Republic of the Philippines
Province of Samar
Municipality of Pinabacdao
OFFICE OF THE SANGGUNIANG BAYAN

Explanatory Note

It is the policy of the State to safeguard the integrity of its territory; and the well-being of its citizenry from the harmful effects of dangerous drugs on their physical and mental well-being, and to defend the same against acts o omissions detrimental to their development and preservation. It is also the policy of the State to promote a high standard of ethics in the public service. Public officials and employees shall at the same time be accountable to the people and shall discharge their duties with utmost responsibility, integrity, competence and loyalty, act with patriotism and justice, lead modest lives, and uphold public interest over personal interest. Hence, to maintain these standards, public officials and employees must be free from using dangerous drugs.

This ordinance aims to promote the establishment and institutionalization of drug-free workplace policies in all government agencies and ensure that all public officers, both elective and appointive, remain drug free through the conduct of authorized drug testing pursuant to RA No. 9165 or the Comprehensive Dangerous Act of 2002. The public will be ensured of effective and efficient service from the government, free from the ill-effects of drug use in the workplace.

MUNICIPAL ORDINANCE NO. 24-001

ORDINANCE INSTITUTIONALIZING A DRUG-FREE WORKPLACE IN THE LOCAL GOVERNMENT OF PINABACDAO, SAMAR AND PROVIDING SANCTIONS FOR VIOLATION THEREOF

WHEREAS, Article III, Section 36 (d) of Republic Act 9165, otherwise known as the "Comprehensive Dangerous Drugs Act of 2002" provides that the officers and employees of public and private offices, whether domestic or overseas, shall be subjected to undergo a random drug test as contained in the company's work rules and regulations, which shall be borne by the employer, for purposes of reducing the risk in the workplace;

WHEREAS, Board Resolution No. 13 Series of 2018 of the Dangerous Drug Board entitled, "Establishment and Institutionalization of Drug-Free Workplace Policies in all Government Offices, including the Conduct of Authorized Drug Testing for Elective Local Officials and Appointive Public Officers and For Other Purposes" was issued to promote

the establishment and institutionalization of drug-free workplace policies in all government agencies and ensure that all public officers, both elective and appointive, remain drug free through the conduct of authorized drug testing pursuant to RA No. 9165 or the Comprehensive Dangerous Drugs Act of 2002, as amended;

WHEREAS, the Dangerous Drugs Board under Section IX of Board Resolution No. 113 provides the local Sanggunians shall enact their respective Ordinances "mandating the establishment of drug-free workplace policies" within their areas of jurisdiction;

WHEREAS, the Civil Service Commission (CSC) Memorandum Circular No. 13, Series of 2017 prescribes the conduct of mandatory drug test as a pre-requisite for employment to ensure that only those qualified candidates shall be screened and recruited in the government service;

WHEREAS, the same Memorandum mandates heads of agencies to ensure that the drug-free workplace program on the prevention and control of dangerous drugs, including drug-testing, shall be disseminated to all officials and employees;

WHEREAS, it is in the best interest of the Local Government of Pinabacdao to create a drug-free workplace since drug abuse problem, if there is any, can have adverse and far-reaching effects on the government, like reduced productivity, poor decision-making, client relationship mishap and physically dangerous situations by providing stiffer penalties and effective strategies to strengthen its drive in establishing a drug-free workplace;

WHEREAS, under Section 458, paragraph (a), (1) and (V) of RA 7160, The Sangguniang Bayan has the power and authority to enact ordinances to prevent, suppress and impose appropriate penalties on drug addiction, maintenance of drug dens, drug pushing, and such other activities inimical to the welfare and moral of the inhabitants of the city.

NOW THEREFORE, on motion duly seconded, Be it,

RESOLVED as it is hereby resolved, to adopt the following ordinance:

MUNICIPAL ORDINANCE NO. 24-001

AN ORDINANCE INSTITUTIONALIZING A DRUG-FREE WORKPLACE IN THE LOCAL GOVERNMENT OF PINABACDAO, SAMAR AND PROVIDING SANCTIONS FOR VIOLATION THEREOF

Be it enacted by the Sangguniang Bayan of Pinabacdao, Samar that:

Section 1: Short Title – This ordinance shall be known as **"Drug-Free Workplace Ordinance of the Local Government of Pinabacdao, Samar"**.

Section 2: Coverage – The Ordinance shall be applicable to all municipal public officials, elected or appointed, and employees including barangay officials and employees and job order personnel.

Section 3: General Rules in the Conduct of Random Drug Testing – The following rules shall guide the municipality's random drug-testing program:

a. The random drug testing shall be implemented as a collaborative undertaking of the local government to include the barangays, its officials and employees.
b. Random drug testing shall be implemented primarily to ensure a drug-free workplace.
c. The drug testing program shall guarantee and respect the personal privacy and dignity of the officials and employees.
d. The Drug-Free Workplace Policy of the municipality shall include the conduct of authorized drug testing, the purpose of which is to prevent the entry of dangerous drugs among personnel thereof. The frequency of such testing, which shall be conducted in a random manner, shall take into consideration, among others, the number of public officers, nature of work being discharged, funding and other logistics.
e. Contract of Service or Job Order employees shall be subject to the conduct of authorized drug testing as herein reflected in the Drug-Free Workplace Policy of the municipality.
f. All results of authorized drug testing activities shall be strictly confidential.
g. Authorized drug testing shall be conducted only by a drug testing laboratory accredited by the DOH. In case of a negative drug result, no further action is needed.
h. A positive drug test result from the confirmatory test shall immediately be reported to the Municipal Mayor, who shall notify the public officer concerned. The public officer shall have fifteen (15) days from receipt of notice to challenge the result of the confirmatory test. Using the specimen, a challenge test shall be conducted by a drug testing laboratory accredited by the DOH. All expenses incurred in the conduct of the challenge test shall be borne by the concerned public officer.
i. A positive drug test result from the challenge test is deemed final and the public officer shall be subjected to administrative proceedings. Failure to file a challenge within the prescribed period shall make the positive drug test result from the confirmatory drug test final.

Section 4. Definition of Terms – For the purpose of this Ordinance, the following terms are defined as:

a. **Authorized Drug Testing** – refers to the testing done by drug testing laboratories accredited by the Department of Health (DOH). It shall employ, among others, two (2) testing methods: the screening test, which will determine the positive result as well as the type of the drug used, and the confirmatory test, which will confirm a positive screening test.
b. **Challenge Test** – a drug test conducted as a result of a challenge filed by the public officer who tested positive for drug use in a confirmatory test in an authorized drug testing activity.
c. **Confirmatory Test** – shall mean an analytical test using a device, tool or equipment with a different chemical or physical principle that is more specific which will validate and confirm the result of the screening test. It refers to the second or further analytical procedure to more accurate determine the presence of dangerous drugs in a specimen.

d. **Contract of Service/Job Order** – refers to employment covered by a contract pertaining to lump sum work or services such as janitorial, security, or consultancy services where no employer-employee relationship exists; piece of work or interment job of short duration not exceeding six (6) months on a daily basis; all of which are not covered by Civil Service law, rules and regulations, but covered by Commission on Audit rules; and the public officials or employees involved do not enjoy the benefits received by the government employees, including, but not limited to, personal economic relief allowance, cost of living allowance, and representation, and travel allowance.

e. **Dangerous Drugs** – include those listed in the Schedules annexed to the 1961 Single Convention on Narcotic Drugs, as amended by the 1972 Protocol, and in the Schedules annexed to the 1971 Single Convention on Psychotropic Substances as enumerated in the attached annex which is an integral part of Republic Act No. 9165 or the Comprehensive Dangerous Drugs Act of 2002, as amended.

f. **Drug Dependency Examination** – refers to the examination conducted by a physician accredited by the DOH to evaluate the extent of drug use of a person and to determine whether he/she is drug dependent or both, which includes history taking, intake interview, determination of criteria for drug dependency, mental and physical status, and the detection of dangerous drugs in body specimens through laboratory procedures.

g. **Drug Test** – a technical analysis of a biological specimen, i.e., urine, blood, sweat, or oral fluid/saliva, to determine the presence or absence of illegal drugs taken by a person.

h. **Drug Use** – any act of consuming either by smoking, sniffing, eating, swallowing, or injecting any illegal drugs or substance.

i. **Employees** – shall include all municipal and barangay officials and employees including job order personnel.

j. **"For Cause" or "Probable Cause" Drug Test** – a drug testing procedure required when there is a "probable cause" or "reasonable ground" to believe that a person is using or is under the influence of illegal drugs.

k. **Mandatory Drug Testing** – compulsory submission of a public officer or prospective employee to drug testing as mandated by law or by the drug free workplace program of the agency.

l. **Public Officer** – any person holding any public office in the Government of the Republic of the Philippines, by virtue of an appointment, election or contract.

m. **Random Drug Test** – subjection of personnel for drug testing as selected following no specific pattern and without prior notice/information.

n. **Refusal** – physically evading, escaping, refusing, or making self-unavailable to undergo a drug test.

o. **Screening Test** – shall mean a rapid test performed to establish potential/presumptive positive result; it refers to the immune-assay test to eliminate a negative specimen i.e., one without the presence of dangerous drugs, from further consideration and to identify the presumptively positive specimen that requires confirmatory test.

p. **Substance Use Disorder (SUD)** – term used in Diagnostic Manual 5 which combines categories of substance use, abuse, and dependence into a single disorder measured in a continuum form from mild to severe. Each specific substance is addressed as separate disorder (e.g. alcohol use disorder, shabu use disorder) and are diagnosed based on the same overarching eleven (11) behavioral criteria. Clinicians can also add "in early remission", "in sustained environment", "on maintenance therapy", and "in controlled environment" in describing their diagnosis which could either be the following:

   i. **Mild SUD** – a minimum of two (2) to three (3) criteria has been met which would be similar to experimental and occasional users;
   ii. **Moderate SUD** – four (4) of five (5) criteria met which would be similar to regular and habitual users; and
   iii. **Severe SUD** – if six (6) or more symptoms/criteria have been met which is about the equivalent to an abuser and substance dependent individual

q. **Urine Drug Test** – a kind of drug test using the human urine to examine the presence or absence of certain illegal drugs

Section 5. Pre-employment Drug Testing – Mandatory drug testing as a requirement for initial entry to government service under the law. Any applicant found positive for drug use shall be denied entry to government service.

Section 6. Procedures in the Conduct of Random Drug Testing – The procedures in the conduct of the random drug testing shall be as follows:

a. The Municipal Mayor or his authorized representative shall order the conduct of the random test. For the barangay, the Barangay Captain shall cause the order of the random test.
b. Drug testing shall be done by any government forensic laboratory or any of the local drug testing laboratories accredited and monitored by the Department of Health (DOH) to safeguard the quality test results.

c. The drug testing shall employ, among others, two (2) testing methods:
   1. The screening test which will determine the positive result as well as the type of drug used; and
   2. The confirmatory test which will confirm a positive screening test

d. Random drug testing shall include, either all or a certain number of employees. The means of selection shall remain confidential.
e. All information related to drug testing or the identification of the persons as users if drugs shall be treated by the Municipality as confidential unless otherwise required by law, overriding public health and safety concerns, or authorized in writing by the person in question.

Section 7. Testing for "Probable Cause" or "Reasonable Ground" – random drug test shall be conducted when certain employee/s display/s misconduct in, e.g.:

a. **Attendance** – frequent unauthorized absences, repeated tardiness, and truancy from the job.
b. **Personal appearance** – slurred speech, bloodshot eyes, drastic change in appearance, etc
c. **Mental factor** – hot-headedness, irritably, increased difficulty in handling assignments, etc
d. **General performance** – missed deadlines, low productivity, increased wastage, public complaints, frequent accidents, carelessness, etc
e. **Peer relation** – isolation, quarrels with officemates, heavy borrowing, frequent mood swings, etc

Section 8. Funding – The cost of the drug testing for the municipal officials and employees and other job order personnel under its employ shall be funded by the Municipal Government of Pinabacdao, Samar and for barangay officials, employees and other personnel shall be shouldered solely by the LGU – Barangay and must be part of their budgetary appropriation.

Section 9. Sanctions

a. Refusal to undergo drug test constitutes insubordination and shall be penalized by appropriate Civil Service Laws.
b. Any official or employee who is found to be positive for prohibitive drug use by a DOH accredited Drug Testing Center shall be required to undergo a mandatory six (6) months treatment and rehabilitation in any of the accredited government rehabilitation centers. He shall be **SUSPENDED** from work without pay while undergoing treatment.
c. Refusal to obtain rehabilitation after having been found positive on the use of illegal drugs after positive confirmatory results is tantamount to Grave Misconduct under Civil Service Commission rules and regulations and will be penalized with **DISMISSAL** from the service.
d. Any official or employee who for the second time has been detected to be using illegal drugs after completion of his/her rehabilitation program shall be guilty of Grave Misconduct and will be penalized with **DISMISSAL** from the service.

Section 10. Creation of a Drug Free Workplace Committee. A Drug Free Workplace Committee shall be created with the Municipal Mayor as the Chairman and representatives from the Municipal Health Office, Human Resource Management Office, Office of the Municipal Administrator, and Municipal Anti-Drug Abuse Council (MADAC) as members. The Drug Free Workplace Committee shall formulate the Implementing Rules and Regulations for the purposes of implementing this Ordinance.

Section 11. Separability Clause. – if any of this Ordinance is declared not valid, unconstitutional, or unlawful, such declaration shall not affect or impair the remaining provisions, sections or parts thereof, which shall remain or continue to be in full force and effect.

Section 12. Repealing Clause. – All previous ordinances and provisions inconsistent with this Ordinance shall be deemed repealed or modified accordingly.

Section13. The Ordinance shall take effect, after copies of this Ordinance shall have been posted for ten (10) days in the bulletin board, at the entrance of the Municipal Hall Building, and in at least two (2) conspicuous places in Pinabacdao, Samar, not later than five (5) days of approval hereof.

Enacted and Approved: 5th day of February 2024 at Pinabacdao, Samar.

HON. JOSE SANTIAGO T. QUIJANO
SB Member

HON. ELISEO B. CABORNAY JR.
SB Member

HON. JOEL R. PACAYRA
SB Member

HON. NESTOR C. OCENAR
SB Member

HON. ARLYN C. MABUTE
SB Member

HON. ROSEMARIE T. BADENAS
SB Member

HON. NINO A. RAGA
SB Member

HON. REYNALDO C. TUAZON
SB Member

HON. WILMA P. ESOY
ABC President

HON. JOSEPH ULDANE O. GACULA
SK Federation President

I HEREBY CERTIFY to the correctness of the foregoing ordinance.

MARY BERNARDETTE T. QUIJANO
Secretary to the Sangguniang Bayan

Attested by:

HON. EDGAR M TONBLETE
Municipal Vice Mayor

Approved:

HON. TEODORICO A. MABAG
Municipal Mayor

02-06-24