



Republic of the Philippines
Province of Ilocos Sur

CITY OF VIGAN



OFFICE OF THE SANGGUNIANG PANLUNGSOD

**SECOND CITY COUNCIL
ORDINANCE NO. 24
SERIES OF 2005**

AN ORDINANCE REGULATING THE PURCHASE AND SALE, TRADE-IN, PAWNING, REPAIR, SERVICING AND MAINTENANCE OF BRAND NEW, USED, PRE-OWNED AND RECONDITIONED OR REFURBISHED MOBILE PHONE UNITS IN VIGAN CITY AND FOR OTHER PURPOSES.

WHEREAS, due to the dictates of modern technology and the desire for speedy communication, everyone, regardless of economic status has purchased or obtained a mobile phone for himself/herself;

WHEREAS, there is also a proliferation of business establishments in the City of Vigan catering to the selling, repair, servicing, and maintenance of mobile phone units;

WHEREAS, to regulate these business establishments, the Department of Transportation and Communication through the National Telecommunications Commission in pursuant of Executive Order 546, Series of 1979, Republic Act 3846, Republic Act 7925, Executive Order 269, Series of 2004 and other existing radio laws and regulations, issued NTC Memorandum Circulars No.07-08-2004 and 08-08-2004 on the Rules and Regulations Governing the Repair, Servicing and Maintenance of Mobile Phones;

WHEREAS, a recent Memorandum Circular No.08-08-2004A issued by the National Telecommunications Commission provides for an additional Rules and Regulations on the Purchase, Sale, Lease and/or Retail of Mobile Phones from mobile phone dealers who engage in a limited scale in the buy and sell to end users/customers;

WHEREAS, the primary purpose of the regulations is to enable the NTC to monitor and control the repair, service, and maintenance of mobile phone units, parts and accessories in the interest and protection of the public;

WHEREAS, aside from selling brand new mobile phones, most of mobile phone sales and service centers also engage in the buying and selling and/or trading-in of second hand phone which is becoming a thriving business in the city;

WHEREAS, cell phone snatching has also increased and speculations has it most of these snatched cell phones find their way in mobile phone service centers and pawnshops in the city; and locating these cell phones has become a very difficult job for the owner;

WHEREAS, consumers should be protected as mandated by the National Consumer's Protection Law and it is also the city's mandate to safeguard and protect the interests of its constituency, thus it is high time that the city should craft an ordinance protecting the rights of individuals and establishments purchasing used, pre-owned and reconditioned

mobile hand phones along with the rights of dealers, retailers and mobile phone service centers;

WHEREAS, to further realize the merit of this ordinance an accompanying resolution to the provincial government to adopt a similar ordinance provincewide, is hereby crafted;

NOW THEREFORE BE IT ENACTED that:

SECTION 1. TITLE. This ordinance shall be known as “**AN ORDINANCE REGULATING THE PURCHASE AND SALE, TRADE-IN, PAWNING, REPAIR, SERVICING AND MAINTENANCE OF BRAND NEW, USED, PRE-OWNED AND RECONDITIONED OR REFURBISHED MOBILE PHONE UNITS IN VIGAN CITY AND FOR OTHER PURPOSES**”

SECTION 2. SCOPE. This ordinance shall cover all activities related to the purchase and sale, trade-in, pawning, repair, servicing and maintenance of brand new, used, pre-owned and reconditioned or refurbished mobile phone units and the transactions which are entered into by but not limited to consumers, dealers and retailers of mobile phone units, service and repair centers, including pawnshops and cell phone repair shops of all types within the territorial jurisdiction of Vigan City.

SECTION 3. DEFINITION OF TERMS. For purposes of this ordinance, the following terms are defined:

3.1. Brand New Mobile Phone – these are unused mobile phones directly coming from manufacturers such as Nokia, Samsung, Sony, Ericsson, Motorola, Siemens, Alcatel and others which are distributed or sold by dealers to mobile phone retailers with complete gadgets and accessories contained in sealed boxes with IMEI seal therein.

3.2. Dealers – refer to the large multi-national companies such as Globe, Smart, Sun Cellular, Touch Mobile and other telecommunication companies that offer specialized and varied services in mobile communications; this also include the importers or suppliers, distributors and dealers, and retailers and sellers of mobile phone units.

3.3. Illegal or criminal means – act of obtaining of mobile phone units through snatching, theft or thievery and other unlawful means under the Anti-fencing law.

3.4. Mobile phone service centers – a person or entity with the required license and business permit engaged in not only the repair, servicing or maintenance of mobile phone units, arts and accessories but also in the purchase and selling and/or in the reselling and trading-in of mobile phone units.

3.5. Phone Accessories – refer to gadgets or such similar instruments accompanying mobile phone units which include but not limited to battery chargers, headphones, computer jack and others.

3.6. Proof of Ownership – the means by which owners of mobile phone units establish their ownership over a mobile phone unit, usually through documentary evidence such as but not limited to Identification Card (ID), official receipt, etc.

3.7. Reconditioned Mobile Phones – these are mobile phone units which are imitations of branded ones or refers to those units which undergone minor changes such as but not limited to the change of LCD, keypad, cover and other accessories

3.8. Refurbished Mobile Phones – refers to those phones which undergone major changes such as upgraded software and version.

3.9. Retailers – refer to business establishments in the city with the required license and business permit that sell brand new, used or pre-owned and reconditioned mobile phone units including parts and accessories; usually these are accredited outlets of large dealers of mobile phones.

3.10. Cell Phone Repair Shops – these are business establishments with or without the required license a permit to operate; which may include stalls, makeshift tables or residences that cater to the servicing, repair and maintenance of mobile phone units.

3.11. Used/pre-Owned Mobile Phone – a mobile phone purchased and used by the original owner for a period of time; it is commonly labeled as “second hand mobile phone”.

3.12. Trade – in – the process of upgrading an individual’s mobile phone unit through by exchanging of a used unit with a brand new one, with the buyer paying only the difference in the price between the new and the used mobile phone; or an exchange of a used unit with another used unit of higher function or a higher model.

SECTION 4. GUIDELINES IN THE PURCHASE AND SALE, TRADE-IN,, PAWNING, REPAIR, SERVICING AND MAINTENANCE OF BRAND NEW, USED, PRE-OWNED AND RECONDITIONED OR REFURBISHED MOBILE PHONE UNITS.

4.1. All business establishments catering the sale of brand new mobile phone units; purchase and sale, trade-in of used, pre-owned or reconditioned mobile phone units; and in the repair, servicing and maintenance of all types of mobile units shall be required before its operation to secure a license from the National Telecommunications commission (NTC) and a business permit from the City’s Business Bureau;

The individual owner of a used or pre-owned mobile phone is required to show proof of ownership to the mobile phone center or pawnshop before any trade-in, pawning, repair, service maintenance herein enumerated for verification purposes:

4.1.1. The IMEI or the International Mobile Equipment Identity of the mobile phone unit; and any of the following:

- a. Official receipt of original purchase of the mobile unit, in the event of loss, owner must present certificate of ownership from the mobile phone company;
- b. Battery charger and other accessories of the mobile phone, including the phone box; accessories may depend on the brand and make of the mobile phone;
- c. The sticker paper where the IMEI is written must correspond to the IMEI number in the phone box and in the mobile phone itself.

4.1.2. The mobile phone center or operator/personnel of the pawnshop may require the seller/pawner to give the security code and/or the serial number of the mobile phone unit as additional proof of ownership.

4.2. The owner, operator or by employee of mobile phone center and/or pawnshop shall have the right to either buy, accept or reject the used or pre-owned mobile phone subject to the following conditions:

- 4.2.1. proof of ownership has been satisfactorily or unsatisfactorily presented;
- 4.2.2. phone accessories are complete or incomplete;
- 4.2.3. mobile phone is in good or poor functional condition as certified by the mobile phone center’s technician or accredited technician;

4.3. The owner, operator or any employee of a mobile phone centers and/or pawnshops are required to get the complete name, address and telephone number of the individual selling or pawning his/her used or pre-owned phone.

4.4. Both the owner of the mobile phone and repair service center must fill-up a work order detailing such repair and maintenance to be undertaken on the mobile phone.

4.5. All purchased or pawned used or pre-owned mobile phones must be reported by the mobile phone center and/or pawn shops to the National Telecommunications Commission and Vigan City Police. The list shall include the following information: Name of owner, original date of purchase, name of company brought from and serial number (or IMEI-International Mobile Equipment Identity) within three (3) days from date of purchase or pawning.

4.6. In the sale or auction sale of used mobile phones, mobile phone centers and/or pawn shops are required to present upon their requests of prospective buyers proof of ownership of the original owner of the mobile phone unit for sale or sought to be auctioned.

4.7. These guidelines do not cover specific business transactions covering the price of used or pre-owned mobile phone unit, the period of warranty in case of maintenance or repair of the purchased unit.

SECTION 5. PROHIBITION. The following are the prohibited acts under this ordinance:

5.1. It shall be unlawful for any individual or business establishment, particularly distributors, dealers, suppliers and retailers of mobile phone units and mobile phone service centers to engage in the sale of brand new phones, purchase and sale, repair and maintenance of used, pre-owned and reconditioned mobile phones without the required license and other provisions prescribed and mandated by NTC Memorandum Circulars 07-08-2004 and 08-08-2004, including an electronics engineer or accredited technician to service the mobile phone unit; and a business permit from the Mayor's Office;

5.2. It shall be unlawful for any individual and business establishments particularly suppliers, dealers and retailers of mobile phones and pawnshop to sell, trade-in, pawn and/or purchase used or pre-owned mobile phone unit(s) obtained or possessed through illegal means as also mandated by the Anti-Fencing Law;

5.3. It shall be unlawful for any individual, mobile phone centers and other business establishments catering to the service, repair and maintenance of mobile phones to buy and resell such illegally obtained units of mobile phones to other individuals and/or business establishments;

5.4. It shall be unlawful for any individual, pawn shops and other similar business establishments to accept used, pre-owned reconditioned or refurbished mobile phone unit(s) obtained or possessed through illegal or criminal means for pawning purposes; and to auction the same to the public;

5.5. It shall be unlawful for any individual, dealers, retailers and service centers to sell brand new mobile phone units with defective parts; to replace or substitute original accessories with imitation, used, fake or substandard ones; and to tamper or break the warranty seal;

5.6. It shall be unlawful for any individual dealer, retailer and owner of a mobile phone service center to sell reconditioned mobile phone units passed off as brand new or used; phone units, in order to protect and inform the buying public, all phone units for sale by distributors, dealers, retailers and service center owners shall be labeled as properly and correspondingly labeled as brand new, used (2nd hand) and reconditioned;

5.7. It shall be unlawful for any individual dealer, retailer or service center owner of mobile hand phones to tamper, alter or modify the International Mobile Equipment Identity (IMEI) and the serial number of the mobile phone unit without a work order.

5.8. It shall be unlawful for any individual dealer, retailer or service center owner of mobile hand phones to open or unlock the blocked mobile phones without an expressed/written consent of the owners.

SECTION 6. PENALTY – Any individual, distributor, supplier, retailer, service center and or pawnshop owner who is found to have in his/her possession a mobile phone unit obtained acquired or possessed through illegal or criminal means found in and violation of any provision of this ordinance shall be punished by imprisonment of six (6) months to one (1) year or a fine of Five Thousand Pesos (P5,000.00) with revocation of business permit or both at the discretion of the court.

SECTION 7. SEPARABILITY CLAUSE – Any court declaration that a provision of this ordinance is unlawful or unconstitutional shall not affect all other provisions herein not declared as such, but shall continue to be in full force and effect.

SECTION 8. REPEALING CLAUSE – Any provision of other ordinances, rules and regulations inconsistent herewith are hereby repealed or modified accordingly.

SECTION 9. EFFECTIVITY CLAUSE – This ordinance shall take effect immediately after its publication as required by the provisions of R.A. 7160 (Local Government Code of 1991).

ENACTED on October 17, 2005.

(Sgd.)
FRANCISCO P. RANCHES, JR.
City Vice Mayor & Presiding Officer

(Sgd.) ALFREDO FIGUERRES, JR.
Sangguniang Panlungsod Member

(Sgd.) AUDIE Q. AGDAMAG
Sangguniang Panlungsod Member

(Sgd.) EVERIN F. MOLINA
Sangguniang Panlungsod Member

(Sgd.) HERMENIGILDO APELIN
Sangguniang Panlungsod Member

(Sgd.) GERMELINA S. GOULART
Sangguniang Panlungsod Member

(Sgd.) FELIX A. ANINAG
Sangguniang Panlungsod Member

ANDRES ADRIATICO
Sangguniang Panlungsod Member

(Sgd.) HENRY A. FORMOSO
Sangguniang Panlungsod Member

(Sgd.) LORETO QUIBILAN
Sangguniang Panlungsod Member

(Sgd.) MAXIMO ALVES
Sangguniang Panlungsod Member

CONSTANTE V. BENZON
Sangguniang Panlungsod Member

CHRIS DAN F. FIELDAD
Sangguniang Panlungsod Member

Attested:

(Sgd.) JAYSON P. AVILA
Secretary to the Sangguniang Panlungsod

Approved:

(Sgd.) FERDINAND C. MEDINA
City Mayor