

REPUBLIKA NG PILIPINAS
TANGGAPAN NG SANGGUNIANG PANLUNGSOD
LUNGSOD NG BAKOLOD
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CITY ORDINANCE NO. 08-14-661
January 29, 2014

AN ORDINANCE REGULATING THE USE OF AIRSPACE OF BACOLOD CITY AND FOR OTHER PURPOSES THEREOF.

WHEREAS, the Sangguniang Panlungsod has the power to regulate the usage of public property including its airspace;

WHEREAS, certain developments in the City of Bacolod require the use of airspace, and by converting certain portions therein into patrimonial property, dominion is not lost, and any use of its airspace for lawful purposes to redound to the benefit of the constituents of Bacolod City shall be encouraged;

WHEREAS, the said regulation not only will create architectural design as to the buildings in the city, the same will further increase income as this will generate application fee and annual tax dues for the use of the airspace.

NOW THEREFORE BE IT RESOLVED by the Sangguniang Panlungsod of Bacolod City, that:

Section 1. TITLE. This ordinance shall be known as "THE BACOLOD CITY AIRSPACE REGULATION ORDINANCE OF 2014"

Section 2. POLICY. This ordinance provides the basis in regulating the usage of airspace in Bacolod City. This has been taken into consideration since various developments in the City requires the usage of the airspace.

Any request to use airspace shall be subject to the authorization and ratification of the Sangguniang Panlungsod.

Section 3. OBJECTIVES. The grant of a Special Permit to use airspace shall be subjected to the following qualifications:

- a. The same shall not cause any danger to the public;
- b. It shall be within the allowable height so as not to interfere with the jurisdictional airpath of aircrafts being determined by the Civil Aviation Authority of the Philippines. *l*

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Section 4. DEFINITION OF TERMS. For easier interpretation of this ordinance, the following terms are defined:

- a) **Airspace** – Vertical space above a certain public property. Its description and area is included in the title of the same public property.
- b) **Commercial Purpose** – the use of a property which is intended solely for the purpose of benefiting a private entity/person through business or any other commercial activity.
- c) **Patrimonial Property** – property of public dominion, when no longer intended for public use or for public service. (Art. 422 of the Civil Code of the Philippines)

Property of public dominion, when no longer needed for public use or for public service.

- d) **Public use** – It is measured in terms of right of public to use proposed facilities for which condemnation is sought and, as long as public has right of use, whether exercised by one or many members of public, a 'public advantage' or 'public benefit' accrues sufficient to constitute a public use. (Montana Power Co. vs. Bokma, Mont. 457 P.2d 769, 772,773)
- e) **Real Property Tax** – A property tax imposed on local real estate properties which are calculated according to the fair market value.

Section 5. USAGE OF AIRSPACE. The use of airspace can only be allowed if it is intended for the welfare, security, safety, health and convenience of the general public.

Any request for the usage of airspace shall only be allowed if it will be intended for public use.

In case the same will be for commercial purpose, the proponent shall apply in writing for a Special Permit to utilize the airspace defining its technical parameters subject to the approval of the Sangguniang Panlungsod after due notice of hearing.

If the use of airspace is within the jurisdictional air path of aircrafts, as determined by OBO, the requesting entity is required to secure clearance from the Civil Aviation Authority of the Philippines (CAAP).

Section 6. PATRIMONIAL PROPERTY. If an airspace of a certain public property shall be used for commercial purposes, the same shall be declared as a Patrimonial Property, by the Sangguniang Panlungsod

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Section 7. AIRSPACE USAGE FEE. Requesting entities are required to pay the amount of Php20,000.00 for every request made to use airspace of a public property or area and shall be assessed annually in the same way as that of a real property tax.

Section 8. SPECIAL TRUST FUND. A special trust fund shall be created purposely for this ordinance which shall be used for the maintenance of the public property, but the same shall not be used for salaries or wages.

Section 9. PENALTY CLAUSE. In the event that any entity violates the provisions of this ordinance, it shall be penalized as follows:

- a. A fine of Five Thousand Pesos (Php5,000.00) to be paid by the violator or by the owner or President of a certain establishment, or an imprisonment of one (1) year, both in the discretion of the court.
- b. Public entities violated this ordinance shall be held administratively liable.

Section 10. REPEALING CLAUSE. All ordinances, rules and regulations or part thereof in conflict or inconsistent with the provisions of this ordinance are hereby repealed or modified accordingly.

Section 11. SEPARABILITY CLAUSE. If for any reason or reasons, any part or provision hereof shall be held to be unconstitutional or invalid, other parts or provisions hereof which are not affected shall continue to be in full force and effect.

Section 12. EFFECTIVITY. This ordinance shall take effect fifteen (15) days after its publication in at least two (2) newspapers of local circulation in the City of Bacolod.

CARRIED BY THE VOTE OF:

Affirmative :

Councilors : El Cid M. Familiaran, Jocelle Batapa-Sigue, Roberto M. Rojas, Em L. Ang, Carlos Jose V. Lopez, Claudio Jesus Raymundo A. Puentevella, Caesar Z. Distrito, Archie S. Baribar, Wilson C. Gamboa, Jr., Alex A. Paglumotan, Sonya M. Verdeflor, Noli B. Villarosa.

Negative : None.

Absent : None.

Official Leave : Councilor Ana Marie V. Palermo.

Author : Councilor Caesar Z. Distrito.



Passed : January 29, 2014 (31st Regular Session of the 8th Council).

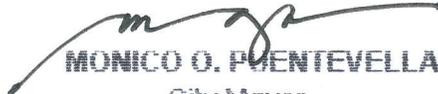
Comments : Passed.


GREG G. GASATAYA
Vice Mayor
Presiding Officer

ATTESTED:


ATTY. VICENTE C. PETIERRE III
Secretary to the Sanggunian

APPROVED: February 6, 2014.


MONICO O. PUENTEVELLA
City Mayor

VCP/HPL/jbz

