual pleasure or gratification of having pain or suffering inflicted upon the self;
- e) Use of vibrator or any instrument where the genitals, breast or public area of any person is exhibited; and
- f) Other acts intimately related or similar in nature.

SECTION 8. ACTS PUNISHABLE- The production, distribution, transmission of the images or visual representation depicting the prohibited acts enumerated in the immediately preceding provision is hereby declared unlawful and prohibited.

SECTION 9. Allowing minors access to pornographic web sites is likewise hereby declared to be unlawful and prohibited.

SECTION 10. PERSONS TO BE PENALIZED- The financier, operator of the lewd exhibition or show, the pimps, including the owner, maintainer, manager, proprietor, or the officer responsible thereof in the case of internet cafes operated by a corporation, partnership or association as well as their employees who knowingly allow the commission of any of the unlawful and prohibited acts set forth in Section 7, 8 and 9 of Article 5 shall be held criminally liable.

**ARTICLE 6
PENALTY AND COMMON PROVISIONS**

SECTION 11. PENAL PROVISION

- a) Any person, owner, proprietor, or manager of an internet café, or the officer responsible for the managing the day-to-day operations of internet cafés owned by a corporation, partnership or association as well as their employees who knowingly allows the commission of any of the acts declared to be unlawful and prohibited by the provisions of Section 7,8 and 9, Article 5 hereof shall be penalized as follows :

First Offense	- warning
Second Offense	-shall suffer the penalty of a fine of One Thousand Pesos (P1,000.00)
Third Offense	-Three Thousand Pesos (P3,000.00) Or imprisonment of three (3) months to Six (6) or both, subject to the sound discretion of the court

- b) In case the performer, actor or exhibitor is a minor, he/she shall be considered a victim pursuant to the provisions of Republic Act 7160, otherwise known as the "Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act" and shall be placed under protective custody, as provided for in Section 28 thereof.

ARTICLE 7 COMMON PROVISION

SECTION 12. COMMON PROVISIONS- The following provisions shall apply to Section 7, 8, 9 and 10 of Article 5 of this Ordinance.

- a) The penalty shall be imposed in its maximum if the offender has been previously convicted under this Ordinance.
- b) If the offender is a foreigner, he shall be immediately deported to his country after serving his sentence.
- c) If any of the performers, actors, exhibitors or both are minors who were induced to perform any of the acts prohibited by the provisions of Section 7, Article 5, the penalty in its maximum period shall be imposed upon the owner of the internet café who knowingly allowed the acts to be performed, including the officers of the corporations, partnership, or association operating the internet café responsible thereof, as well as the person or persons who caused the inducement.
- d) All payments of fees shall be paid to the Office of the Municipal Treasurer of the Municipality of Buug.

ARTICLE 8 OTHER PROVISIONS

SECTION 13. PARENTAL AUTHORITY AND CUSTODY- Where the mother, father, or guardian induced the minor to engage in acts prohibited by Section 7, Article 5, hereof, the Municipal Social Welfare and Development Office (MSWDO) shall temporarily assume the protective custody over the minor. Should the MSWDO deemed it necessary for the welfare of the minor to have his mother and/or father or guardian stripped of paternal authority, it shall initiate the corresponding proceeding before the proper court in accordance with executive Order 209, also known as the Family Code of the Philippines.

SECTION 14. DISPOSITION OF MATERIALS. - Any materials containing the lewd exhibition and the equipment used in the production of obscene and pornographic materials shall, after the conviction of the offender, be forfeited in favor of the government and destroyed in the presence of the representative from the Mayor's office, Sangguniang Bayan, Local Police Force and any one from religious, civic or youth organizations, in the manner as the court may direct: Provided, however, that when the accused is acquitted, the materials seized shall be forfeited in favor of the

government and destroyed: Provided, further, that if the acquittal results from a finding that the materials seized are not obscene or pornographic under this act, the materials shall be returned to the accused.

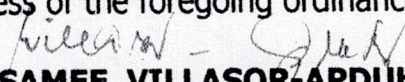
SECTION 15. AWARDS AND INCENTIVES. - Awards and incentives shall be conferred upon Internet Cafes who shall actively take part in the implementation of this Ordinance.

SECTION 16. REPEALING CLAUSE. All ordinances, rules and regulations or parts thereof in conflict with this Ordinance are hereby repealed, provided that the rights that are vested upon the affectivity of this Ordinance shall not be impaired.


SECTION 17. EFFECTIVITY CLAUSE. - This Ordinance shall take effect upon its approval.

Enacted on the 16TH day of February 2009 during the 7th Regular Session of the Sangguniang Bayan Ng Buug, Zamboanga Sibugay.

I HEREBY CERTIFY to the correctness of the foregoing ordinance.


ROSAMEE VILLASOR-APDUHAN
SB Secretary

ATTESTED BY:


ARNULFO D. LIM
Municipal Vice Mayor/Presiding

APPROVED:


TERESITA P. FAMOR
Municipal Mayor