

ORDINANCE NO. 2014-077
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AN ORDINANCE GRANTING A ONE-TIME AND CONDITIONAL AMNESTY FOR ILLEGAL TRANSFERS OF TRIMOBILE FRANCHISE AND FRANCHISE OF SIMILAR PUBLIC UTILITY VEHICLES, IMPOSING PENALTIES ON ILLEGAL TRANSFER THEREAFTER AND ON OPERATION THEREOF WITHOUT VALID FRANCHISE, AND FOR OTHER PURPOSES :-

Sponsor: Hon. City Councilor Mila Raquid-Arroyo

EXPLANATORY NOTE

In view of the fact that the operation of public utilities are imbued with great public interest, it is axiomatic that the grant of franchise to operate a public transportation facility is made subject to the stringent requirements and under strict regulation by the government. In consonance therewith, the grant of franchise to operate public utilities is personal to the grantee thereof, thus, the franchise so granted is non-transferrable. Unfortunately, the fact that the grant of this privilege is also a means of income and livelihood to the grantees have given rise to the misconception that a franchise is a property which may be transferred by the franchisee. 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.

The fact that transfers of franchise is declared as illegal has not, however, deterred the rampant commission of this prohibited act. These violations of the prohibition resulted in a number of trimobiles operating either without the necessary papers or the papers not being reflective of the true situation as to the named persons accountable therefor. The continuation of this situation is clearly inimical to public interest and gravely prejudicial to the riding public.

To merely prevent the operation of trimobiles which could not be registered because the franchise to operate them have been illegally transferred would, however, create grave economic prejudice to those who may have bought them under the wrong impression that the transaction is not a prohibited transaction. This, in view of the seeming administrative confusion in the implementation of Ordinance No. 2007-024. Though the said confusion has already been clarified and corrected under Ordinance No. 2013-030, there remains a great need to respond to the situation where such transfers was made under the above cited situation in order to protect the riding public.

In the same breath, the need for stricter measures to prevent the continuation or recurrence of the situation herein sought to be corrected is likewise urgently called for.

The passage of this Ordinance seeks to arrest the problems as above identified.

ORDINANCE NO. 2014-078

AN ORDINANCE GRANTING A ONE-TIME AND CONDITIONAL AMNESTY FOR ILLEGAL TRANSFERS OF TRIMOBILE FRANCHISE, IMPOSING PENALTIES ON ILLEGAL TRANSFER OF TRIMOBILE

**FRANCHISE THEREAFTER AND ON OPERATION OF TRIMOBILES
WITHOUT VALID FRANCHISE, AND FOR OTHER PURPOSES :-**

Sponsor: Hon. City Councilor Mila Raquid-Arroyo

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

SECTION 1. Purpose. This Ordinance seeks to protect the riding public within the territorial jurisdiction of the City of Naga by ensuring that all public utilities plying the streets of Naga City are duly registered and are operating under valid and legitimate authority.

SECTION 2. One-time and conditional amnesty. To achieve the above-declared purpose, a one-time and conditional amnesty is hereby granted to all operators of trimobiles who, at the time of the effectivity of this Ordinance, are operating under a franchise which are not granted in their names by the Sangguniang Panlungsod of Naga.

SECTION 3. Condition for availment of amnesty. Persons or entities who are covered by the provision of Section 2 above shall be qualified to apply for the availment of the amnesty granted herein subject to the following conditions:

- 3.1 The trimobile unit operated under the transferred franchise is less than ten (10) years old and is road worthy as jointly certified to by the Public Safety Office and the PNP Traffic Management Office;
- 3.2 Payment of Amnesty Fee of Fifty Thousand Pesos P50,000.00 pesos. This fee may be paid on installment basis within a period of not more than twelve (12) months. Failure to pay in full within the period stipulated shall result in the automatic revocation of the franchise.
- 3.3 Payment of Franchise Fee of P5,000.00 pesos;
- 3.4 An Affidavit that the franchise once issued in his/her name shall not be transferred except to persons allowed under Ordinance Nos. 2013-030 and 2014-023 and with prior approval of the Sangguniang Panlungsod of Naga;
- 3.5 In the event that the trimobile unit is already more than ten (10) years old or that the same is no longer roadworthy, the franchise may still be issued if the applicant will utilize the new type of in-city public utility known as either Taxicle or E-trike. In which case, the trimobile unit shall be disposed of using the same process as provided under Section 4 hereof;
- 3.6 In the event that the applicant decides to avail of the new type of in-city public utility as mentioned under Section 3.5 above, the Amnesty Fee shall be reduced to P25,000.00;

SECTION 4. Five (5)-unit limit. The provisions of this Ordinance shall apply only for a maximum of five (5) trimobile franchise. In the event that the applicant is operating more than five trimobile units, the excess of five units shall be surrendered to the City Government. If not yet more than ten (10) years old and are still road worthy, these excess units shall be appraised by the City Appraisal Committee in consultation with the Naga City People's Council. As there to for valued, the amount shall be paid by the person to whom the excess franchise shall have been awarded using the existing process of the City Government in awarding new trimobile franchise. The payment shall be made directly to the owner, and

witnessed by the representative of the Naga City People's Council. In the event that the units are already more than ten (10) years old or are no longer road worthy, the units shall be confiscated by the City Government but the owner may retain the motorcycle attached to it.

SECTION 5. Prevention of Abuse. To prevent abuse of the amnesty granted under this Ordinance, all trimobile operators/drivers who, at the time of the effectivity of this Ordinance, are operating under a franchise which are not in their names, are required to present their trimobile units to the Public Safety Office (PSO) within sixty (60) days therefrom and file with the Trimobile Task Force their respective application for availment of the amnesty herein granted. For this purpose, the PSO is hereby required to submit to the Sangguniang Panlungsod the list of all trimobiles which are being operated not in the name of the franchisee thereof, and the Trimobile Task Force to commence the process of evaluating franchise transfer applications under this Ordinance, within ninety (90) days from the passage hereof. The PSO and the Trimobile Task Force shall devise the necessary forms and formulate the necessary procedures to facilitate the performance of their respective duties as herein required.

SECTION 6. Strict enforcement. Beginning March 1, 2015, public utility trimobiles, taxicabs, e-trikes, or any other form of in-city public utility transportation units which, under the ordinances of the City Government, are required to secure from the latter a franchise to operate, which are found to be actually operated not by the person named in the franchise thereof, or those whose franchise are found to have been transferred in violation of the ordinances of the City of Naga shall be impounded by the City Government. For this purpose, the name, address and contact phone number of the franchisee shall be painted legibly and conspicuously at all times on the inside and outside portions of the trimobile unit together with the phone number of the Naga City PNP Traffic Management Office and the Public Safety Office.

SECTION 7. Penalties. Any person or entity found to have transferred without the prior approval of the Sangguniang Panlungsod of Naga the trimobile franchise issued to him, or those responsible for the operation of public utility trimobile for which the franchise to operate has already been either cancelled, revoked, or is not in his/her name, shall suffer the following penalties:

1. Payment of Fine in the amount of P5,000.00; and
2. Imprisonment of not less than one (1) month but not more than three (3) months.

The trimobile unit involved in the violation committed shall be confiscated in favor of the City Government. The owner shall deliver the trimobile unit to the City Government but may choose to retain for his own personal use the motorbike without destroying/severely damaging the tricycle body attached to it;

Any officer or employee of the government found to have permitted the operation of public utility trimobile by those whose franchise to operate have already been cancelled, revoked, or are not in the name of the person operating the same, or who has directly abetted the operation thereof shall be administratively dealt with.

SECTION 8. Repealing Clause – All ordinances, executive orders, rules and

Page -4-

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 9. 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 10. Effectivity – This Ordinance shall take effect upon its approval and publication in a newspaper of local circulation.

ENACTED: December 9, 2014.

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WE HEREBY CERTIFY to the correctness of the foregoing ordinance.

NELSON S. LEGCION
City Vice Mayor &
Presiding Officer

GIL A. DE LA TORRE
Secretary to the
Sangguniang Panlungsod

APPROVED:

JOHN G. BONGAT
City Mayor