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**ORDINANCE NO. 13121 - 2016**

**AN ORDINANCE PROHIBITING ANY PERSON FROM SELLING AND RETAILING UNSAFE AND SUB-STANDARD LIQUID PETROLEUM PRODUCTS IN THE CITY USING SODA OR PLASTIC BOTTLE, JUGS AND OTHER SIMILAR PORTABLE CONTAINERS, PROVIDING PENALTY FOR VIOLATION THEREOF, AND FOR OTHER PURPOSES**

*Whereas*, safety and protection of the people is foremost and primordial concern of the government as embodied in the 1987 Constitution and the Local Government Code of 1994;

*Whereas*, liquid petroleum fuels are highly combustible and flammable products that eventually cause fire, health risk due to inhalation of hazardous fumes and contribute undesirable effects to the environment that subsequently requires proper storage and handling as provided under the Fire Code of the Philippines;

*Whereas*, the proliferation and rampant selling of retailed-liquid petroleum products are obvious and may be sourced from illegal activities such as smuggling, pilferage and theft which deprive the City Government of revenue from the business permit, licensing, pump calibration fee and other charges which are collected from legitimate-pumping gas stations;

*Whereas*, peddling and vending of liquid fuels anywhere other than in legitimate-pumping gas stations may deny the public of the proper quality and quantity of the products they purchase;

*Now therefore*:

**BE IT ORDAINED** by the Sangguniang Panlungsod of Cagayan de Oro City in session assembled that:

**SECTION 1. Title.** This Ordinance shall be known as Illegal "Bote-bote" Retailing of Liquid Petroleum Products Ordinance of 2016.

**SECTION 2. Definition of Terms** – Whenever used in this Ordinance the following terms shall be construed as follows:

- A) Liquid Petroleum Products- shall mean and refer to as petroleum products that are flammable liquids such as gasoline, kerosene and diesel and combustible liquid products formed in the course of refining crude petroleum through distillation, cracking, solvent refining and chemical treatment coming out as primary stocks from the refinery and sold through retail outlets;
- B) Retail Outlet – shall refer to a gasoline station, outlet, facility or business establishment which sells or dispenses liquid petroleum products directly to individual end user/s or to the public;
- C) Retailing – shall refer to the act of selling and/or dispensing liquid petroleum products directly to individual end users or to the public;
- D) Bote-Bote – shall refer to the manner of retailing liquid petroleum products in soda bottles, plastic containers, jugs and other similar portable containers not intended or suited for storing, handling and dispensing liquid petroleum products;
- E) Task Force – shall refer to a group created and formed in this ordinance whose duties and functions are therewith defined.
- F) Peddler – an individual who retails and sells liquid petroleum products.

**SECTION 3. Retailing.** - Any person engaged or intending to engage in the retailing of liquid petroleum products shall comply with the following minimum standards:

- A. The retailing of liquid petroleum products shall be conducted in duly approved premises with an initial minimum lot area of 100 square meters and where vehicles being serviced shall at all times be inside the duly approved business premises;
- B. The retailing of liquid petroleum products shall only be carried out through fixed and permanent dispensing pumps duly approved by the city government and Department of Energy;





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- C. The owner and/or operator of the retail outlet must possess valid permits, licenses and certification for the retailing, storage, handling, transfer and/or dispensing of liquid petroleum products from the City Mayor's Office;
- D. The construction and operation of the retail outlet must comply with all applicable laws, rules, regulations and city ordinances;

**SECTION 4. Fuel Storage, Handling, Transfer and/or Dispensing.** - The storage, handling, transfer and/or dispensing of liquid petroleum products shall be subject to the following:

- A. Liquid petroleum products shall be transferred only from underground tanks by means of fixed pumps designed and equipped to allow the control of the flow and prevent leakage or accidental discharge;
- B. Liquid petroleum products shall not be dispensed from above-ground tanks, portable tanks, tank vehicles, drums, barrels or similar containers, e.g. Bote-bote, into the fuel tanks of motor vehicles or containers;
- C. The product suction lines of storage tanks shall be elevated at least four (4) inches from the bottom of the tank to avoid water draw-off with the product;
- D. The discharge of liquid petroleum products into or upon any street, highway, drainage canal or ditch, storm drain or flood control channel, river, creek or waterway, or upon the ground shall be strictly prohibited.

**SECTION 5. Task Force "Bote-Bote":**

- 1. A Task Force "Bote-Bote" is hereby created and to be composed of the following:
  - A. City Treasurer - Head of the Task Force;
  - B. City Police Director - Vice-Head of the Task Force;
  - C. City Fire Marshall;
  - D. Association of Barangay Council President or his/her representative;
  - E. Roads and Traffic Administration Head/Overseer;
  - F. City Equipment Depot Manager;
  - G. City Legal Officer
  - H. Five (5) personnel from the City Treasurer's Office duly designated by the City Treasurer;
  - I. Three (3) Police Officers duly designated by the City Police Director;
  - J. Five (5) RTA personnel duly designated by the RTA Head/Overseer;
  - K. Three (3) City Equipment Depot personnel duly designated by the City Equipment Depot Manager;
  - L. Punong Barangay(s) of the barangay(s) where there is/are bote-bote as ex-officio member(s).

Personnel from the City Treasurer's Office as may be designated by the Head of the Task Force shall act as Secretariat thereof to assist the Task Force during meetings, inspections and other activities, and to collect data and file records necessary in the performance of the functions of the Task Force.

- 2. Roles, duties and functions of the Task Force:
  - A. The Task Force shall hold regular meetings to be set and determined by them as to the day, time and venue;
  - B. Recommend issuance of Executive Order to the City Mayor if necessary to intensify and strengthen the implementation of this ordinance or other related laws and may propose any amendments thereof;
  - C. Inspect, plan and monitor the entire area of the City to determine that no illegal retailing of petroleum products is existing;





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- D. The Task Force shall approach with courtesy any person/s whom they believe found violating this ordinance and inform him/her regarding such violation;
  - E. The Task Force shall wear proper uniform and identification card whenever they conduct such operation;
  - F. The Task Force shall confiscate all stocks of liquid petroleum products found in the vicinity which are subject of illegal retailing and vending;
  - G. The Task Force shall make inventories of all confiscated materials duly signed by the confiscating head of the task force and the person/s being investigated and shall be witnessed by a Barangay Official of the barangay where the interrogation and confiscation was made;
  - H. Inventory report shall be accomplished in five (5) pages and it shall be furnished to the person/s being interrogated, the Barangay Official, the City Mayor's Office, City Legal Office and City Treasurer for file and reference;
  - I. All confiscated liquid petroleum products shall be turned-over to the City Equipment Depot with corresponding receipt and attached inventory paper for keeping and storing of such material and if there is no legal restraint after the lapse of thirty (30) days from its confiscation, the said material shall automatically become the property of the city government;
3. Custody and storage of confiscated liquid petroleum products:
- A. The City Equipment Depot shall be the custodian, keeper and in-charge of all confiscated liquid petroleum products in the city;
  - B. The City Equipment Depot shall construct and establish a system for safety storage and handling of the confiscated liquid petroleum products in consonance of the Fire Safety Code of the Philippines;
  - C. The disposition and transfer of the confiscated liquid petroleum products shall have a memorandum order issued by the City Mayor;
  - D. Reporting and inventory of the confiscated liquid petroleum materials shall be undertaken regularly and the City Mayor shall be furnished such copy including the Task Force itself.

**SECTION 6. Budgetary Allocation.** - There shall be a regular appropriation in the Annual Budget allocated for the operational expenses of the Task Force. For this purpose, the City Treasurer in consultation with the members thereof shall submit the annual budget of the Task Force.

**SECTION 7. Prohibited Acts and Penalty Clause.** - Any person, natural or juridical, found peddling, vending, retailing and selling in violation of, and not complying with, Sections 3 and 4 hereof, in addition to the confiscation of the liquid petroleum products, shall be penalized by a fine of not less than ₱3,000.00 but not more than ₱5,000.00 or imprisonment of not less than six (6) months but not more than one (1) year, or both such fine and imprisonment at the discretion of the court.

The offender may, however, opt to settle his/her liability administratively by paying the following administrative fines within 72 hours from apprehension:

- |                   |   |   |
|-------------------|---|---|
| A) First Offense  | - | Three Thousand pesos (Php 3,000.00)   |
| B) Second Offense | - | Four thousand pesos (Php 4,000.00)  |
| C) Third Offense  | - | Five thousand pesos (Php 5,000.00) and cancellation/ revocation of business permit when applicable. |

Failure to pay the said fine after the lapse of seventy-two (72) hours period, the City Legal Officer shall forward or file the appropriate complaint or information at the Office of the City Prosecutor or the Municipal Trial Courts in Cities in the City of Cagayan de Oro.

If the offender is a corporation, partnership or association, the penalty shall be imposed upon the officer or officers thereof responsible for the offense.



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**SECTION 3. – Repealing Clause.** – The provision/s of existing Ordinance/s found inconsistent hereof shall be deemed amended, modified or repealed accordingly.

**SECTION 9. – Separability Clause.** – If any provision/s of this Ordinance is declared null and void or unconstitutional, the other provisions not affected thereby shall remain in force and effect.

**SECTION 10. – Effectivity.** – This Ordinance shall take effect after 15 days following its publication in a local newspaper of general circulation.

**UNANIMOUSLY APPROVED.**

**Author:** - Councilor Teodulfo E. Lao, Jr.

**Present:**

*1<sup>ST</sup> District:*

- Councilor Zaldy O. Ocon
- Councilor Edna M. Dahino
- Councilor Romeo V. Calizo
- Councilor Annie Y. Daba
- Councilor Lordan G. Suan
- Councilor Jay R. Pascual
- Councilor George S. Goking
- Councilor Reuben R. Daba

*2<sup>nd</sup> District:*

- Councilor Maria Lourdes S. Gaane
- Councilor Ian Mark Q. Nacaya
- Councilor Teodulfo E. Lao, Jr.
- Councilor Dometilo C. Acenas, Jr.
- Councilor Leon D. M. Gan, Jr.
- Councilor Suzette G. Magtajas-Daba

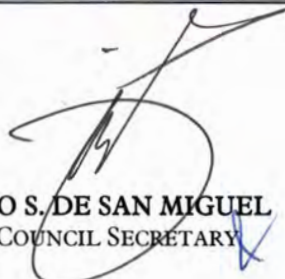
*Ex-Officio Member:* - Councilor Yan Lam S. Lim, *Liga Ng Mga Barangay (President)*

**Absent:**

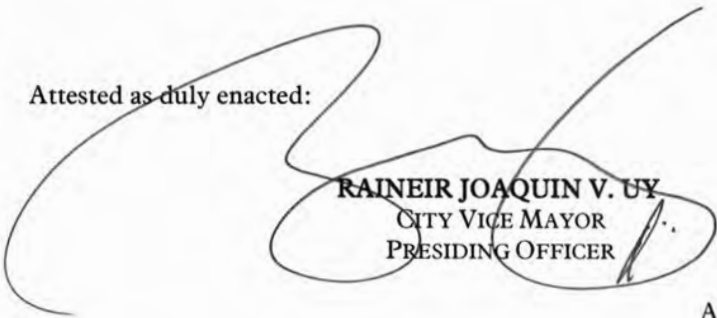
- Councilor Nadya B. Bmano-Elipe
- Councilor Enrico D. Salcedo

**ENACTED** this 5<sup>TH</sup> day of September 2016 in the City of Cagayan de Oro.

I hereby certify to the correctness of the foregoing Ordinance.

  
**ARTURO S. DE SAN MIGUEL**  
 CITY COUNCIL SECRETARY

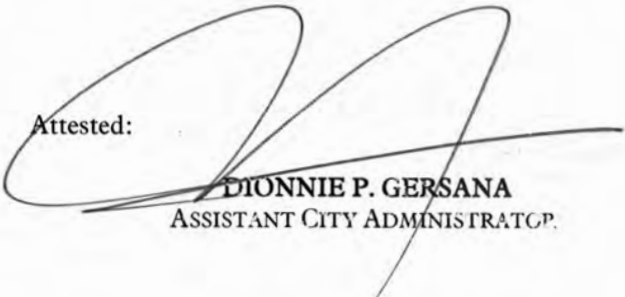
Attested as duly enacted:

  
**RAINEIR JOAQUIN V. UY**  
 CITY VICE MAYOR  
 PRESIDING OFFICER

Approved:

  
**OSCAR S. MORENO**  
 CITY MAYOR

Attested:

  
**DIONNIE P. GERSANA**  
 ASSISTANT CITY ADMINISTRATOR