

CITY ORDINANCE NO. _____

**AN ORDINANCE PROHIBITING THE SNEAKING-IN OR SMUGGLING OF
CONTRABAND ITEMS INTO DETENTION CELLS, JAILS, REFORMATORY
CENTERS, AND HALF-WAY HOUSES WITHIN TUGUEGARAO CITY, AND
IMPOSING PENALTIES FOR VIOLATIONS THEREOF**

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WHEREAS, Republic Act No. 10575 or the "Bureau of Corrections Act of 2013" provides that it is the policy of the State to promote the general welfare and safeguard the basic rights of every prisoner incarcerated in our national penitentiary;

WHEREAS, RA No. 10175 further declares that the State also recognizes its responsibility to strengthen government capability aimed towards the institutionalization of highly efficient and competent correctional services;

WHEREAS, under the general welfare clause of Republic Act No. 7160 or the Local Government Code of 1991, every local government unit shall, among other things, maintain peace and order, and preserve the comfort and convenience of their inhabitants;

WHEREAS, under the Local Government Code, local government units are granted the authority to enact ordinances that promote public safety and maintain discipline within their jurisdictions;

WHEREAS, the presence of contraband items within detention facilities undermines the safety, security, and order of the premises, thereby posing a threat to Persons Deprived of Liberty (PDL), facility personnel, and visitors;

WHEREAS, located within the territorial jurisdiction of Tuguegarao City are various jails and detention cells such as the Bureau of Jail Management and Penology (BJMP) Male and Female Dorms at Barangay Cataggaman Pardo, Tuguegarao City, and the Cagayan Provincial Jail at Barangay Carig Norte, Tuguegarao City.

WHEREAS, contraband items pose a significant threat to the overall security of jail facilities by endangering jail officers, PDL, and visitors, increasing the likelihood of escape attempts, and undermining proper security measures which serve as the foundation for the successful initiation and sustainability of other essential programs, such as rehabilitation.

WHEREAS, it is necessary to empower duly authorized personnel to execute the confiscation of contraband items found in any person's possession, area, or property within the facilities covered in order to prevent their proliferation, potential misuse, and danger to the general public;

WHEREAS, the act of confiscation shall be carried out in strict compliance with the procedures prescribed by applicable laws, including Republic Act No. 9165 and other relevant statutes, ensuring that all seized items are properly documented, secured, and disposed of in accordance with established regulations;

WHEREAS, in an effort to preserve law and order within jail facilities, it is imperative that strict measures be observed by all parties—including jail personnel, clients, and visitors—to ensure the effective implementation of security protocols; and that a critical component of the jail's total security program is the identification and control of contraband items;

NOW, THEREFORE, be it **ORDAINED**, by the Ninth City Council of Tuguegarao, in session assembled, to enact:

SECTION 1. TITLE. This ordinance shall be known as the "*Anti-Contraband in Jails and Other Confinements Ordinance of Tuguegarao City.*"

SECTION 2. DECLARATION OF POLICY. It is hereby declared to be a policy of Tuguegarao City Government to maintain security, order, and discipline in all detention cells, jails, reformatory centers, and halfway houses. The presence and proliferation of contraband in these facilities pose a threat to public safety and undermine the government's rehabilitation and restorative programs for persons deprived of liberty (PDL). Toward this end, the smuggling or unauthorized introduction of contraband items into these facilities is strictly prohibited and punishable, ensuring the effective administration and improvement of jails within the city.

SECTION 3. SCOPE AND COVERAGE. This ordinance shall cover the implementation, enforcement, and imposition of penalties for violations in relation to the illegal introduction and possession of contraband items in detention cells, jails, reformatory centers, halfway houses, and other similar institutions located within the territorial jurisdiction of Tuguegarao City.

SECTION 4. DEFINITION OF TERMS. For purposes of this Ordinance, the following terms are defined as follows:

- (a) **Contraband**—any article, item, or thing prohibited by law and/or forbidden by jail rules that would pose as security hazards or endanger the lives of PDL. For this purpose, contraband may be unlawful in itself as provided by law, or those that may not be classified as illegal under the law but are forbidden by jail rules. These items include:
- Dangerous drugs and drug paraphernalia as enumerated under Republic Act No. 9165;
 - Weapons such as guns, knives, icepicks, pointed or bladed objects, and other similar objects which may cause bodily harm or injury to oneself or others; and
 - Firearms, ammunitions, explosives and its components.
 - Flammable liquids or objects, matches, butane, and lighters;
 - Alcoholic beverages, liquors, and other ingredients used in producing liquor such as brewer's yeast or baker's yeast;
 - Tools and other objects which may aid in escape such as hammers, ropes, and cutting tools;
 - Cellular phones, tablets, computers, laptops, desktops, radio, communication devices, and electronic gadgets;
 - Jewelry, smart watches, and other decorative items worn on the body;
 - ATM cards, cash and coins exceeding allowable limits as set by facility rules;
 - Video camera or still camera;
 - Unnecessary electric appliances;
 - Clothes in excess of what is permitted;
 - Tobacco, cigarettes, e-cigarettes or vapes;
 - Hairpins and other sharp and pointed objects;
 - Pornographic materials;
 - Gambling paraphernalia and other materials which may contribute to harmful habits or vices;
 - Other items prohibited under the BJMP Operations Manual, if applicable;
 - Any other item determined by facility authorities to compromise security or order.
- (b) **Sneaking-in or Smuggling**— the act of intentionally introducing contraband items into detention facilities by any means, whether through PDL visitors, employees, personnel, stakeholders or other agents.

(c) **Confiscation** – shall mean the act of seizing, taking, or removing contraband items from any person, area, or possession within a facility covered by authorized personnel, in accordance with established laws, rules, and procedures.

(d) **Covered Facilities** – refers to detention cells, jails, reformatory centers, halfway houses, and other similar institutions within the jurisdiction of Tuguegarao City.

(e) **Persons Deprived of Liberty (PDL)** – refers to detainees who are incarcerated pending trial and/or final judgment. It includes all persons who are arrested, detained, imprisoned, or otherwise under custody of the government authorities.

(f) **Physical evidence** – Items possessing evidentiary value that require presentation before a court of law or an administrative tribunal in connection with pending disciplinary, administrative, or criminal proceedings, and may be deemed admissible as evidence.

(g) **Chain of custody** – shall refer to a written record of names and dates on the flow of custody of an item of physical evidence, which begins when evidence is collected and ends when the evidence is disposed.

(h) **Possession** – is the act of having, holding, enjoying, or controlling any contraband item, whether directly or indirectly, within the premises of a covered facility. This includes items found on a person, within their belongings, living quarters, or any area under their control, regardless of ownership.

(i) **Pat/Frisk Search** - is a search wherein the officer pats or squeezes the subject's clothing to attempt to detect contraband. For same gender searches the Pat/Frisk search is normally accomplished in concert with Rub Search.

(j) **Rub Search** - is a search wherein the officer rubs and/or pats the subject's body over the clothing, but in a more intense and thorough manner. In a rub search, the genital, buttocks, and breast (of females) areas are carefully rubbed-areas, which are not searched in a frisk/pat search. Rub searches shall not be conducted on cross-gender individuals.

(k) **Strip Search** - search which requires a person to remove his or her clothing to expose underclothing, breasts, buttocks or genitalia.

(l) **Cavity Search** - the physical intrusion into a body cavity for the purpose of discovering any object concealed within the cavity. Body cavity used for concealment includes nostrils, ears, mouth, navel, penis (urethra and foreskin) or vagina and rectum. It is far more invasive than the standard strip search that typically performed on individuals entering the jail facility.

(m) **Visual Body Cavity Search** - refers to a search which involves the inspection of the anus and vaginal area, generally requiring the subject to bend over and spread the cheeks of the buttocks, to squat and/or otherwise expose body cavity Offices

(o) **Personnel/Agents** – refers to any person who is employed in the facilities covered, whether uniformed or non-uniformed, including high-ranking officers and administrative staff;

(p) **Premises** – refers to the area within the physical boundaries of the covered facility where control and authority are exercised, as well as any location in the immediate surroundings of the facility where Persons Deprived of Liberty (PDL) remain under the control and authority of its personnel or agents.

(q) **Searches** –shall refer to all types of search operations authorized by the facilities covered which may be conducted together with other agencies.

(r) **Seizures** – shall refer to the actual or constructive taking, bringing into custody the contraband authorized by the BJMP policies, rules, and regulations to be confiscated.

(s) **Seizing officer** – shall refer to the personnel/agent who took control and custody over the confiscated contraband.

(t) **Visitor** – any individual who enters a covered facility for the purpose of meeting, communicating with, or delivering items to a Person Deprived of Liberty (PDL). This includes, but is not limited to, family members, relatives, legal representatives, lawyers, doctors, clergy, healthcare professionals, service provider, and any other authorized persons granted limited access by facility authorities.

SECTION 5. PROHIBITED ACTS. The following acts are prohibited:

- (a) Willful sneaking-in or smuggling of contraband items into facilities covered.
- (b) Attempting to sneak-in, carry, smuggle, or cause to attempt to bring contraband items into the facilities covered.
- (c) Assisting, abetting, or conspiring to commit the preceding acts.
- (d) Possession of contraband items within the premises of the facilities covered.
- (e) Knowingly and maliciously implanting a contraband item to the belongings of a visitor, personnel/agent, or PDL for the purpose of making them liable to this Ordinance.

SECTION 6. EXEMPTIONS. The following items are exempt from being classified as contraband:

- (a) Items brought in for official purposes with prior approval of facility authorities;
- (b) Personal belongings within limits prescribed by facility rules and regulations;
- (c) Any item necessary for the health and safety of the detainee or prisoner, as determined by authorized personnel;
- (d) Those already confiscated or under the custody of the seizing officer while at the premises of the facility covered.

SECTION 7. PENALTIES. Violators of this Ordinance shall be subject to the following penalties:

- (a) **First Offense:** A fine of **₱2,500.00** and forfeiture of the confiscated contraband in favor of the City government;
- (b) **Second Offense:** A fine of **₱3,500.00** and forfeiture of the confiscated contraband in favor of the City government;
- (c) **Third and Subsequent Offenses:** A fine of **₱5,000.00**, forfeiture of the confiscated contraband in favor of the City government, and suspension of visitation privileges for six months.

SECTION 8. NON-PREJUDICE TO OTHER LIABILITIES. For personnel or agents of the facility covered, a charge or conviction hereof is without prejudice to the filing of appropriate administrative and criminal cases.

SECTION 9. POSSESSION OF DANGEROUS DRUGS. In addition to the penalties imposed herein, any person found in possession of dangerous drugs or drug paraphernalia upon entering or while inside the covered facilities shall be prosecuted in accordance with the provisions of Republic Act No. 9165, without prejudice to the filing of appropriate administrative charges against any involved personnel, if applicable. The dangerous drugs shall be disposed of in accordance with RA 9165 and other relevant laws or regulations.

SECTION 10. POSSESSION OF PROHIBITED WEAPONS. In addition to the penalties imposed herein, any person found in possession of deadly or prohibited weapons upon entering or

while inside the covered facilities shall be prosecuted in accordance with the provisions of Presidential Decree No. 1866 as amended by Republic Act No. 8294 in the case of illegal firearms, or Presidential Decree No. 9 as amended by Batas Pambansa Bilang No. 6 in the case of bladed or pointed objects.

SECTION 11. ENFORCEMENT. The heads of facilities covered shall be primarily responsible for enforcing this Ordinance. Facility personnel or agents are authorized to inspect and conduct searches or pat searches of individuals and their belongings entering these facilities in accordance with existing rules, regulations, or their respective manuals of operations.

SECTION 12. CONFISCATION, APPREHENSION, AND DISPOSITION PROCEDURE. The following provisions govern the confiscation, disposition, and apprehension procedures under this Ordinance:

- a) The existing administrative rules of procedure of a facility covered shall govern the proper confiscation and disposition of the contraband item, and the apprehension of a person who violates this Ordinance.
- b) In the absence of any administrative rules of procedure of a facility covered, the following procedure shall apply:
 - i. After confiscation of the contraband, the warden or head of the facility covered, or his/her authorized representative shall cause for the preparation of a report and inventory addressed to the Office of the Mayor, informing the latter that a violation of this Ordinance has been committed.
 - ii. The person caught in possession of the contraband item or from whom the contraband item was confiscated from shall be apprehended and invited to the office of the head of the facility covered, observing fully his rights under the constitution, and the law.
 - iii. The warden or his/her authorized representative shall issue receipt to the offender immediately, evidencing the latter's possession of the confiscated contraband.
 1. If the contraband seized is a dangerous drug, drug paraphernalia as enumerated under Republic Act No. 9165, bladed weapons such as guns, knives, icepicks, pointed or bladed objects, and other similar objects which may cause bodily harm or injury to oneself or others; firearms, ammunitions, explosives and its components, flammable liquids or objects, matches, butane, and lighters, the appropriate laws and regulations concerning the confiscation, apprehension, and disposition procedures for the said items shall govern. The covered facility shall also immediately coordinate with the PNP. Afterwards, the offender shall be turned over from the custody of the covered facility to the appropriate authorities.
 2. If the contraband seized is not illegal per se or those that may not be classified as illegal under the law but are forbidden by jail rules, the offender shall be released upon the issuance of the receipt by the covered facility.
 - iv. The confiscated contraband shall be placed in the custody of the warden, head, or their authorized representative of the facility covered for safekeeping and shall be disposed of in accordance with relevant rules and regulations.
 - v. The chain of custody of the confiscated contraband shall be observed until the same is delivered to the Office of the Mayor.
- c) The preceding rules may also apply in suppletory nature to the existing rules of procedure of a covered facility when necessary.

SECTION 13. ANTI-CONTRABAND PLANTING. Any person who knowingly and maliciously plants a contraband item in the belongings of a visitor, personnel, agent, or PDL with

the intent of making them liable under this Ordinance—whether within the premises of the covered facility or at any stage during any search or inspection—shall also be held liable for violating this Ordinance.

SECTION 14. NO CONTEST PROVISION. Any violator who is willing to voluntarily pay the fine imposed upon them prior to the filing of formal charge with the proper court shall be allowed within six (6) hours from apprehension to pay the appropriate fine with the City Treasurer to avoid being criminally prosecuted for violating acts punishable under this Ordinance.

If the offense is committed on a weekend or holiday, the violator shall be allowed to fulfill the required act within six (6) hours of the next working day.

SECTION 15. IMPLEMENTING RULES. Within 30 days from the approval of this Ordinance, the Office of the City Mayor together with the heads of the facilities covered shall formulate the necessary guidelines and administrative procedures for the effective implementation of this Ordinance.

SECTION 16. INFORMATION CAMPAIGN. The City Government of Tuguegarao shall conduct regular information and education campaigns to ensure that the public and all stakeholders are aware of this Ordinance.

SECTION 17. SEPARABILITY CLAUSE. If any provision or part of this Ordinance is declared invalid or unconstitutional, the remaining provisions shall not be affected and shall remain in full force and effect.

SECTION 18. REPEALING CLAUSE. All ordinances, resolutions, rules, and regulations inconsistent with this Ordinance are hereby repealed or modified accordingly.

SECTION 19. EFFECTIVITY. This Ordinance shall take effect 10 days after its publication in a newspaper of general circulation.