CITY OF BACOOR
Province of Cavite

OFFICE OF THE SANGGUNIANG PANLUNGSOD

PRESENT:

HON. CATHERINE SARINO-EVARISTO
City Vice Mayor/Presiding Officer

DISTRICT I:

HON. AVELINO B. SOLIS
City Councilor

HON. EDWIN G. GAWARAN
City Councilor

HON. MIGUEL N. BAUTISTA
City Councilor

HON. REYNALDO M. FABIAN
City Councilor

HON. VENUS D. DE CASTRO
City Councilor

DISTRICT II:

HON. REYNALDO D. PALABRICA
City Councilor

HON. HERNANDO C. GUTIERREZ
City Councilor

HON. GAUDENCIO P. NOLASCO
City Councilor

HON. BAYANI M. DE LEON
City Councilor

HON. LEANDRO A. DE LEON
City Councilor

HON. ROBERTO R. JAVIER
City Councilor

HON. VICTORIO L. GUERRERO, JR.
City Councilor

(ABC-Pres.)

ABSENT:

HON. ROWENA BAUTISTA-MENDIOLA
City Councilor

CITY ORDINANCE NO. 2014-004
Series of 2014

AN ORDINANCE REGULATING THE OPERATION AND ESTABLISHMENT OF JUNKSHOPS WITHIN THE CITY OF BACOOR AND PROVIDING PENALTIES FOR VIOLATIONS HEREOF.

Approved by:

HON. STRIKE B. REVILLA
City Mayor

Subject to Veto of Section 5.12 as conveyed in my letter to the 3. 2014-004, 3 February 2014

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vehicular traffic and diminishes the aesthetic value of its communities.

WHEREAS, the pushcarts being used by operators of junkshops, the pile of recyclable materials within and on the roof of its premises, as well as the delivery trucks transporting recyclable materials usually parked in front of the said establishments pose serious safety risks to the general public.

WHEREAS, most of the pushcarts being used by junkshop operators are filthy and pose serious public health risks.

WHEREAS, regulating the establishment and operation of junkshops within the city and incorporate the same in the Solid Waste Management Program of the City of Bacoor is consistent with the legal mandate of the city government to promote the general welfare and protect the environment.

NOW THEREFORE, upon motion of Councilor Reynaldo D. Palabrera, unanimously approved by all the councillors present, BE IT ORDAINED AS IT IS HEREBY ORDAINED by the Sangguniang Panlungsod in regular session assembled that:

Section 1. Title.—This Ordinance shall also be known as the “2014 Junkshop Regulation Ordinance of the City of Bacoor”.

Section 2. Purpose and Coverage.—This ordinance regulates the operation and establishment of all junkshops located and/or operating within the City of Bacoor.

Section 3. Definition of Terms.—The following terms, as used in this Ordinance, shall mean:

a. Centralized Ecological Zone (CRMZ) — the only area within the City of Bacoor located within Greenvalley Subdivision in Barangay San Nicolas, City of Bacoor, Cavite where junkshops covered by this Ordinance shall be allowed to operate.

b. Junk — any waste or discarded recyclable material regardless of origin, size, weight, nature, or composition which may include plastic, styrofoam, iron, steel, aluminum, copper, brass, paper, glass, machine or automobile parts or any other material commonly
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regarded as trash or garbage in the ordinary sense of the word.

c. Junk Dealer -- a natural or juridical entity (such as a corporation, partnership, sole proprietorship, or cooperative) engaged in either the business of selling or buying recyclable materials, the collection of recyclable materials from public or private properties, the operation of pushcarts used for the collection or transportation of recyclable materials, or bulk buyers of recyclable materials from junk shops.

d. Junk Shop – an establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling old or scrap copper, brass, rope, rags, batteries, paper trash, rubber debris, waste or junked, dismantled or wrecked automobiles, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material or for the maintenance or operation of an automobile graveyard.

e. Operator – natural or juridical entities (such as a corporation, partnership, sole proprietorship, or cooperative) that manage or supervise the operation of a junk shop including its contents and premises.

f. Recyclable Materials -- any waste material retrieved from the waste stream and free from contamination that can still be converted into suitable beneficial use or for other purposes, including, but not limited to, newspaper, ferrous scrap metal, non-ferrous scrap metal, used oil, corrugated cardboard, aluminum, glass, office paper, tin cans and other materials as may be determined by the National Solid Waste Management Commission.

Section 4. Regulatory Requirements. -- All junkshops, junk dealers, and junkshop operators covered by this Ordinance shall comply with the following requirements:

4.1. Junkshop operators are hereby required to secure a Permit to Operate from the City Environment and Natural Resources Office (CENRO) before establishing or operating a junkshop. For new junkshops, the said permit shall be a requirement prior to the establishment of the said junkshop. For junkshops already existing prior to the date of effectivity of this Ordinance, the said permit shall be obtained on or before the 20th day of January of every year following the date of effectivity hereof.

4.2. The Permit to Operate shall indicate the name of the junkshop operator, his address and that of his junkshop, contact
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number, email address, the initial capitalization of the junkshop, the number of service vehicles being operated by the junkshop, and the kind of junk materials that will be, or is being traded, by the said junkshop. The permit shall be conspicuously displayed within the junkshop.

4.3. After securing a Permit to Operate, the junkshop operator shall also be required to secure a Business Permit, a Fire Inspection Certificate, a Sanitary Permit, a Health Certificate for all of his workers, and a Local Clearance from the city government offices responsible for the issuance of the same. All the said permits, certificate, and clearances shall be renewable every year and shall be made available during inspection.

4.4. A signboard with a size not less than 3 feet by 3 feet and not exceeding 4 feet by 4 feet, shall be prominently displayed on the perimeter wall of the junkshop. The said signboard shall legibly indicate the following: the name of the junkshop, the name of its owner, its contact number, its business permit registration number, and the name of the junkshop organization it may be affiliated with, if any.

4.5. Junkshops shall have its own parking space located within its premises or in an adjoining rented property sufficient for the use of delivery/pick-up trucks, clients' vehicles, pushcarts, and pedicabs. Such parking spaces should not be located along road sides, sidewalks, or open/abandoned lots but rather within the premises of the junkshop. In no instance shall the said parking spaces be used for the storage, piling, cleaning, or sorting of recyclable materials and may only be used for the unloading or loading of such materials.

4.6. A junkshop, in order to be allowed to operate, must have a minimum floor area of fifty (50) square meters that must be enclosed on all sides, roofed, and properly ventilated.

4.7. City and barangay officials shall be primarily responsible for the implementation of this Ordinance. No permit, certificate, or clearance shall be issued in favor of any junk shop operator who violated or who is violating any of the provisions hereof.

4.8. The junkshop operator must observe safety at all times and shall maintain an orderly system of piling recyclable materials within its premises. At no instance shall junkshop operators be allowed to pile recyclable materials in such a way that it becomes visible from the road or that it exceeds the height of the perimeter fence of the junkshop. The roof of the junkshop shall not be used to store any recyclable material. No recyclable material or junk may be placed on the roof of any junkshop in order to prevent the said roof from being carried off by the wind. The height of the perimeter fence and entrance gate of a junkshop shall not be less than 2...
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meters but not more than 3 meters measured from the level of the ground.

4.9. The junkshop operator must maintain separate areas for sorting, weighing, and storage of recyclable materials within its premises.

4.10. The pick-up or delivery of junk materials from junkshops shall only be permitted between 10:00 am and 3:00 pm everyday including weekends and holidays so as not to obstruct the flow of vehicular traffic.

4.11. The pedicabs or pushcarts being operated by junkshop operators shall be registered with the barangay where the junkshop is located. The operators of the said pedicabs and pushcarts shall be issued laminated identification cards by the barangay. The barangay shall paint a body number on the pedicabs and pushcarts as well as the name of the junkshop that operates it, and the barangay where it is registered. Freelance pushcart boys shall also be registered with the barangay before they are allowed to operate. The CENRO shall devise a color coding system for the pedicabs and pushcarts mentioned above for easier identification.

4.12. Junkshops shall only be allowed to operate between 6:00 am to 6:00 pm everyday including weekends and holidays.

4.13. Junkshops without a septic tank or waste water treatment system shall not be allowed to operate.

4.14. Junkshop operators are required to maintain a record of the type and volume of incoming and outgoing recyclable materials to be made available anytime for inspection by the CENRO or by any other duly authorized employee of the City of Bacoor.

4.15. Beginning on 31 December 2015, all junkshops covered by this Ordinance shall only be allowed to operate within the Centralized Ecological Zone (CEZ) to be located within Greenvalley Subdivision, Barangay San Nicolas, Bacoor City, Cavite the exact location of which shall be identified with particularity in the Implementing Rules and Guidelines of this Ordinance.

Section 5. Prohibited Acts and Penalties. -- The commission of the following prohibited acts shall result in the imposition of the following penalties:

<table>
<thead>
<tr>
<th>Prohibited Act</th>
<th>Penalties</th>
</tr>
</thead>
<tbody>
<tr>
<td>5.1. Operating a junkshop without the necessary permits, clearances or certificates.</td>
<td></td>
</tr>
<tr>
<td>5.2. Use of unregistered</td>
<td></td>
</tr>
</tbody>
</table>

Subject to Veto of Section 5.12 as conveyed in my letter to the City Council dated 26 February 2014.
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pedicabs/pushcarts in the collection or delivery of recyclable materials.

5.3. Using of sidewalks, roadsides, open or abandoned lots as weighing, storage, sorting, parking, or dumping area.

5.4. Using the roof of the junkshop as a storage area or piling recyclable materials in excess of the height of the perimeter fence of the junkshop.

5.5. Dumping of any litter, trash or material from the junkshop in any open space, creek, river, or body of water.

5.6. Washing of recyclable materials without the required waste water treatment system.

5.7. The burning of junk or any material by any employee of the junkshop within or outside the junkshop.

5.8. Conduct of any activity that produces noise or air pollution including the emission of noxious odors.

5.9. Accepting or treating any toxic or hazardous waste.

5.10. Obstruction of vehicular and pedestrian traffic through the parking of any vehicle, pushcart, or pedicab along sidewalks and road sides.

5.11. Failure to display permits, clearances, certificates, and signboards as mandated in this Ordinance.

5.12. Violation of the Anti-Fencing Law.

5.13. Operating a junkshop or selling recyclable materials outside of the Centralized Ecological Zone (CEZ).

5.14. Any act analogous or similar to the foregoing.

First Offense: Fine of Three Thousand Pesos (P3,000.00) plus a one-day seminar on environmental protection to be conducted by the CENRO.

Second Offense: Fine of Four Thousand Pesos (P4,000.00) plus two-day seminar on environmental protection to be conducted by the CENRO.

Third Offense: Fine of Five Thousand Pesos (P5,000.00) and cancellation of all permits, certificates, and clearances issued by the city government in favor of the junkshop operator.

Section 6. Separability Clause. — If, for any reason or reasons, any part of the provisions of this Ordinance shall be held unconstitutional or invalid, other parts hereof which are not affected thereby shall continue to be in full force and effect.

Section 7. Repealing Clause. — All Ordinances, resolutions, Circulars, Memorandums or Rules and regulations inconsistent with the provision of this Code are hereby repealed and modified accordingly.

Subject to Veto of Section 5.12 as conveyed in my letter to the No. 2014-004, 3 February 2014  
City Council dated 26 February 2014

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Section 8. **Implementing Rules.** – The City Mayor is hereby empowered to direct the formulation of the Implementing rules and guidelines of this Ordinance. Provided that the said rules and guidelines shall not be contrary to the provisions hereof.

Section 9. **Effectivity Clause.** – This Ordinance shall take effect immediately upon its posting in at least three (3) conspicuous places within the City of Bacoor.

**ADOPTED** this 3rd day of February 2014 at the City of Bacoor, Cavite in regular session assembled.

I hereby certify the truth and correctness of the foregoing Ordinance.

Certified by:

**HON. CATHERINE S. EVARISTO**  
City Vice Mayor / Presiding Officer

Attested by:

**ATTY. KHAUID A. ATEGA, JR.**  
Sangguniang Panlungsod Secretary

Approved by:

**HON. STRIKE B. REVILLA, PhD**  
City Mayor

Subject to Veto of Section 5, 12 as conveyed in my letter to the City Council dated 26 February 2014.

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HON. CATHERINE S. EVARISTO
Vice Mayor and Presiding Officer
Sangguniang Panlungsod
City of Bacoor, Cavite

THRU: ATTY. KHALID A. ATEGA, JR.
Sangguniang Panlungsod Secretary

SUBJECT: Veto of Section 5.12 of City Ordinance No. 004,
S. 2014

Dear Madam:

I am respectfully conveying my veto of Section 5. 12 of City Ordinance No. 004, Series of 2014. Attached is the legal opinion of our City Legal Officer on the said subject.

Although I am fully aware of its importance, I am constrained to express my disapproval due to the invalidity of such action.

Thank you for your continuous support.

Very truly yours,

STRIKE B. REVILLA, PhD
City Mayor
LEGAL OPINION No. 06-2014

To: THE CITY MAYOR

Issue: Requested Legal Opinion on the Validity of Section 5.12 of the City Ordinance 2014-004

Date: 24 February 2014

We are tasked to render legal opinion on the validity of Section 5.12 of City Ordinance No. 2014-004.

We respectfully answer in the negative.

The Local Government Code\(^1\) provides for Local Legislative Power\(^2\) which shall be exercised by Sanguniang Panglungsod for the city. In the case of Fernando vs. St. Scholastica’s College,\(^3\)

"... The State, through the legislature, has delegated the exercise of police power to local government units, as agencies of the State. x x x (The) general legislative power, authorizes the municipal council to enact ordinances and make regulations not repugnant to law, as may be necessary to carry into effect and discharge the powers and duties conferred upon the municipal council by law. xxx"

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:\(^4\)

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.

In the questioned ordinance\(^5\) particularly Sec. 5.12 under prohibited acts and penalties, it included a violation of a statute:

<table>
<thead>
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<tbody>
<tr>
<td><strong>5.12 Violation of Anti Fencing Law</strong></td>
<td>First Offense: Fine of Three Thousand Pesos (P3,000) plus a one-day seminar;*</td>
</tr>
<tr>
<td><strong>(seminar on environmental protection to be conducted by CENRO)</strong></td>
<td>Second Offense: Fine of Four Thousand Pesos (P4,000) plus two-day seminar;*</td>
</tr>
<tr>
<td><strong>Third Offense: Fine of Five Thousand Pesos (P5,000) and cancellation of all Permits, certificates, and clearances issued by the city government in favor of junkshop operator.</strong></td>
<td></td>
</tr>
</tbody>
</table>

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\(^1\) Republic Act No. 7160
\(^2\) Id., Section 48
\(^3\) G.R. No. 161107, 12 March 2013
\(^4\) City of Manila v. Judge Laguio, G.R. No. 118127, 12 April 2005
\(^5\) Civ Ordinance No. 2014-004 (Series of 2014)
The said Anti-Fencing Law\(^6\) was enacted by Congress as a special penal law that defines and penalizes “fencing” and the “fence”. “Fencing” is the act of any person who, with intent to gain for himself or for another, shall buy, receive, possess, keep, acquire, conceal, sell or dispose of, or shall buy and sell, or in any other manner deal in any article, item, object or anything of value which he knows, or should be known to him, to have been derived from the proceeds of the crime of robbery or theft.\(^2\) “Fence” includes any person, firm, association corporation or partnership or other organization who/which commits the act of fencing.\(^3\)

As discussed earlier,\(^8\) it is clear that an ordinance cannot contravene or cause the repeal of a statute. The stream cannot be higher than the source. Where the statute provides for the definition and penalty for an offense, it can only be adopted, not amended. The penalties prescribed\(^12\) in Anti-Fencing Law are well established and thus cannot be repealed by an ordinance.

It is therefore the opinion of this Office, with all due respect, that Section 5.12 of the subject ordinance is invalid. The rest of the provisions not inconsistent with this opinion shall remain valid. It is recommended that Section 5.12 of the ordinance be stricken out of the application of the ordinance.

For your information and reference.

\[\text{Signature}\]

JESSIE A. SALVADOR
Paralegal – Engineer III

Concurred and Approved by:

\[\text{Signature}\]

ROSEMARIE CARMEN V. PEREY
City Legal Officer

\(^6\) Presidential Decree No. 1612 (15 June 1979)
\(^7\) Id., Section 2(a)
\(^8\) Id. at 6, Section 2(b)
\(^9\) Supra Note 4
\(^10\) Id. at 6, Section 3