

Ordinance No.2006-014

AN ORDINANCE ESTABLISHING A "FREEDOM PARK" PURSUANT TO BATAS PAMBANSA BLG. 880 AND DESIGNATING PLAZA QUINCE MARTIREZ FOR SUCH PURPOSE, PRESCRIBING TERMS AND CONDITIONS THEREFOR, AND IMPOSING PENALTIES FOR VIOLATIONS THEREOF:-

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Be it ordained by the Sangguniang Panlungsod of the City of Naga, that:

SECTION 1. TITLE - This ordinance shall be known and may be cited as the "ORDINANCE ESTABLISHING A 'FREEDOM PARK' IN THE CITY OF NAGA."

SECTION 2. BASIS OF ORDINANCE - This ordinance is hereby enacted pursuant to Batas Pambansa Blg. 880, otherwise known as " The Public Assembly Act of 1985", particularly Section 15 in relation to Section 4 thereof.

Section 15 provides:

" Section 15. Freedom parks - Every city and municipality in the country shall establish or designate at least one suitable" freedom park" or mall in their respective jurisdictions which , as far as practicable shall be centrally located within the poblacion where demonstrations and meetings may be held at any time without the need of any prior permit."

Section 14 provides:

" Section 4. Permit when required and when not required - x x x [N]o permit shall be required if the public assembly shall be done or made in a freedom park duly established by law or ordinance x x x. Political meetings or rallies held during any election campaign period as provided for by law are not covered by this Act."

SECTION 3. LIBERAL CONSTRUCTION. - This ordinance shall be liberally construed to give full force and effect the objectives and purposes for which it is enacted.

SECTION 4. DEFINITION OF TERMS. - For the purpose of this Ordinance, the following terms , phrases , words and their derivations shall have the meaning given herein:

(a) "Public Assembly" means any rally, demonstrations, march, parade, procession or any other form mass or concerted action held in a public place freedom park for the purpose of presenting a lawful cause; or expressing an opinion to the general public on any particular issue; or protesting or influencing any state of affairs whether political , economic or social; or petitioning the government for redress of grievances.

(b) "Freedom Park" shall refer to the Plaza Quince Martirez, located at the heart of the City of Naga where person can peaceably assemble at any time without the need of any prior permit issued by the local government for the purpose of presenting a lawful cause ; or expressing an opinion to the general public on any particular issue; or protesting or influencing any state of affairs weather political, economic or social; or petitioning the government for redress of grievances.

(c) "Batas Pambansa Blg. 880" refers to " The Public Assembly Act of 1985" which was enacted to ensure the free exercise by the people of their right peaceably to assemble and petition the government for redress of grievances among others.

(d) "Demonstrators" refer to the persons participating in a public assembly.

(e) "Maximum tolerance" means the highest degree of restraint that the military, police and other peace keeping the authorities shall observed during a public assembly or in the dispersal of the same.

(f) "Law Enforcement Agency/ Contingent" pertains to any group, unit or contingent from the police or military organization or other peace keeping authorities.

SECTION 5. ESTABLISHMENT AND DESIGNATION OF "PLAZA QUINCE MARTIRES" AS THE "FREEDOM PARK" IN THE CITY OF NAGA. - The Plaza Quince Martires , a public park where a historical monument dedicated in honor of the fifteen Bicol Martyrs who died fighting for freedom stands, situated in the heart of the City of Naga, is hereby designated as the " freedom park" as defined

in Section 4(b) hereof. In this plaza, the people can freely exercise their constitutional right to peaceably assemble for purposes of holding or conducting a rally, demonstration, march, parade, procession or any other form of mass or concerted action for the purpose of presenting a lawful cause; or expressing an opinion to the general public on any particular issue; or protesting or influencing any state of affairs whether political, economic or social; or petitioning the government for redress of grievances ; provided , however, that a prior written clearance should be secured from the City Mayor's Office by the organizer/s or leader/s of a public assembly to be conducted/ held at the "freedom park", for scheduling purposes; and provided , further , that the conduct thereof should not unduly disturb, hinder or disrupt the activities in surrounding the facilities and establishments.

SECTION 6. NON- INTERFERENCE BY LAW ENFORCEMENT AGENCIES/ CONTINGENTS. - Law enforcement agencies shall not interfere with the holding of a public assembly in the "freedom park" However, to adequately ensure public safety, a law enforcement contingent under the command of a responsible police or military officer may be detailed and stationed in a place at least one hundred (100) meters away from the said park where a public assembly is taking place/ being held/conducted ready to maintain peace and order at all times. Any such officer found guilty of violating this section shall be punished in accordance with Section 9 (a) hereof.

SECTION 7. DUTIES OF LAW ENFORCEMENT AGENCIES .- It shall be imperative for law enforcement agencies shall not interfere with the holding of a public assembly in the "freedom park", to perform their duties always mindful that their responsibility to provide proper protection to those exercising their right to peaceably assemble and to freedom of expression is primordial. Towards this end, law enforcement agencies shall observe the following rules:

(a) Members of the law enforcement contingent who deal with the demonstrators shall be in complete uniform with their name plates and units to which they belong displayed prominently on the front part of their uniform and must observed the policy of "maximum tolerance" as herein defined;

(b) The members of the law enforcement contingent shall not carry any kind of firearms but may be equipped with baton or

riot sticks, shields, crash helmets with visors, gas masks, boots or ankle high shoes with shin guards;

(c) Tear gas, smoke grenades, water cannons, or any similar anti-riot device shall not be used unless the public assembly in the "freedom park" is attended by actual violence or clear and present serious threats of violence, or deliberate destructions of property, or causes actual physical damage or injury to persons or property, whether private or public.

Any law enforcement personnel found guilty of failure to protect the public assembly when his assistance is sought by its leaders or organizers, or to comply with the rules in above mentioned subparagraphs (a), (b) or (c) shall be punished in accordance with section 9 (b) hereof.

SECTION 8. PROHIBITED ACTS. - The following shall constitute violations of this Ordinance:

(a) Obstructing, impeding, disrupting or otherwise denying the exercise of the right to peaceful assembly;

(b) The unnecessary firing of firearms by a member of any law enforcement agency or any person to disperse the public assembly.

(c) Acts in violation of Section 6 and 7 hereof.

(d) Acts described hereunder if committed within one hundred (100) meters from the "freedom park", the area of activity of the public assembly, or on the occasion thereof, particularly:

1. The carrying of a deadly or offensive weapon or device such as firearm, pillbox, bomb, and the like;

2. The carrying of a bladed weapon and the like;

3. The malicious burning of any object;

4. The carrying of firearms by members of the law enforcement unit;

5. The interfering with or disturbing intentionally of the holding of a public assembly by the use of a motor vehicle, its horns, loud sound systems or other similar means.

SECTION 9. PENALTIES. - Any person found guilty and convicted of any of the prohibited acts defined in the immediately preceding Section shall be punished, as follows:

(a) Violation of subparagraph (a) shall be punished by imprisonment of fifteen (15) to thirty (30) days at the Court's discretion and a fine of two thousands (P2,000.00) pesos;

(b) Violations of subparagraphs (b), (c), and item 4, subparagraph (d) shall be punished by imprisonment of fifteen (15) to thirty(30) days at the Court's discretion and a fine of three thousands (P3,000.00) pesos;

(c) Violations of item 2, item 3, or item 5 of subparagraph (d) shall be punished by imprisonment of fifteen (15) to thirty (30) days at the Court's discretion and a fine of four (P4,000.00) pesos;

(d) Violation of item 1, subparagraph (d) shall be punished by imprisonment of fifteen (15) to thirty (30) days at the Court's discretion and a prejudice to prosecution under Presidential Decree No. 1866;

(e) Violation of the provisions of Section 6 or 7 hereof shall be punished in accordance with subparagraph (a) and Subparagraph (b) hereof, respectively.

SECTION 10. SEPARABILITY CLAUSE. - Any provision or portion of this ordinance found to be violative of the Constitution or invalid shall not impair the other provisions or parts thereof which shall continue to be in force and in effect.

If any provision of this Ordinance, or its application to any person, legal entity or circumstance, is held invalid, the remainder of the Ordinance, or the application of the provision to other persons, legal entities or circumstances, shall not be affected.

SECTIOPN 11. REPEALING CLAUSE. - Ordinances, rules and regulations or parts thereof, which are inconsistent or in conflict with the provisions of this Ordinance, are hereby repealed or modified accordingly.

SECTION 12. EFFECTIVITY. - This ordinance shall take effect immediately upon its approval and publication in local news papers of general circulation.

ENACTED: March 13, 2006.

WE HEREBY CERTIFY to the correctness of the foregoing ordinance.

FIEL L. ROSALES

Secretary to the Sangguniang Panlungsod

GABRIEL H. BORDADO, JR.

City Vice Mayor & Presiding Officer

APPROVED:

JESSE M. ROBREDO

City Mayor