



Republic of the Philippines
Tangapan ng Sangguniang Panlungsod
2/F City Hall Bldg., J. Miranda Ave., Con. Peq., Naga City
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ORDINANCE NO. 2017-041
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AN ORDINANCE DECLARING THE EXISTENCE OF A RESOLUTION ISSUED BY THE SANGGUNIAN PANLUNGSOD OF NAGA GRANTING FRANCHISE TO OPERATE A PUBLIC UTILITY TRIMOBILE/E-TRIKE WITHIN THE TERRITORIAL JURISDICTION OF THIS CITY AS THE SOLE AND OFFICIAL PROOF OF THE GRANT THEREOF:-

Author: Hon. City Councilor Mila Raquid-Arroyo 

Co-Author:
Hon. City Youth Councilor Johnelle Jade T. Paredes

EXPLANATORY NOTE

It is axiomatic that the operation of public transportation utilities is imbued with great public interest. Thus, the operation of any such public utilities is subject to stringent requirements, under strict regulation and allowed only through a franchise or privilege issued by duly constituted government authority.

In consonance with the above principle, the grant of franchise to operate public utilities is personal to the grantee thereof, thus, the franchise so granted is non-transferable. 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 at will. 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 had long been declared as illegal has not, however, deterred the rampant commission of this prohibited act. These violations of the prohibition resulted in a number of trimobles 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.

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 which 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.

The implementation of Ordinance No. 2007-024 had, however, resulted in certain confusions. This confusion, however, was clarified and resolved under Ordinance No. 2013-030 which once again emphasized the personal nature of franchise to operate public utilities, reiterated the prohibition against transfers of franchise not sanctioned by the Sangguniang Panlungsod, and imposed higher penalties for the illegal transfer of trimobile franchise.

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To merely prevent the operation of trimobiles which could not be registered because the franchise to operate them have been illegally transferred would create grave economic prejudice to those who may have been operating them under the wrong impression that the transfer thereof was not a prohibited transaction. To respond to this situation, Ordinance No. 2014- 077 granting a one-time and conditional amnesty for illegal transfers of trimobile franchise, and Ordinance No. 2016-027 which expanded the coverage and extended the period of availment thereof, were passed by the Sangguniang Panlungsod.

In the course of the implementation of the amnesty program, certain issues have cropped up which could be responded to if only there is one legal instrument that would constitute as that indubitable proof that the operator of the public utility trimobile is indeed the legitimate franchisee thereof and thereby once again emphasize the urgency of the need for stricter measures to prevent the continuation or recurrence of the situation. Thus, this ordinance.

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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. Operation of Public Utility Trimobile/E-Trike To achieve the above-declared purpose, a public utility trimobile/e-trike may be operated only under authority of a Resolution of Grant of Franchise to Operate a Public Utility Trimobile/e-trike issued by the Sangguniang Panlungsod of Naga.

SECTION 3. Sangguniang Panlungsod Resolution of Grant of Franchise to Operate a Public Utility Trimobile/E-Trike. Effective upon the approval of this Ordinance, the Resolution of Grant of Franchise to Operate a Public Utility Trimobile or E-Trike issued by the Sangguniang Panlungsod of Naga shall be the sole and conclusive proof of the grant of such franchise and the legality of the operation of public utility trimobiles/e-trikes in the City of Naga, except only under test-run operations as authorized by the Sangguniang Panlungsod.

SECTION 4. Qualifications for issuance of Sangguniang Panlungsod Resolution of Grant of Franchise to Operate a Public Utility Trimobile/E-Trike. In addition to the requirements already imposed by all pertinent ordinances of the City of Naga, a Resolution of Grant of Franchise to Operate a Public Utility Trimobile/E-Trike shall be issued by the Sangguniang Panlungsod upon presentation of an official document showing that the City Government has recognized the legitimacy of the operation thereof by the applicant as of the date, or prior to, the effectivity of this ordinance.

SECTION 5. Application for issuance of Sangguniang Panlungsod Resolution of Grant of Franchise to Operate a Public Utility Trimobile/E-Trike. All public utility trimobiles or e-trikes with valid and subsisting franchise but are operating without the Sangguniang Panlungsod Resolution of Grant of Franchise shall file an application with the Sangguniang Panlungsod for the issuance of such Resolution without additional cost to the applicant or without having to pay any application fee.

SECTION 6. Inscription of the Sangguniang Panlungsod Resolution Number. To carry the proof of legitimate operation at all times, the Sangguniang Panlungsod Resolution of Grant of Franchise shall be indicated in the body of the trimobile/e-trike by inscribing by paint, legible within a two-meter distance, at the outside back portion and at the inside and outside front portion of the trimobile, and on the inside and outside portion of both sides of the e-trike. For this purpose, the following format shall be followed: "Franchise Granted under SP Res. No. ____".

Two (2) years after the approval of this Ordinance, no trimobile/e-trike shall be allowed to ply the streets of Naga City unless the same bears the inscription required under this Section.

SECTION 7. Repealing Clause – All ordinances, 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 8. 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 9. Effectivity – This Ordinance shall take effect upon its approval and publication in a newspaper of local circulation.


ENACTED: June 20, 2017

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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 Vice Mayor
& Presiding Officer

APPROVED:


JOHN G. BONGAT
City Mayor

6/23/17