



Republic of the Philippines
 PROVINCE OF CAGAYAN
 City of Tuguegarao
EIGHTH CITY COUNCIL



EXCERPTS FROM THE MINUTES OF THE 50th REGULAR SESSION
 OF THE EIGHTH CITY COUNCIL OF TUGUEGARAO CITY, CAGAYAN
 HELD ON JULY 21, 2020, TUESDAY, 9:00 A.M.,
 AT THE SANGGUNIANG PANLUNGSOD SESSION HALL

PRESENT:

- | | |
|-----------------------------------|--|
| Hon. Bienvenido C. De Guzman II | City Vice Mayor/Presiding Officer |
| Hon. Gilbert S. Labang | Sangguniang Panlungsod Member |
| Hon. Danilo L. Baccay | -do- |
| Hon. Ronald S. Ortiz | -do- |
| Hon. Arnel T. Arugay | -do- |
| Hon. Mary Marjorie P. Martin-Chan | -do- (via Teleconferencing) |
| Hon. Grace B. Arago | Sangguniang Panlungsod Member |
| Hon. Raymund P. Guzman | -do- |
| Hon. Winnoco R. Abraham | -do- |
| Hon. Karina S. Gauani | -do- |
| Hon. Victor Herbert N. Perez | -do- |
| Hon. Gil G. Pagulayan | Ex Officio Member (Liga ng mga Barangay President) |
| Hon. Karen L. Taguinod | Ex Officio Member (SK Federation President) |

ABSENT:

- | | |
|---------------------------------|---|
| Hon. Maila Rosario T. Que | Sangguniang Panlungsod Member (on Sick Leave) |
| Hon. Imogen Claire M. Callangan | Sangguniang Panlungsod Member (on Leave) |

CITY ORDINANCE NO. 48-08-2020

AN ORDINANCE REGULATING THE CONSTRUCTION, INSTALLATION, OPERATION, UPGRADING AND MAINTENANCE OF COMMUNICATION TOWER (CELLULAR SITES/TOWERS), DRUMB/REPEATER TRANSMITTER OR ANY INSTRUMENT OF TRANSMITTING COMMUNICATION WITHIN THE JURISDICTION OF TUGUEGARAO CITY AND PRESCRIBING FEES AND IMPOSING PENALTIES THEREOF

WHEREAS, Section 468 (a) of the Local Government Code of 1991 provides that the Sangguniang Panlungsod as the legislative body of the city shall approve ordinances for the general welfare of the city and, in addition, shall prescribe reasonable limits and restraints on the use of property within its jurisdiction;

WHEREAS, as the regional center of Cagayan Valley Region, Tuguegarao City has become a strategic place for the establishment of communication towers and base transceiver stations;

WHEREAS, Communication Towers should be reasonably regulated to minimize potential adverse aesthetic impacts on the surrounding area;

WHEREAS, the City Government of Tuguegarao is empowered to impose fees to regulate the conduct and operation of towers consistent with the General Welfare Clause of Republic Act No. 7160, otherwise known as the Local Government Code of 1991;

WHEREAS, there is a need to regulate the establishment of communication towers and base transceiver stations to ensure public health, safety and security and educational program for the general welfare of the city constituents;

NOW, THEREFORE, be it **ORDAINED** by the Sangguniang Panlungsod in session assembled to enact:

Handwritten signature and initials

SECTION 1. SHORT TITLE. This ordinance shall be known as “*Cell Site Ordinance.*”

SECTION 2. DECLARATION OF POLICY. It is the duty of the local government to protect life and advance the rights of all citizens to safety, sustainable livelihood and social equality in accord with the rhythm and harmony of nature. For this purpose, the Tuguegarao City Government shall regulate the establishment, construction and maintenance of cellular towers for mobile phone services within Tuguegarao City.

SECTION 3. SCOPE. This Ordinance shall apply to telecommunication towers/drums/repeater transmitters or any other instruments of transmitting communication to be installed/upgraded and existing towers by telecommunication companies, their general contractors and sub-contractors applying for a permit to construct towers for base stations, cellular and other wireless communication facilities in Tuguegarao City.

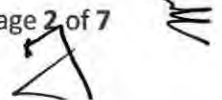
SECTION 4. DEFINITION OF TERMS. For purposes of this Ordinance, the following words and phrases are hereby defined:

- A. Cellular Mobile Telephone Service (CMTS) refers to a type of shortwave analog or digital telecommunication in which a subscriber has a wireless connection from a mobile phone to a relatively nearby transmitter.
- B. Guyed-Tower (GT) refers to a tower structure which consists of a free-standing basement, in most cases of concrete or of lattice steel with a guyed mast on the top. The anchor basements of the guyed mast can be on the top of the tower or on the ground.
- C. Hold-Harmless Agreement is a legal agreement that states that one party will not hold another party liable for risk, often physical risk or damage.
- D. Radial Distance refers to the distance emanating from a common central point.
- E. Self-Supporting Tower (SST) refers to a three or four-sided lattice type structures made from solid rod, pipe or angle. It is ideal for cellular towers, wireless internet towers, broadcast towers, radio towers, homeland security towers and wind towers.
- F. Telecommunication Tower refers to tall structures designed to support antennas (also known as aerials) for telecommunications and broadcasting including television.
- G. Upgrading refers to changes and/or alterations to be made in the building, tower and/or structure which tends to increase the number of radio antennae and other attachments, enhance or improve the site’s capacity, improve and/or enhance the quality of service, or widen the coverage site.
- H. Variance refers to a statistical measure of how much a set of observations differ from each other.
- I. Drumb/Repeater Transmitter or any instrument of transmitting communication refers to those which enhance or improve the site’s capacity, improve and/or enhance the quality of service, or widen the coverage site attached to a building or any structure thereof.

SECTION 5. RESOLUTION OF NO OBJECTION. The applicant telecommunication company/its authorized agents/assignees shall apply to the Sangguniang Panlungsod for a Resolution Of No Objection (RONO) for an authority to construct its tower/drum/repeater transmitter or any instrument of transmitting communication (new and upgrading), submitting all permits, clearances, certificates and studies/reports issued by the aforementioned agencies in Section 6, Paragraph F hereof together with a copy of its Certificate of Public Convenience and Necessity (CPCN) or Certificate of Public Convenience (CPC) as the case may be and in compliance with Section 14 hereof.

SECTION 6. GUIDELINES IN SECURING A LOCATIONAL CLEARANCE/BUILDING PERMIT. The following guidelines in securing a locational clearance shall be observed by the telecommunication company:

- A. Secure Sangguniang Panlungsod resolution endorsing the site and construction of the telecommunication tower interposing no objection to the construction of the cellular tower.



- B. If the location of the telecommunication tower is privately-owned, the owner of the property shall apply for a clearance through the Zoning Officer at the City Planning and Development Office (CPDO) which shall regulate the issuance of a locational clearance for the construction of cellular tower based on the City's Zoning Ordinance with the approval of the Sangguniang Panlungsod.
- C. If the location of the telecommunication tower is privately-owned, the owner of the property shall apply for a business permit as real estate lessor.
- D. If the construction of the telecommunication tower is to be undertaken by a contractor or sub-contractor other than the owner of the telecommunication company, both the contractor and the sub-contractor shall secure business permits separately.
- E. Adoption of the Housing and Land Use Regulatory Board (HLURB) Resolution No. R-626 titled "*Approving the Locational Guidelines for Base Stations of Cellular Mobile Telephone Service, Paging Service, Trunking Service, Wireless Local Loop Service and Other Wireless Communication Service*" and compliance therewith.
- F. On the other hand, the following requirements shall be submitted to the Office of the Secretary to the Sangguniang Panlungsod in sixteen (16) copies for review of the Sangguniang Panlungsod:
 1. Letter of application from the Telecommunications Company
 2. Barangay resolution interposing no objection to the installation, construction and operation of the cell site. Majority of the neighbors affected shall sign the neighbors' consent.
 3. Certificate of public hearing with minutes and original copy of attendance sheet from the concerned barangay
 4. Land owner's consent and proof of ownership
 5. Neighbor's consent for the installation of the cell site within base station height (Only neighbors affected within radial distance equivalent to the tower height as per HLURB guidelines)
 6. Deed of Undertaking including a proviso that any transactions/arrangements/agreements entered into by the authorized contractor shall be honored by the Telecommunication Company undertaking the project
 7. Height Clearance Permit from the Civil Aviation Authority when the location is within 4 kms radius from the airport
 8. National Telecommunications Commission (NTC) clearance
 9. Department of Health (DOH) clearance
 10. Environmental Compliance Certificate (ECC)/Certificate of Non-Coverage
 11. Vicinity Map
 12. Building Specifications
 13. Grant of Right of Way, if applicable
 14. Proof of payment/Official receipt of the application fee of Ten Thousand Pesos (PhP10,000.00)

For Building Permit:

- G. Prior to the issuance of a building permit, the applicant shall submit the requirements as stated in Section 5 hereof including fire clearance to be constructed in accordance with Republic Act (RA) 9514, provided that the issuance of the building permit shall be subject to the assessment and evaluation of the building plan by the Office of the Building Official.
- H. The applicant shall submit a Notice of Construction ten (10) days before the start of the said construction as provided for in the National Building Code to the Office of the Building Official after the issuance of the building permit.
- I. Temporary electrical connection permit shall be issued by the Office of the Building Official prior to the construction in accordance with RA 9514, otherwise known as the Fire Code of the Philippines.

SECTION 7. CERTIFICATE OF OCCUPANCY.

The following shall be submitted to the City Engineer's Office/Office of the Building Official for the issuance of the Occupancy Permit:

1. Copy of the Sangguniang Panlungsod Resolution
2. Fire Safety Inspection Certificate (FSIC) from the Bureau of Fire Protection
3. A certification from the insurance company duly authorized by the Insurance Commission and with the issuance of occupancy permit, the City Engineer's Office shall provide an endorsement letter to Cagayan Electric Cooperative for the issuance of power connections.

Consequently, the applicant shall submit approved occupancy permit to the City Assessor's Office for assessment purposes and to the City Treasurer's Office.

SECTION 8. PREFERENTIAL RIGHTS OF LOCAL CONTRACTORS. The telecommunication company intending to construct the subject facilities on real estate owned by the City Government shall give preferential rights to local contractors or local construction firms duly accredited as such by the Tuguegarao City Government, provided that in the absence of local contractors and local construction firms qualified to perform the services, the concerned telecommunication company may choose from among the accredited contractors of the City Government.

SECTION 9. PUBLIC LIABILITY INSURANCE AND HOLD-HARMLESS AGREEMENT. The applicant shall provide the City with a proof of an "all risk insurance" which protects against losses due to personal injury, death or property damage resulting from the construction, operation or collapse of the tower. The insurance shall answer for or cover any and all damages that may be caused in case of collapse of the tower due to natural deterioration or that which may be caused by fortuitous events like strong winds, typhoons and other disastrous calamities.

SECTION 10. STANDARDS, PROHIBITIONS AND OTHER CONDITIONS.

- A. The radius of the tower and actual structure shall conform with HLURB Guidelines.
- B. Cellular towers may not be approved near structure of historic or cultural importance and areas designed for scenic corridors. The views and vistas from such structures and corridors shall not be impaired or diminished by the placement of a cellular tower.
- C. The minimum set back from any property line, public and private road and right of way, building, or structure, except for accessory buildings or equipment structures, for a cellular tower shall not be less than five (5) meters.
- D. No commercial message nor any other signs beyond safety warning and an identification sign shall be placed on or added to any tower facility.
- E. No lights, reflectors, flashers, daytime strobes or steady nighttime light or other illuminating devices except beacon lights may be affixed or attached in any way to any tower, and as may be required by the Civil Aviation Authority of the Philippines (CAAP). However, perimeter lights and other illuminating devices needed for the security and safety of the site may be affixed on the other parts of the facility.
- F. The cellular tower shall be painted international red and white for air navigation visibility in accordance with the international standards in air safety.
- G. All towers shall be designed to withstand applicable wind load requirements as prescribed under the National Building Code and constructed of or treated with corrosive-resistance material. A regular maintenance schedule shall be followed.
- H. All new or existing cellular towers shall comply with all relevant National Telecommunication Commission (NTC) and Civil Aviation Authority of the Philippines (CAAP) standards and shall not interfere with public safety and other City and private telecommunication operators.
- I. The contractor should apply for a temporary electrical connection or provide a power generating set for construction purposes to avoid illegal tapping.
- J. In case of cellular tower construction subject for renewal, the same shall be referred to the City Building Official for the said office to determine the strength, condition or structural viability and condition of the said tower/antenna.



- K. No tower/antenna shall be constructed on top of any existing building without the approval of the City Building Official.
- L. A perimeter fence or any appropriate structure must be constructed to prevent access of the public to the antenna.
- M. Only authorized personnel shall be allowed to have access to the antenna tower. The radio frequency source must be turned off whenever service personnel are working in areas where the power density levels are greater than the exposure limits stated above. Should there be modifications in the RF transmission system that could affect the power density levels in the facility, the Bureau of Health Devices and Technology must be notified in writing prior to operation of the modified design.
- N. Warning signs must be placed at strategic locations in the facility.
- O. A radiation safety officer who has undergone RF radiation safety seminar must be designated.
- P. The contractor/supplier or owner must undertake measurements to generate a radio frequency radiation map to identify enough points where the occupational and non-occupational exposure limits are located in the facility.
- Q. It is understood that the telecommunications company warrants that the construction/operation of the telecommunications facilities shall not have adverse effect on the health of the immediate neighbors and the facilities shall not pose threat or danger to their lives and should not be considered as health hazards. A violation of this warranty shall make the telecommunications company principally liable and responsible for any damage or injury resulting therefrom.
- R. If found after due investigation that the telecommunications facilities installed are causing adverse effects on the health of the immediate neighbors or have caused damage to them, the telecommunications company shall promptly take remedial or corrective measures to remedy or correct such adverse effect or damage and shall indemnify all those affected for all and whatever damages and injuries they sustained.
- S. In the event that the communication tower breaks, crashes or topples down causing damage to life and property, the telecommunications company shall, in accordance with law, indemnify the affected parties.
- T. The normal operations of telecommunications equipment including the tower in the community shall not adversely affect the signal/reception of television, and FM and AM radio broadcasts within their authorized bands, nor the operation of household appliances/electronic equipment such as CD players, video cassette recorders/players and microwave ovens of the residents of the said barangay. If, however, the telecommunications equipment installed will cause adverse effects or damage to the abovementioned appliances within the barangay, the telecommunications company shall promptly take remedial or corrective measures to remedy or correct such adverse effect or damage. Shall there be damages on appliances, they should be indemnified as well.

SECTION 11. DISPOSAL OF TELECOMMUNICATIONS TOWER.

- A. It shall be the sole responsibility of the telecommunication company to dispose properly the telecommunication tower in the event of non-renewal of contract of lease with the lot owner;
- B. It is prohibited for a telecommunication company to transfer, assign or retain the telecommunication facility to the lot owner; and,
- C. The telecommunication company shall observe laws, rules and regulations governing the disposal of a telecommunication facility.

SECTION 12. TRANSFER OF OWNERSHIP. Transfer of ownership of the facility shall be allowed, provided that the assignee shall comply with the provisions of this Ordinance by signing a sworn statement to that effect prior to the approval of the City Council.

SECTION 13. UPGRADING. The following requirements shall be submitted to the Office of the Secretary to the Sanggunian in sixteen (16) copies for review of the Sangguniang Panlungsod:

- A. Letter of application from the Telecommunications Company
- B. Deed of Undertaking including a proviso that any transactions/arrangements/agreements entered into by the authorized contractor shall be honored by the Telecommunication Company undertaking the project
- C. Height Clearance Permit from the Civil Aviation Authority
- D. National Telecommunications Commission (NTC) clearance
- E. Department of Health (DOH) clearance
- F. Environmental Compliance Certificate (ECC)/Certificate of Non-Coverage
- G. Building Specifications

SECTION 14. IMPOSITION OF FEES. There shall be collected an annual Mayor's Permit Fee (Special User's Permit Fee) for the operation of the communication tower and/or drum/repeater transmitter or any instrument of transmitting communication at the rate of Twenty Thousand Pesos (P20,000.00) per year per cell site, proceeds of which shall be used in protecting the public health, public safety and educational program of the City Government of Tuguegarao. The operator, owner, or person responsible for the operation of the communication tower or cell site shall be held liable to pay the Mayor's Permit Fee (Special User's Permit Fee), amending for this purpose Section 3A.01.K of Tuguegarao City Revenue Code of 2011.

SECTION 15. FINES AND PENALTIES. Any person, firm, company or corporation who violates any provision of this Ordinance or fails to comply with the requirements thereof shall likewise be liable to pay a fine of not more than Five Thousand Pesos (P5,000.00). Any cellular tower erected, structurally altered, determined to be unsafe or devoted to any use carried on in violation of the provisions of this Ordinance is hereby declared public nuisance or nuisance per se, entitling the City to apply to the City Trial Court to refrain or abate such nuisance.

SECTION 16. TIME AND MANNER OF PAYMENT.

- A. Payment should be made on the first thirty (30) days of each year and subject to the surcharges and penalties in accordance with the Revised Revenue Code of Tuguegarao City.
- B. Provided, that upon the effectivity of this Ordinance, a fee equivalent to the remaining months of the year on a pro-rata basis is hereby imposed.

SECTION 17. EXEMPTIONS. Communication Facilities used by the State/City Government are exempted from the payment of fee required herein EXCEPT those communication facilities used for the Communication Tower operated for communication purposes by private individuals/corporations.

SECTION 18. APPEAL PROCEDURES. Any person affected by any decision, action, denial or determination made by the interpretation of the provisions of this Ordinance may file an appeal with the City Council within fifteen (15) days from receipt of notice thereof.

SECTION 19. LIABILITY OF DAMAGES. The telecommunication companies and/or their general contractors and/or subcontractors shall be liable for the death of or injuries suffered by any person by reason of defective condition of the cellular phone towers under their ownership.

SECTION 20. IMPLEMENTING RULES AND REGULATIONS (IRR). The IRR will be issued by the Office of the City Mayor within thirty (30) days from the date of the effectivity of this ordinance.

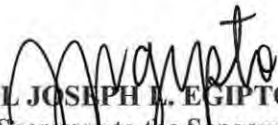
SECTION 21. REPEALING CLAUSE. All ordinances, orders, rules and regulations which are inconsistent with any of the provisions of this Ordinance are hereby repealed or modified accordingly.

SECTION 22. SEPARABILITY CLAUSE. If, for any reason or reasons, any part or provision of this ordinance shall be held to be unconstitutional or invalid, other parts or provisions hereof which are not affected thereby shall continue to be in force and effect.


SECTION 23. EFFECTIVITY. This Ordinance shall take effect ten (10) days after its complete publication in any newspaper of general circulation within the city and posting in three (3) conspicuous places in the city.

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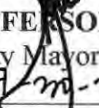
I HEREBY CERTIFY TO THE CORRECTNESS OF THE FOREGOING:


JOEL JOSEPH L. EGIPTO, Ph.D.
Secretary to the Sanggunian

ATTESTED:


HON. BIENVENIDO C. DE GUZMAN II
City Vice Mayor/Presiding Officer
Date: 07-23-20

APPROVED:


HON. ATTY. JEFFERSON P. SORIANO
City Mayor
Date: 07-23-2020

at