



Republic of the Philippines
Tangapan ng Sangguniang Panlungsod
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ORDINANCE NO. 2017-097
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AN ORDINANCE AMENDING SECTION 8, ARTICLE IV, ORDINANCE NO. 2008-079, OTHERWISE KNOWN AS “AN ORDINANCE PRESCRIBING GUIDELINES FOR PRELIMINARY APPROVAL OF LOCATIONAL CLEARANCE (PALC), DEVELOPMENT PERMIT (DP), AND ALTERATION OF PLANS (AP) FOR RESIDENTIAL SUBDIVISION PROJECTS AND FOR OTHER PURPOSES IN THE CITY OF NAGA”, BY PROVIDING CERTAIN PARAMETERS THAT SHALL GUIDE THE CITY GOVERNMENT IN APPROVING/DISAPPROVING APPLICATIONS FOR ALTERATION OF PLANS OF RESIDENTIAL SUBDIVISION DEVELOPMENT PROJECTS WITHIN THE TERRITORIAL JURISDICTION OF THE CITY OF NAGA

Author: Hon. City Councilor Mila SD Raquid-Arroyo *Mila SD Raquid-Arroyo*

EXPLANATORY NOTE

In pursuit of local autonomy as mandated by Republic Act No. 7160, otherwise known as “The Local Government Code of 1991”, various government functions which used to be performed by the national government have been devolved to local government units. Among these devolved functions is the approval/disapproval of applications for Preliminary Locational Clearance (PALC), Development Permit (DP) and alterations thereof concerning residential subdivision development projects which used to be within the authority and jurisdiction of the Housing and Land Use Regulatory Board (HLURB).

The public nature of residential subdivision development as a private undertaking necessitates the exercise of government authority to protect public interest and promote the general welfare. Thus, to ensure that residential subdivisions, though private, still serves the interest of the public, PD No. 957, as amended by PD No. 1216, provides for the donation of roads and open spaces in residential subdivisions to the LGU. This grant of right over roads and open spaces in private residential subdivisions to the LGU clearly indicates the public nature of these roads and open spaces.

Per experience of Naga City, performing the function concerning approval/disapproval of PALC and DP usually runs an ordinary course, with the City’s Zoning Ordinance as the main guide. Performing the function concerning amendment of the DP as a consequence of an alteration in the development plan is, however, an entirely different matter as its approval requires the consent of the homeowners affected. Oftentimes, issues arise when the applicant developer fails to secure such consent from the concerned lot buyers/homeowners.

On issues that arise concerning applications for alteration of plans/DP, the City is called upon to resolve the same through the exercise of the authority lodged upon it by law and decide whether the application will be approved or disapproved guided by its duty to always uphold the best interest of the entire City. To exercise this authority in adherence to the intents and purposes of the laws pertaining to the matter, there is a need for policy that will provide sufficient guidance in the event of conflicting circumstances obtaining therein. Thus, this Ordinance.

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

Section 1. Purpose. This Ordinance amends Section 8, Article IV of Ordinance No. 2008-079 in order to fill a gap in policy needed to facilitate implementation of PD No. 957, as amended by PD No. 1216, in faithful adherence to the purposes and intents of these legislations, particularly Sections 22 and 31 thereof and its Implementing Rules and Regulations.

Section 2. In furtherance of the objective of this Ordinance, Sections 8 and 9, Article IV of Ordinance No. 2008-079 are hereby amended, now to read as follows:

"ARTICLE IV – Alteration of Plans

"SECTION 8. Documentary Requirements. An Application for Alteration of Plans for Approved Residential Subdivision Development shall be supported by the following documents:

- "A. Letter of Intent stating the reason(s) for the proposed alteration;
- "B. Development Plan showing the proposed alteration duly signed and sealed by a licensed architect /engineer;
- "C. Certified true copy of the certificate(s) of title of the lot(s)/unit(s) subject of the proposed alteration, if already titled;
- "D. Sworn Statement that the lots/areas subject of the proposed alteration have not been sold or is not subject of a contract to sell or deed of conveyance in favor of another party. In the event that the lot/area subject of the alteration is already covered by an agreement of conveyance in favor of another party, a sworn statement of waiver by the latter shall be submitted by the applicant. Without such waiver, the application shall be denied.

For the purpose of the above provision, the applicant or his duly designated representative, shall submit a list, certified under oath, of the names and addresses of all lot buyers/homeowners and the name of the duly registered HOA and its officers, if one has already been organized.

"E. Minutes of the general assembly of the lot buyers/homeowners where the proposed alteration of plan was presented and discussed, and the written conformity of the duly organized homeowners association or in the absence thereof, majority of the homeowners/lot buyers.

"In the absence of such Minutes or written conformity of the homeowners/lot buyers, a sworn statement on the reason for the absence thereof shall be submitted by the applicant. If the Sangguniang Panlungsod finds that the reason for the failure to submit the said documents is within the control of the applicant, the application shall be denied. If the Sangguniang Panlungsod finds the reason for such failure to be beyond the control of the applicant, the Sangguniang Panlungsod shall direct the City Planning and Development Office (CPDO) to convene such general assembly, the notice therefor received by the HOA at least five (5) days prior to the date of the meeting, and therein allow the applicant to present the proposed alteration of plan. The Minutes of such meeting shall be certified by the Head of the CPDO who shall transmit the same to the Sangguniang Panlungsod within five (5) days from the conduct thereof

"In the event that there is yet no organized HOA, proof of written notice of the meeting sent to and received by each of the lot/unit buyers shall be submitted by the applicant. Proof of publication of the Notice for the said meeting at least thirty (30) days prior to the scheduled meeting where all lot/unit buyers are named shall likewise be submitted by the applicant.

"SECTION 9. XXX.

"XXX.

"C. Xxx.

"XXX.

"The CPDO shall have fifteen (15) days within which to submit to the Sangguniang Panlungsod its evaluation of the application.

"E. Upon receipt of the application folders from the CPDO, the SP Secretary shall transmit to each of the members of the Committee on Land Use their respective copies thereof. The Application shall be transmitted by the SP Secretary to the Committee on Rules and Privileges for inclusion in the