



Republic of the Philippines
Province of Aurora
MUNICIPALITY OF BALER

Office of the Sangguniang Bayan

EXCERPT FROM THE MINUTES OF THE REGULAR SESSION OF THE SANGGUNIANG BAYAN OF BALER, AURORA WHICH WAS HELD ON OCTOBER 24, 2012 AT THE SB SESSION HALL, LEGISLATIVE BUILDING.

Present:

Hon. Nelianto C. Bihasa	Vice Mayor-Presiding Officer
Hon. Danilo M. Ong	SB Member
Hon. Karen G. Angara-Ularan	SB Member- PCL President
Hon. Noel P. Go	SB Member
Hon. Arthur L. Sanchez	SB Member
Hon. Reynaldo E. Mapindan	SB Member
Hon. Gina T. Ritual	SB Member
Hon. Nenita DS. Gonzales	SB Member
Hon. Sonia G. Amatorio	SB Member
Hon. Gina Z. Agapito	SB Member-ABC President

Absent:

Hon. Aya Rose L. Avellaneda	SB Member-SK Fed. Chairman
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ORDINANCE NO. 017-2012

AN ORDINANCE PROVIDING THE RULES AND REGULATIONS GOVERNING THE BUSINESS OF RETAILING LIQUID PETROLEUM PRODUCTS (LPP) IN THE MUNICIPALITY OF BALER, AURORA, PURSUANT TO PD 1865 AND ITS IMPLEMENTING RULES AND REGULATIONS, RA 8479 AND DEPARTMENT OF ENERGY DEPARTMENT CIRCULAR NO. 2003-11-010.

Whereas, R.A. 8479, otherwise known as the “*Downstream Oil Industry Deregulations Act of 1998*”, applies to all persons or entities engaged in any and all activities of the domestic downstream oil industry and mandates the DOE to promote the entry of new industry participants;

Whereas, Batas Pambansa Blg. 33, as amended by Presidential Decree No. 1865, and the Implementing Rules and Regulations therefore, define and penalize certain prohibited acts considered inimical to the public interest and the national security, including illegal trading in petroleum and/or petroleum products, hoarding, adulteration and underdelivery, among others;

Whereas, the retailing of liquid Petroleum Products is subject to pertinent permits and licenses issued by government authorities including the DENR, Bureau of Fire Protection, BIR and Local Government Units;

Whereas, all matters affecting the safe and proper handling, transport, storage, installation and use of equipment and facilities in the downstream oil industry shall be governed by the pertinent provisions of the different national and international safety codes observed and adopted by the industry;

Whereas, there is also an increasing proliferation of unsafe practices in Liquid Petroleum Product Retailing particularly with the use of inappropriate containers (e.g. “bote-bote”), storage tanks and tank vehicles;

Whereas, the continued operation of unsafe and sub-standard Retail Outlets may (i) expose the consuming public to fire, security, health and environmental risks; (ii) deny the public the proper quality and quantity of the liquid petroleum products they purchase, (iii) deprive legitimate Retail Outlets of additional sales volume; (iv) deprive the government of revenue derived from licensing fees, local business taxes and pump

calibration charges, among others; and (v) encourage the marketing of liquid petroleum products sourced from illegal activities such as smuggling, pilferage, theft and the like;

Whereas, under Section 20, DOE DC No. 003-11-010, issued on November 14, 2003 the DOE recognizes and respects the rights of the appropriate LGU to refuse issuing the necessary business permits and/or impose fines and/or penalties in case of violations enumerated hereon. Likewise, the DOE may recommend to the concerned LGU the suspension, revocation or termination of the business permit of persons violating the said DOE Department Circular No. 003-11-010.

Whereas, in order to implement the purpose and intent of the aforecited laws and Implementing Rules and Regulations pertaining to Downstream Oil Industry Business in its jurisdiction, the Municipal Government of Baler, Aurora, has to enact an ordinance adopting provisions pertinent thereof;

Now therefore, be it ordained, as it is hereby ordained, by the Sangguniang Bayan of the Municipality of Baler, Aurora in session assembled, that:

Section 1. Title. - This Ordinance shall be known as "An Ordinance Regulating the Business of Retailing Petroleum Products in the Municipality of Baler".

Section 2. Coverage. - The regulatory activities provided herein shall be collaborative, supplementary & coordinative functions mandated to the Pertinent National Government Agencies such as the DOE, DENR, Bureau of Fire and others;

Section 3. Minimum Standards and Requirements.- Any person engaged or intending to engage in retailing of LPP shall comply with the following minimum standards:

- a. The Retailing of LPP 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 LPP shall only be carried out through fixed and permanent dispensing pumps duly approved by the DOE and further subject to the following:
 - (i) The dispensing pump clearly indicates on its face the type of LPP being dispensed and its brand name, if any;
 - (ii) The dispensing pump accurately displays both the volume of LPP dispensed (in liters) and the corresponding amount (in pesos) up to the 1/100th part;
 - (iii) The dispensing pump for gasoline displays the Octane Rating of the product as required under Department Circular no. 2001-09-003;
 - (iv) All dispensing pumps and storage tanks of LPP are distinct and labeled to ensure that there shall be no product contamination or inadvertent mixing or misfueling of the different Petroleum Products; and
 - (v) Dispensing pumps are properly calibrated and sealed in accordance with Retail Rules.
- c. The owner and/or operator of the Retail Outlet must possess valid permits, licenses and certifications for the Retailing, storage, handling, transfer and/or dispensing of LPP from this LGU, the BFP, the DENR, DOE and other relevant government authorities.
- d. The construction and operation of the Retail Outlet must comply with all applicable laws, rules regulations and LGU ordinances.
- e. The operation of service bays shall be subject to and fully comply with the criteria and/or guidelines set by the DENR-EMB for such facilities and/or operations. Generated waste oil or petroleum from Retail Outlets shall be properly collected, stored and disposed of in accordance with the requirement of DENR DAO 92-29, as amended.

Section 4. Calibration and Sealing of Dispensing Pumps. – The Municipal Treasurer or his duly authorized representative shall calibrate and seal all dispensing pumps of Retail Petroleum outlets/gasoline stations, once every sixty (60) days, pursuant to section 12, Rule III of DOE DC No. 2003-11-101.

Section 5. Fee for Calibration and Sealing of Dispensing Pump. – The Municipal Treasurer or his duly authorized representative shall collect the fee thereof amounting to Php100.00/ pump pursuant to Section 3N.03 (c) Article N, Chapter II of the Revised Revenue Code of Baler, Series of 2012.

Section 6. Prohibited Acts. – The following acts or omissions shall constitute violation of this ordinance:

- A. Hoarding – (i) The refusal of Retail Outlet to sell liquid petroleum products shortly before a price increase or in times of tight supply or in both instances if the buyer or consumer has the ability to pay in cash for the product . (ii) The undue accumulation by Retail Outlet of liquid petroleum products in times of tight supply or shortly before a price increase. Undue accumulation shall mean the keeping or stocking of quantities of LPP beyond the normal inventory level maintained by Retail Outlets for thirty (30) days preceding the period of tight supply or price increase.
- B. Illegal Trading. (i). The Failure of Retail Outlet owner/operator to have his/her dispensing pumps calibrated and sealed by authorized calibrating entities: The Municipal Treasurer or authorized representative; or in his absence or incapacity, duly authorized representatives of the DOST-ITDI, in their absence or incapacity, duly authorized representatives of any other government agency authorized therefore or, in their absence or incapacity, duly authorized representative of the oil company (sec. 12 Rule III DOE DC 2003-11-010).
(ii) The Possession of liquid petroleum products which do not meet the Philippine National Standard (PNS) and the prescribed color coding scheme shall constitute prima facie evidence of adulteration, and its sale, distribution exchange or barter shall constitute illegal trading. (Section 17 Rule IV of DOE DC 2003-11-010).
iii) Unsafe Practices in LPP Retailing particularly with the use of inappropriate containers (e.g: “*bote-bote*”), storage tanks and tank vehicles.
iv) LPP dispensed from above-ground tanks, portable tanks, tank vehicles, drums, drums or similar containers, e.g. *bote-bote*, into the fuel tanks of motor vehicles or containers.
- C. Underdelivery – (i) Failure of retail outlet to provide the written record or logbook of daily testing of dispensing pumps using a properly sealed calibrating bucket shall give rise to the presumption that the dispensing pump is underdelivering (Section 14 Rule III of DOE DC 2003-11-010); (ii) a dispensing pump with a broken or no seal shall constitute a prima facie evidence of underdelivering (Section 16).

Section 7. Inspection, Monitoring and Implementation of the provisions of this Ordinance – The concerned chief of office or his/her authorized representative individually/in tandem/or group shall implement the provisions of the ordinance by regular or surprise inspection or monitoring of the conduct of business of liquid petroleum product (LPP) in accordance with their mandate and as provided by this ordinance to wit:

Prohibited Act	Responsible Officer/Office
1. Hoarding	a.) BPLD (Business Permit and Licensing Office) b.) PNP (Philippine National Police-Baler)
2. Illegal Trading a.Using uncalibrated, unsealed, or broken seal fuel dispensing pump b.Possession or sale/distribution, exchange, or barter of adulterated LPP c.Use of inappropriate containers (<i>bote-bote</i>), storage tanks and tank vehicles d.LPP dispensed from above ground containers (<i>bote-bote</i> , portable tanks, tank vehicles, drums) into the fuel tanks of motor vehicles or containers	a.) MTO (Municipal Treasury Office) b.) BPLD; c.) PNP a.) BPLD; b.) PNP a.) BPLD; b.) PNP; c.) BFP (Bureau of Fire Protection Baler) a.) BPLD; b.) PNP; c.) BFP
3. Underdelivery a.Failure to provide written record of daily testing of dispensing pumps b.A dispensing pump with a broken or no seal. 4. Violation of Solid Waste Management Ordinances, Laws, Rules and Regulations.	a.) BPLD; b.) PNP; c.) MTO a.) BPLD; b.) PNP; c.) MTO a.) MENRO (Municipal Environment and Natural Resources Office) b.) PNP

Section 8. Institution of Administrative Proceedings. Any person or concerned government officer may initiate administrative proceedings against person/s committing any of the prohibited acts enumerated in this ordinance as follows:

1. The complainant shall submit to BPLD an affidavit under oath or a notarized affidavit-complaint against person/s citing the incidence and commission of prohibited act.
2. The chief of BPLD with the technical assistance of concerned office/s, evaluates the complaint to determine if prima fie case exist. If yes, the complaint is furnished the concerned person for personal appearance and hearing in BPLD and/or submission of counter-affidavit, for evaluation.
3. The BPLD recommends to the Mayor either conviction or acquittal of the person charged based on evaluation conducted.
4. The decision of the Mayor shall be furnished the person concerned.
5. The order of conviction carrying administrative fine may be appealed to the Mayor through the BPLD within seven (7) working days. The decision becomes final after the lapse of 7 days without appeal. The Municipal

Mayor shall decide on the appeal within seven (7) working days after receipt thereof.

6. The decision of the Mayor on the appeal which shall be final and executory, shall be furnished the person concerned immediately for appropriate compliance or payment of fine, and the MTO for guidance/reference.
7. A decision of conviction carrying a penalty of revocation of permit shall be in force & effect until such permit is restored by the Sangguniang Bayan. The aggrieved party may resort to applicable remedies under existing pertinent laws.

Section 9. Penalties and Sanctions. – Any violation of pertinent provisions hereof shall be sanctioned/fined as follows:

First Offense	Administrative Fine of	Php	2,000.00
Second Offense	Administrative Fine of		3,000.00
Third Offense	Suspension or revocation of Business permit; Closure of business establishment		

Section 10. Applicability Clause. - All other matters relating to downstream retailing business of LPP which are not specifically provided herein shall be governed by pertinent provisions of existing ordinances, laws, rules and regulations, and circulars of the DOE.

Section 11. Repealing Clause. - All ordinances, rules and regulations, or parts thereof in conflict, or inconsistent herewith, are hereby repealed, amended or modified accordingly.

Section 12. Effectivity. - This ordinance shall take effect after fifteen (15) days from the date a copy hereof is posted in a bulletin board at the entrance of the municipal building of Baler, Aurora and in at least two (2) conspicuous places in the municipality.

ENACTED: **24 October, 2012**

AUTHOR: **HON. SONIA G. AMATORIO**
Chairperson-SB Committee on Trade and Industry

I hereby certify to the correctness of the foregoing ordinance.

GLORIOSO A. VILLAFRANCA
Secretary to the Sangguniang Bayan

Attested:

NELIANTO C. BIHASA
Vice Mayor-Presiding Officer

Approved:

ARTURO J. ANGARA, DMD.
Municipal Mayor

Date: _____