



ORDINANCE NO. 2019-093
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AN ORDINANCE PRESCRIBING THE MAXIMUM PENALTY IMPOSABLE BY THE CITY GOVERNMENT UPON THE SELLER/TRANSFEROR OF TRIMOBILE FRANCHISE AWARDED BY THE CITY GOVERNMENT OF NAGA, EXCEPT THOSE TRANSFERS ALLOWED UNDER EXISTING ORDINANCES, AND GRANTING CERTAIN TRANSFERREES THEREOF THE PRIVILEGE TO APPLY FOR GRANT OF TRIMOBILE FRANCHISE UNDER CERTAIN CONDITIONS, CRITERIA AND QUALIFICATIONS:-

AUTHOR: HON. CITY COUNCILOR MILA RAQUID ARROYO

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

SECTION 1. Purpose. This Ordinance seeks to achieve the following purposes:

- i) To put a stop to the nefarious practice of selling/transferring of Trimobile Franchise by imposing upon the transferor thereof the maximum penalty imposable by the City Government;
- ii) To allow the transferee of an illegally transferred Trimobile Franchise to apply for award of Trimobile Franchise if it/he/she qualify under the criteria and qualifications provided under this Ordinance.

SECTION 2. Reason for prohibition against transfer of Trimobile Franchise.

The Franchise to Operate a Trimobile, being a public utility, is granted only after a thorough evaluation of whether or not the applicant for the franchise has passed the stringent requirements set out under existing ordinances in order to ensure the safety and convenience of the riding public. A Trimobile Franchisee therefore has no authority to transfer the franchise granted to them, otherwise, the decision as to whom the franchise will be transferred could be marred by considerations other than public interest.

SECTION 3. Automatic Cancellation of transferred Trimobile Franchise.

All Trimobile Franchise transferred in violation of existing ordinances, policies, rules, and regulations of the City Government of Naga are deemed automatically cancelled, invalid, annulled and voided without need of any action from the Sangguniang Panlungsod. All Trimobiles operated without a valid franchise shall be impounded and the driver, transferee, and transferor or registered operator thereof shall be prosecuted under the provisions of this Ordinance.

SECTION 4. Penalty for prohibited transfer of Trimobile Franchise.

To emphasize the significance of the prohibition against transfer of Trimobile Franchise, the following penalties shall be imposed:

- a) A Fine of Five Thousand Pesos (P5,000.00) and imprisonment for thirty (30) days if
 - I) the transferor is a previous beneficiary of an amnesty granted by the City Government of Naga for illegal transfer of Trimobile Franchise; or
 - II) the transferor is an original awardee of Trimobile Franchise and the transfer was motivated by financial gain as shown by the fact that the

original

transferor was not in any urgent and serious financial difficulty at the time of the transfer of the Trimobile Franchise. The urgency and seriousness of financial difficulty shall be evaluated based on the circumstances obtaining in each particular case.

- b) A Fine of Five Thousand Pesos (P5,000.00) and imprisonment for sixty (60) days if the transfer is both a previous beneficiary of an amnesty granted by the City Government of Naga for illegal transfer of Trimobile Franchise and the transfer was motivated by financial gain;

PROVIDED, that if the transfer was effected with deceit or misrepresentation, a penalty of imprisonment for sixty (60) days in addition to the foregoing penalties shall be imposed.

SECTION 5. Prohibition against acquisition of Trimobile Franchise. For the same reason that transfer of Trimobile Franchise is prohibited, the acquisition of Trimobile Franchise, except upon a grant issued by Resolution of the Sangguniang Panlungsod, is likewise prohibited.

SECTION 6. Penalty against prohibited acquisition of Trimobile Franchise. To emphasize the significance of the prohibition against illegal acquisition of Trimobile Franchise, the following penalties shall be imposed in addition to confiscation of the trimobile unit:

- a) A Fine of Five Thousand Pesos (P5,000.00) and imprisonment for thirty (30) days if the transferee is an existing original holder of Trimobile Franchise granted by the City Government of Naga;
- b) A Fine of Five Thousand Pesos (P5,000.00) and imprisonment for sixty (60) days if the transferee is an existing holder of a Trimobile Franchise granted under an amnesty program for illegal transfer of Trimobile Franchise;
- c) A Fine of Five Thousand Pesos (P5,000.00) and imprisonment for ninety (90) days if the acquisition was motivated by financial gain as shown by the fact that the operation of the trimobile is not his/her major source of support for himself/herself and his/her family.

PROVIDED, that if the acquisition was effected with deceit or misrepresentation, a penalty of imprisonment for sixty (60) days in addition to the foregoing penalties shall be imposed.

SECTION 7. Privilege to apply for Trimobile Franchise. The transferee of the Trimobile Franchise transferred in violation of existing ordinances, policies, rules, and regulations issued by the City Government of Naga may apply for grant of Trimobile Franchise under existing ordinances subject to the following requirements, criteria and qualifications:

- a) The transferee possess all the qualifications and none of the disqualifications for grant of Trimobile Franchise under existing ordinances;

- b) The transferee is not a holder of a Trimobile Franchise granted by the City Government of Naga;
- c) The application is filed within three (3) years from the date the Trimobile was transferred to him/her; provided, that if an application has been filed prior to enactment of this Ordinance, the three-year period provided herein shall commence from the effectivity hereof;
- d) The transferee has not been previously administratively found guilty or judicially convicted for illegal transfer/acquisition of Trimobile Franchise;
- e) The transferee has no sufficient means to respond to his/her financial need other than the operation of the trimobile transferred to him/her;
- f) The transferee declares under oath the circumstances surrounding the means, manner, and consideration involved, if any, in the transfer of the Trimobile Franchise to him/her.

SECTION 8. Other Requirements for grant of Trimobile Franchise. The grant of Trimobile Franchise to the Transferees who are qualified to apply for Trimobile Franchise as provided under Section 7 hereof shall be in accordance with the provisions of Section 3, Ordinance No. 2014-077, as amended by Ordinance No. 2016-027.

SECTION 9. Effectivity. This Ordinance shall take effect the day following the fifteenth (15th) day from date of publication in a newspaper of general circulation in the City of Naga and Camarines Sur.

ENACTED: November 19, 2019.


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WE HEREBY CERTIFY to the correctness of the foregoing ordinance.


CECILIA VELOZ-DE ASIS
City Vice Mayor
& Presiding Officer


GIL A. DE LA TORRE
Secretary to the
Sangguniang Panlungsod

APPROVED:


NELSON S. LEGACION
City Mayor 11/21/19 