

ORDINANCE NO. 2014-023
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AN ORDINANCE AMENDING SECTION 2 OF ORDINANCE NO. 2007-024 BY IMPOSING ADDITIONAL REQUIREMENTS TO QUALIFY FOR TRANSFER OF TRIMOBILE FRANCHISE ALLOWED THEREIN AND FOR OTHER PURPOSES:-

Sponsor: Hon. City Councilor Mila S.D. Raquid-Arroyo

EXPLANATORY NOTE

It is axiomatic that franchise to operate a public transportation facility, being a privilege, is personal to the grantee thereof and is therefore non-transferrable. Unfortunately, the fact that the grant of this privilege is also a means of income and livelihood have given rise to the misconception that a franchise is a property which may be transferred by the grantee thereof either onerously or gratuitously. This misconception resulted in commodification of the franchise, a situation which is clearly inimical to public interest as government is deprived of the opportunity to evaluate the qualification of the transferee thereof.

In response to the above-cited situation, and in recognition of the fact that there is, indeed, merit in allowing certain transfers of franchise as it would serve both the interest of the riding public and of the grantees themselves, the Sangguniang Panlungsod passed Ordinance No. 2007-024 and allowed transfer of franchise under the following situations:

- a. transfer between spouses and relatives within the second degree of consanguinity (between parents and children, between grandparents and grandchildren, and between siblings);
- b. transfer between members of one cooperative;
- c. transfer under the “boundary-hulog” system.

In the course of implementing the aforementioned Ordinance, it was observed that there are certain gaps and issues in situations falling under the above-mentioned enumerations which are not sufficiently responded to therein, to wit:

- a. Transfer between spouses and next of kin assumes *transfer intervivos*. What happens therefore when the supposed transferor is already dead and thus can no longer execute any such transfer document?
- b. Allowing transfers by cooperatives to its members of between members of the same cooperative without further qualification is susceptible to abuse as membership in the cooperative may be resorted to only for the purpose of qualifying for such transfer;
- c. Similarly, allowing transfers under the “boundary hulog” system without qualification or safeguard may result in the circumvention of the prohibition against transfer of franchise as it will be very easy to feign the existence of such “boundary-hulog” arrangement.

To respond the aforementioned concerns, there is a need to establish additional qualifications for availment of transfer of trimobile franchise allowed under the aforementioned provision of Ordinance No. 2007-024.

Be it enacted by the Sangguniang Panlungsod of Naga, in session assembled, that:

SECTION 1. Purpose. This Ordinance amends Section 2 of Ordinance No. 2007-024 by providing certain measures to prevent abuse of the privilege granted therein and achieve the true purposes thereof.

SECTION 2. Section 2 of Ordinance No. 2007-024 is hereby amended, now to read as follows:

“SECTION 2. - Section 3 of Ordinance No. 99-049, as amended by Ordinance No. 2001-075, is hereby further amended, now to read as follows:

“Section 3.- Non-Transferability of Trimobile Franchise. – **The franchise to operate a public utility trimobile**, being a privilege, **is personal and therefore** non-transferrable, except as hereunder provided:

- a) **Transfers made between** legitimate spouses, **between** parents **and** children, **between grandparents and grandchildren, or between siblings shall be allowed upon submission of the requirements and satisfaction of the qualifications provided for application of franchise under Ordinance No. 99-049, as amended. For this purpose, an application for transfer of franchise shall be jointly filed by the proposed transferor and the proposed transferee.**

In case of death of the franchise holder, the franchise is automatically deemed open for application and his next of kin shall enjoy priority thereto in the following order: 1) Legitimate Spouse; 2) Children; 3) Brother/Sister; and 4) Grandparent. In the event that two or more persons belonging to the same order of priority filed their application for grant of franchise, the applicant who has legitimate possession of the trimobile unit shall be given priority.

Applications for transfer of franchise under the foregoing provisions shall be posted in two conspicuous places within the City Hall premises for at least 10 calendar days prior to the final action thereon.

- b) **Transfers between a cooperative and its members or between members of the same cooperative shall be allowed. To qualify under this provision, the applicant must meet the following requirements in addition to the requirements and qualifications for franchise application under Ordinance No. 99-049, as amended:**
1. **The cooperative must be registered with the Cooperative Development Authority and duly accredited by the Sangguniang Panlungsod;**
 2. **The proposed transferee must have been a member of the said cooperative at least one (1) year prior to the proposed franchise transfer;**
 3. **The proposed transferee must have satisfied the requirements imposed by the cooperative as qualification for such transfer, if any, as shown by Resolution of the Board of the said cooperative. The policies of the cooperative regarding transfer of franchise under the foregoing provisions shall have suppletory application.**
- c) **Transfers under the “boundary-hulog” arrangement shall be allowed upon submission of the requirements and satisfaction of the qualifications for application for trimobile franchise provided under**

Ordinance No. 99-049, as amended.

The “boundary-hulog” arrangement is a written contract, duly acknowledged before a Notary Public, between the operator/original franchisee and the driver of the trimobile unit, whereby such driver pays the operator for the value of the trimobile unit on installment basis and that such driver shall eventually be the owner thereof after full payment.

For transfers under this provision, the following additional requirements must also be satisfied:

- 1. The contract for the “boundary-hulog” arrangement was submitted to the SangguniangPanlungsod together with the application for the original trimobile franchise;**
- 2. Proof that the “boundary’hulog” arrangement as submitted to the SangguniangPanlungsod was indeed carried out and completed.”**

SECTION 3. Repealing Clause – The provisions of Ordinance No. 2007-024, Ordinance 93-049, as amended, executive orders, rules and regulations, or parts thereof, which are contrary to, or inconsistent with, any provision of this Ordinance are hereby amended, repealed and/or modified accordingly;

SECTION 4. Separability Clause – If any provision of this Ordinance is declared invalid by a court of competent jurisdiction, the other provisions hereof not so declared shall continue to be in full force and effect.

SECTION 5. Effectivity – This Ordinance shall take effect upon its approval and after publication in a newspaper of local circulation.

ENACTED: May 6, 2014

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WE HEREBY CERTIFY to the correctness of the foregoing ordinance.

GIL A. DE LA TORRE
Secretary to the
Sangguniang Panlungsod

NELSON S. LEGACION
City Mayor & Presiding Officer

APPROVED:

JOHN G. BONGAT
City Mayor