

ORDINANCE NO. 2006-044

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AN ORDINANCE SETTING THE GUIDELINES FOR THE ESTABLISHMENT AND OPERATION OF TERMINALS IN THE CITY OF NAGA AMENDING OR REPEALING ORDINANCE NOS. 93-041, 93-049, 94-073, 94-082, 99-034, 99-040, 99-050, 99-061 AND 2005-083:-

Authored by: Hon. Jose L. Grageda

SECTION 1. Scope. This ordinance shall apply to public utility vans, jeepneys and other public conveyances whose franchise has Naga City as one of their destinations. Excluded from this ordinance are buses regardless of destination and intra-city public utility vehicles such as trimobiles, multi-cabs and jeepneys plying exclusively within Naga City.

SECTION 2. Role of Terminals. The city government recognizes terminals as (a) transfer hubs facilitating the flow of people and goods between destinations, (b) service facilities for commuters, cargo and the transport industry, (c) tools for directing the spatial growth of the city consistent with its local development plan, and (d) tools for sustaining economic activities in a given area.

SECTION 3. Guiding Principles. In order for terminals to perform its roles, the following guiding principles are herein adopted against which applications for terminal franchise shall be assessed and against which terminal operations shall be evaluated.

- a. Terminals shall be located in areas consistent with the city's land use and development plans.

Pending the revision and updating of the city's land use and development plans, the preferred locations for the following destinations for all types of transport shall be as follows:

TERMINAL DESTINATIONS	PREFERRED LOCATION
Northbound (Canaman, Bombon, Magarao, Calabanga, Tinambac, Siruma)	Bagumbayan Norte, Bagumbayan Sur, Calauag
North suburbs (Camaligan only, or including Canaman)	Bgy. Sabang, Bgy. Abella

Eastbound (Pili, Rinconada Area, Partido Area, Albay province and onwards)	Along Diversion Road, along Almeda Highway, or within the CBD 2 area
South suburbs (Gainza, Minalabac, Milaor and San Fernando)	Bgys. Tabuco or Bgy. Sabang
Southbound (Pasacao, Pamplona, Libmanan and onwards)	Bgy. Sabang, along Diversion Road, along Almeda Highway, within the CBD 2 area

Separate terminals may be provided for vans and jeepneys but both must be in the proper area as stipulated above.

- b. Terminals shall be so situated and designed as to minimize, if not totally avoid, traffic congestion along public roads adjacent its entrance and exit points.
- c. Terminals shall be operated in a manner that will maintain noise level and motor vehicle emission inside the facility within the minimum standards set by environmental regulatory agencies.
- d. Terminals shall provide for the proper treatment, handling and disposal of liquid and solid waste and for the maintenance of sanitation and cleanliness of its premises.
- e. Terminal frontage shall have a buffer island or islands of such size and shape as to divert off the main road vehicles unloading/loading commuters and their cargo to/from the terminal. The buffer island or islands shall be landscaped but the height of the plants shall not obstruct the view of drivers.
- f. Natural greenery, such as trees and landscapes in open areas, potted plants within covered areas, are essential elements of a livable facility. Terminal operators shall ensure that sufficient space are devoted to trees and landscaping and that they are well-tended and maintained.
- g. Investors in terminal facilities shall be assured of a minimum period of operation during which the city government will not grant franchises on the same route and class of transport to enable investors to recover their investment plus a reasonable rate of return. Such period shall be determined on the basis of the amount of investment, cost of money, and projected income from the facility.

- h. The primary clientele of terminals are: commuters and cargo shippers; transport operators, drivers, conductors and cargo handlers. As such, whenever there are opposing interests to be resolved, the interests of these primary clienteles shall be given their rightful consideration.
- i. The maintenance of peace and order within the terminal compound is the primary responsibility of the terminal operator. The city government however may deploy peace officers within such premises if the situation warrants.
- j. Terminals shall have facilities and amenities that will ensure the safety and convenience of its patrons. It should have sufficient number of seats, adequate number of comfort rooms, have public phone booths, a public assistance desk, and a public address system. It should likewise be well lighted and well ventilated, have railings and appropriate signages to direct and manage the flow of pedestrians, and with surroundings whose cleanliness is maintained throughout the terminal's operating hours.
- k. Terminals are gateways to the city. They shall therefore be maintained and operated in ways that leave a positive impression upon visitors and travelers. Repairs and maintenance and repainting of the entire terminal shall be undertaken regularly to ensure a presentable and fully functional facility.

SECTION 4. Terminal Franchise. (a) The franchise shall be contained in an ordinance specifying the terminal charges or rates, the period of the franchise, and such other terms and conditions as are consistent with this ordinance.

(b) For purposes of monitoring and evaluation, the franchise terms and conditions shall have clear, measurable and time-bound performance indicators with corresponding benchmarks.

(c) In case extraordinary changes in the socio-economic conditions in the region render the assumptions inherent in the franchise substantially inoperable as to threaten the viability of the facility or render some of the terms and conditions onerous on either the operator or on the transport operators, the city government may, on its own or upon petition by the terminal operator or by the transport operators, review and revise the terms of the franchise to keep it attuned with the prevailing socio-economic conditions in the region. In no case however shall subsidies be extended by the city government nor shall it involve waiver of any tax or fees due on any of the parties concerned.

SECTION 5. Determination of initial terminal franchise period. The initial period for a terminal franchise shall be of such length as to enable the recovery of investment plus a reasonable rate of return given the projected income of the facility. Recovery of investments shall be computed using the highest interest rate on city government deposits, reasonable rate of return shall be no more than ten percent. The franchise period shall be reckoned from the first day of actual operation of the terminal.

SECTION 6. Compliance monitoring. The Terminal Evaluation and Compliance Committee (TECCom) created under Section 9 of this Ordinance shall be responsible for monitoring compliance by the terminal operator with the terms and conditions of its franchise. A quarterly report of such compliance shall be prepared and submitted to the city mayor.

SECTION 7. Renewal of franchise. (a) At least one year prior to the expiration of a terminal franchise, an existing operator intending to renew its franchise shall signify its intent by way of a letter addressed to the city mayor who shall endorse the same to the Sangguniang Panlungsod not later than 30 days from receipt thereof for the renewal of its franchise if the same is found in compliance with this ordinance.

(b) A franchise may be renewed by the franchisee for periods of three years after the initial period of franchise provided the franchisee is in full compliance with the terms and conditions of its franchise as per the quarterly reports of the TECCom.

(c) Failure of the franchisee to inform the city government in writing at the date specified herein of its intent to renew its franchise shall set in motion the start of a new terminal franchise application process.

SECTION 8. Violation of franchise. In the event an existing franchise operator is deemed in violation of its franchise as per report of the TECCom, the same shall be conveyed by the City Mayor to such operator citing the specific terms of the franchise violated and giving the operator not more than ten working days to comply with the same. Failure on the part of the operator to comply with the specified terms within the prescribed period, or even if complying but the number of aggregate violations have exceeded three, will result in the automatic cancellation of the franchise and in its lieu a provisional permit shall be deemed to have taken effect in which case the provision of Section 14 of this ordinance shall apply. The performance bond shall further be forfeited in favor of the city government.

SECTION 9. Terminal Evaluation and Compliance Committee. (a) A Terminal Evaluation and Compliance Committee (TECCom) is hereby created and shall be headed by the Chairman of the Sanggunian Committee on Public Utilities. The membership of the said committee shall be composed of the following who shall be responsible for the indicated functions:

- i. City Budget Officer- makes the financial evaluation of the proposal;
- ii. Public Safety Officer - determines if the design of buffer islands and the proposed flow of vehicles to and from the terminal's entry and exit points will not congest traffic outside the terminal, and if the proposed vehicular flow within the terminal will contribute to the convenience of terminal patrons;
- iii. Environment and Natural Resources Officer - determines if the proposed terminal will meet environmental standards and if plants for green areas are adequate and suitable for the purpose;
- iv. City Engineer - determines the adequacy of the proposed terminal as to area and facilities vis-à-vis targeted volume of clientele and vehicles, determines the reasonableness of the estimated cost of the facility and the construction period indicated by the applicant;
- v. City Planning and Development Coordinator - checks completeness of the documents submitted, determines if the terminal location will contribute to the city's planned spatial growth and, in general, is in compliance with the city's development and land use plans, determines the economic impact of the facility to the city;
- vi. City Treasurer - provides the relevant interest rate and other financial data to be used in the financial evaluations, determines the fiscal impact of the terminal to the city's revenue stream;
- vii. City Legal Officer - evaluates the legal aspects of the terminal in the event the same is approved by the city government, assesses the sufficiency of documents with regards to the property and its uninterrupted use for the proposed period of the franchise, drafts the corresponding ordinance granting the franchise and setting forth the terms and conditions therein in consultation with the rest of the team;
- viii. Representative from the Naga City People's Council as nominated by the organization and affirmed by the city mayor - to advance the advocacies of civil society and the community at large;

- ix. Representative from the Metro Naga Chamber of Commerce and Industry as nominated by the organization and affirmed by the city mayor - to advance the advocacies of the business community and the community at large; and
- x. Representative from the women sector as nominated by the Naga City Women's Council and affirmed by the city mayor - to advance the advocacies of the women sector and the community at large.

(b) In addition to the above functions, the Committee as a whole shall be responsible for monitoring compliance with the terms and conditions of a franchise and in preparing and submitting its evaluation reports to the city mayor with corresponding recommendations, as may be necessary.

SECTION 10. Compliance with permit and regulatory requirements. A franchise grantee or a holder of a provisional terminal permit as provided for in Section 14 hereof shall be responsible for complying with all permit and regulatory requirements imposed by the city government and national regulatory agencies.

SECTION 11. Expiry of franchise for failure to comply with construction period. A terminal franchise shall be deemed to have expired if no substantial construction activity is evident within one month from the date of the grant of a franchise, or if the terminal does not start operation within one month from the date the occupancy permit was secured, or if the undergoing construction has a negative slippage of more than 25% as to imperil the timely opening of the terminal and the cause is not attributable to force majeure.

SECTION 12. Procedure for obtaining a franchise. The following shall be the procedure for the issuance of a franchise:

- a. City Mayor signifies to the Sangguniang Panlungsod the need for a terminal to service specific destinations and type or types of transport indicating the general area where such terminal will be located which shall be in accordance with Sec. 3a of this ordinance.
- b. The Sangguniang Panlungsod shall cause the posting of an invitation to establish and operate a terminal citing its general location and the destinations and types of transport as contained in the letter of the City Mayor and shall further direct its Sanggunian Committee on Public Utilities and the Terminal Evaluation and Compliance Committee to accept and evaluate the applications and to submit the appropriate recommendation to the Sangguniang Panlungsod.

- c. The Chairman of the Sanggunian Committee on Public Utilities shall convene a joint meeting of the Sanggunian Committee on Public Utilities and the Terminal Evaluation and Compliance Committee to evaluate the submitted applications. Each team member of TECCom shall perform the functions indicated in Section 9 of this ordinance reporting their findings to the joint committee.
- d. In case there is a need to clarify certain matters with any of the applicants, the joint committee, thru the Chairman of the Sanggunian Committee on Public Utilities, shall invite thru written notice all applicants, not just the ones subject of clarificatory questions, to a clarificatory meeting. During the meeting, the joint committee may decide to allow all applicants to submit additional documents to improve their application but such privilege shall be granted only once and compliance shall be within seven working days from issuance of such decision. All applicants shall be informed of such decision in writing.
- e. After the clarificatory meeting and after the TECCom has made its initial assessment of the applications, the chairman of the Sanggunian Committee on Public Utilities shall call a public hearing to determine the acceptability of, among others, the terminal rates and its facilities and location.
- f. The joint committee shall prepare a report of its proceedings and shall rank its recommendees for award of the franchise in accordance with their conformance with this ordinance's guiding principles and related issuances of the city government. Such report shall be adopted by the Committee on Public Utilities and submitted to the Sangguniang Panlungsod for purposes of plenary deliberation and passage of the requisite franchise ordinance.
- g. The ordinance shall be submitted to the Mayor for action.

SECTION 13. *Documentary requirements.* An applicant for a terminal franchise shall submit the following types of documents:

- a. Documents to establish legal personality including compliance with tax obligations
- b. Documents expressing intent
- c. Documents related to the proposed site and the relevant undertakings by the property owner
- d. Documents describing the proposed physical facilities including the flow of vehicular and human traffic

- e. Documents describing the organization of the terminal management including the functions and responsibilities of its officials and employees
- f. Projected balance sheet, income statement and cash flow of the terminal over the proposed franchise period complete with supporting schedules
- g. Construction schedule

The detailed checklist of documents shall be as indicated under Annex A, which shall form an integral part of this Ordinance, provided the Sangguniang Panlungsod, through the recommendation of the Committee on Public Utilities and the TECCom, may impose additional requirements to protect the interest of the public.

SECTION 14. Provisional terminal permit. (a) In the absence of an existing franchisee for particular destinations, the City Mayor may issue a provisional permit to an applicant for a period of six months, renewable for six-month periods, until such time that a franchised terminal is operational in which case the provisional permit shall be deemed terminated effective on the date of the operation of the franchised terminal without need for further notice or action by the City Government. Provided that for the succeeding renewal after the lapse of the first six-month period, concurrence of the Sangguniang Panlungsod shall be necessary.

(b) The same authority to issue a provisional terminal permit is herein granted to the City Mayor in the event the conditions stipulated under Section 11 shall subsist subject to Sanggunian concurrence for renewals after the first six-month period.

(SECTION 15. Fees and taxes. (a) A franchise fee for each year of franchise shall be paid by the franchisee prior to the operation of the terminal. The grantee shall likewise post a performance bond to guarantee continuous compliance with the terms and conditions of the franchise which shall be maintained current and in force for the entire period of the franchise. The amount of the franchise fee and the performance bond shall be as follows:

TERMINAL DESTINATIONS	FRANCHISE FEE	PERFORMANCE BOND
Northbound (Canaman, Bombon, Calabanga, Siruma) Magarao, Tinambac,	P8,000 for each year of franchise	P50,000
North suburbs (Camaligan only or including Canaman)	P3,000 for each year of franchise	P30,000

Eastbound (Pili, Rinconada Area, Partido Area, Albay province and onwards)	P15,000 for each year of franchise	P50,000
South suburbs (Gainza, Minalabac, Milaor, San Fernando)	P8,000 for each year of franchise	P50,000
Southbound (Pasacao, Pamplona, Libmanan and onwards)	P10,000 for each year of franchise	P50,000

(b) All the regular tax and fees presently imposed by the city government on transport businesses shall continue to be imposed in addition to the franchise fee.)

SECTION 16. *Disincentive for provisional terminals.*

Terminals operating on a provisional permit shall pay one and a half (1 ½) times the applicable franchise fee indicated in the preceding section for the first six months of the provisional permit, twice the amount for the next two succeeding six-month periods, and thrice the amount for the periods thereafter. In addition, they shall submit the same amount of performance bond as those stipulated in the preceding section.

SECTION 17. *Minimum requirements for provisional terminals.* Provisional terminals shall have covered loading bays which can accommodate all its destinations and may be made of temporary materials. Terminal ground shall be covered with the appropriate aggregates to prevent accumulation of dust or muddying. It shall likewise have benches for use by waiting passengers, illumination for the loading areas and destination signboards.

SECTION 18. *Status of all existing terminals.* The permits granted to terminals existing upon effectivity of this ordinance shall remain valid until their expiry date. If an existing terminal operator applies for a renewal of permit and the applied for terminal does not conform with this ordinance, only a provisional permit shall be granted under the terms and conditions prescribed herein. In the event a provisional permit is issued, the routes and types of transport serviced by such terminal shall be deemed open for application.

SECTION 19. *Rules and regulations.* In the event that additional rules and regulations are deemed necessary for specific provisions of this ordinance, the Terminal Evaluation and Compliance Committee herein created shall promulgate such rules and regulations subject to the approval by the Sangguniang Panlungsod. In no case however shall pendency in the issuance of such rules and regulations suspend the enforcement and implementation of this ordinance.

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SECTION 20. *Repealing clause.* The provisions of Ordinance Nos. 93-041, 03-049, 94-073, 94-082, 99-034, 99-040, 99-050, 99-061, and 2005-083, and of executive orders, and rules and regulations which are inconsistent with this ordinance are herein repealed, amended or modified accordingly.

SECTION 21. *Separability clause.* If any part of this ordinance is declared invalid or unconstitutional by any court of competent authority, the parts which are not so declared shall remain valid and effective.

SECTION 22. *Effectivity.* This ordinance shall take effect upon its approval and after three (3) consecutive publications in a newspaper of local circulation.

ENACTED: September 11, 2006.

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WE HEREBY CERTIFY to the correctness of the foregoing ordinance.

GIL A. DE LA TORRE
Board Secretary IV
& Secretary-Designate

GABRIEL H. BORDADO, JR.
City Vice Mayor &
Presiding Officer

APPROVED:

JESSE M. ROBREDO
City Mayor

ANNEX A

Checklist of Documentary Requirements for Terminal Applicants:

1. Documents to establish legal personality:
 - a. Registration certificate from SEC or CDA, as appropriate;
 - b. Business name registration from DTI
 - c. Mayor's permit
 - d. Tax payment certificate from the BIR
 - e. Tax payment certificate from the Treasurer's Office
2. Letter of intent:
 - a. Resolution from the board if a corporation or cooperative, or letter duly signed by the partners if a partnership, or by the owner if a single proprietorship, expressing intent to apply, construct and operate a terminal for public utility vehicles in Naga City as per published invitation by the city government. If it is an unsolicited application, the location of the proposed terminal must be indicated.
 - b. Resolution from the board if a corporation or cooperative, or letter duly signed by the partners if a partnership, or a power of attorney if a single proprietorship in the event the owner will designate a representative, authorizing the person who will transact with the city government to sign in its/his/her behalf in connection with the application.
 - c. Resolution from the board if a corporation or cooperative, or letter duly signed by the partners if a partnership, or by the owner if a single proprietorship, granting the city government the authority to verify with third parties any of the documents submitted by the applicant or any of its manifestations made in any hearings or meetings conducted in the course of the evaluation process.
3. Site documents:
 - a. Certified true copy of the TCT/OCT of the proposed site
 - b. Tax declaration
 - c. Certificate of real property tax payment
 - d. Lot plan duly signed by a geodetic engineer
 - e. Zoning certificate from CPDO
 - f. If lot is not owned by the applicant, duly notarized contract between the applicant and the lot owner indicating the terms under which the applicant possesses and utilizes the property (e.g. lease, usufruct).
 - g. Affidavit by the lot owner/s if a partnership or single proprietor, or resolution if a corporation or cooperative, declaring:
 - i. That the proposed terminal site is not the subject of a litigation which may cause the closure or interruption of the operation of the terminal in case the application is approved

- ii. The area (in sq.m.) of the site to be occupied by the terminal
- iii. The area (in sq.m.) of any property adjacent to the proposed site owned/leased/usufructed by the applicant which may be used for future expansion of the terminal.
- iv. That the property will not be encumbered in any way during the period of operation of the terminal

4. Physical facilities:

- a. Location plan or vicinity map
- b. Perspective drawing of the proposed terminal and all its facilities
- c. Site development plan with the following clearly marked:
 - i. Buffer island/s and any other structures between the main public road and the terminal complex
 - ii. Covered loading bay for public utility vehicles
 - iii. Covered waiting area for passengers
 - iv. Unloading/loading area for trimobiles
 - v. Unloading/loading area for intra-city public utility vehicles if such area is different from those to be used by trimobiles
 - vi. Entrance and exit gates for all vehicles
 - vii. Parking areas for public utility vehicles and for private vehicles
 - viii. Toilet facilities for men and women
 - ix. Landscaped areas
 - x. Guardhouse
 - xi. Service facilities for vehicles, if any (e.g. vulcanizing shop)
 - xii. Other facilities and amenities
- d. Site development plan with directional arrows to indicate the flow of the following vehicles within the terminal compound:
 - i. Public utility vehicles that will use the terminal
 - ii. Private vehicles
 - iii. Trimobiles unloading and loading commuters
 - iv. Intra-city public utility vehicles loading and unloading commuters
- e. An enlarged portion of the site development plan showing the front area of the terminal and the main access road (public road). The said enlarged portion of the site development plan shall show the setback, the buffer island/s and any other adjacent structures. Directional arrows must likewise be drawn to show the:
 - i. Flow of vehicular traffic along the main road
 - ii. Flow of vehicular traffic, duly marked as to type, entering and leaving the terminal
 - iii. Flow of pedestrians walking to and leaving the terminal

In case there are entrances/exits other than the frontage of the terminal, the appropriate section of the site development plan shall likewise be enlarged to show these additional entrances/exits and the same information as above shall be indicated

- f. Floor plans of roofed loading and unloading areas indicating:
 - i. Pedestrian flow
 - ii. Amenities (e.g. public faucets, telephone calling booths, televisions, shops)
 - iii. Benches
 - iv. Service areas (e.g. CR, offices, public assistance booth, terminal office, security booth)
 - v. Garbage receptacles
 - vi. Planters for greening purposes
- g. Floor plan of any other major facility within the terminal indicating the applicable information above

5. Organization:

- a. Organizational chart
- b. List of job positions, number of employees per position, annual compensation per position

6. Financial documents:

- a. Preliminary estimate of the total cost of constructing the terminal and all its facilities
- b. Projected income statement for the requested initial franchise period sufficiently detailed as to income source and expense items as to allow a reasonable evaluation of the same
- c. Projected cash flow for the requested initial franchise period
- d. Requested initial franchise period with supporting computations and clear indication of the interest/discount rate used

7. Construction schedule and the period in days from the day of approval of the franchise to the day of start of construction activities.

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