

ORDINANCE NO. 2004-023

AN ORDINANCE REGULATING EXCAVATION ACTIVITIES IN THE CITY OF SAN FERNANDO, P AMPANGA

EXPLANATORY NOTE

***WHEREAS**, the unprecedented growth and development brought about by the conversion of the local government unit from municipality to a component city since the year 2001 has resulted in the coming of multi-billion investments and influx of migration within the City Of San Fernando, Pampanga;*

***WHEREAS**, the upsurge of development likewise consequence to improved delivery of basic service among Fernandinos including the expansion of road network, telecommunications, cable network, etc. that made the City of San Fernando adjudged as a highly competitive city in the medium category;*

***WHEREAS**, to be truly adaptive to change brought -about by modernization and technology, it is imperative to improve and put things in their proper perspective and regulate activities that affect the general public especially on matters involving excavation, digging or repairs of road,; that cause risks and inconvenience to commuters and drivers alike;*

***WHEREAS**, after a careful study completed with public consultations through committee hearings conducted for the purpose by the Committee on Public Works, this Ordinance would answer the city's lingering problem of unregulated excavation activities in the City of San Fernando, Parnpanga*

***WHEREAS**, this Ordinance shall be implemented by the following:*

- 1. City Engineer's office;*
- 2. Local Building Official;*
- 3. City Administrator; and*
- 4. General Services Office*
- 5.. City Treasurer's Office.*

***NOW THEREFORE, BE IT ENACTED BY THE SANGGUNIANG PANLUNGSOD**, in session assembled:*

**ARTICLE I
TITLE AND SCOPE**

Section 1. Title - This Ordinance shall be known and cited as:

THE 2004 EXACATION ORDINANCE OF THE CITY OF SAN FERNANDO, PAMPANGA

Section 2. Definition of Terms - As used in this Ordinance, the following terms shall mean:

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| 2.1 | Bar Chart or PERT <i>ICPM</i> | - | refers to the chart that shows the activities and its duration of certain construction works; |
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- 2.2 BOND - refers to the amount posted by the utility agency to guarantee the restoration of excavated portions or horizontal structures;
- 2.3 Compressive Strength - refers to the strength of a material to with stand the compressive force acted on it;
- 2.4 Excavation - refers to the process of removing surface and subbase materials from existing roads, curbs, gutters and other horizontal structures;
- 2.5 Flexural Strength - refers to the test conducted to determine the compactness of subsurface materials;
- 2.6 Field Density Test - refers to the test conducted to determine the compactness of subsurface materials;
- 2.7 Pavement - refers to the surface of roads usually constructed of concrete or asphalt material;
- 2.8 Stockpiling - refers to the storage or gathering of excavated materials on a particular area;
- 2.9 Structural sheeting - refers to series of steel plates positioned along the vertical plane of trench excavation;
- 2.10 Trench - refers to the opening of space created as a result of excavation;
- 2.11 Utility Agency - refers to the businessman/enterprise set to provide material services to the public such as electricity, water, sewerage, gas, telephone, etc.;

Section 3. Purpose - This Ordinance is enacted for the following purposes:

- 3.1 to adopt the, challenges brought about by modernization and development particularly on electrical power, telecommunications and cable industries in the city of San Fernando, Pampanga;
- 3.2 to improve and prescribe standards in the installation water distribution lines, cross drains, electrical power, telecommunications and cables lines in accordance with the existing standards;

- 3.3 to provide our populace an ambience of internationally accepted designs and specifications regarding electrical power, telecommunications, and, cable lines within the major thoroughfares and suburbs of the City of San Fernando, Pampanga;
- 3.4 to maintain at all times an orderly and properly marked cables and any other lines installed overhead to avoid accidents and obstructions to all kinds of traffic; and
- 3.5 to project a city government that is internationally competitive and capable of attracting more investments and sustaining development in its midst.

ARTICLE II REGULATED ACTS

Section 4. In order to ensure uniformity and consistency in the processing and issuance of excavation permits and clearances, and preserve the stability and integrity of roads in the city as well as to protect the interest of the public in general, the following guidelines and procedures shall be adopted and strictly adhered to by any contractor and subcontractor performing excavation activities in the city:

- 4.1 All applications for excavation permit submitted by the utility agency or through its contractor shall be accompanied by the following documents/information:
 - 4.1a Sketch Plan/Map/Design Plan showing the exact location of the project, type of underground or aerial facility/structure to be installed and other relative appurtenances thereto;
 - 4.1b Time table of the proposed work in the form of Bar/Gantt or PERT/CPM Chart showing the duration of excavation including restoration activities;
 - 4.1c Type and total area of pavement to be excavated; type and extent of work to be undertaken; and name and address of contractor (if by contract);
- 4.2 For all programmed activities, the utility agency or its truly authorized contractor shall post a bond to the total cost of restoration as approved based on the unit price per item of work to be submitted and checked by the City Engineer's Office. The mode of bond to be posted shall be as follows:
 - 4.2a Restoration cost amounting to PI ,000,000.00 and below shall be in the form of cash, certified check or manager's check, and or surety bond corresponding to the amount of the project;
 - 4.2b Restoration cost in excess of above PI ,000,000.00 - after making deposit in any form as prescribed in (2a) above for the amount of P1,000,000.00, any excess or balance shall either be in the form of cash, certified check or manager's check, or a

combination thereof of 10% in the form of cash, certified check or manager's check and 90% in the form of letter of credit issued by a commercial bank or surety bond, callable on demand, issued by a surety or insurance company duly accredited by the Office of the Insurance Commission and the City Government;

- 4.2c All applications shall be processed in the City Engineer's Office using the prescribed format after the above-mentioned requirements have been complied with by the Utility Agency or its authorized contractor.

4.3 All Excavation/Trench shall strictly adopt the following:

- 4.3a Concrete saw shall be used in cutting pavement to obtain clean and smooth edges;
- 4.3b The minimum depth of cover' measured from the top of the pipe or encasement to the top of the existing pavement shall be 0.75m;
- 4.3c As much as possible, excavations for all types of underground utilities shall be located along the sidewalks/shoulders of national roads, except when along the proposed line there are already existing structures and the locations become inevitable to be on the pavement. The trench/excavation width shall commence from the edge of the gutter progressing inward to the roadway for longitudinal excavations;
- 4.3d Excavation works shall not be done closer to 1.0m from the pavement edge, structural sheeting protection shall be installed in case the shoulder is less than 1.0m to prevent scouring of base/sub base course;
- 4.3e No excavation shall be done which completely close the roadway to vehicle use except on special cases where closure is necessary. Excavation shall be done by lane or portion of not more than fifty (50) percent of road width at a time, or the excavated section may be covered by steel plates of sufficient thickness to allow vehicle passage;
- 4.3f The maximum length of open continuous excavation along the road shall not exceed 150 m for long project, which shall be restored to its original pavement level and design within two (2) days for asphalt riding surface and ten (10) days for concrete before undertaking equal and similar length and so on;
- 4.3g Stockpiling of excavated or other construction materials within the roadway shall be strictly prohibited. Excavated materials shall be immediately disposed of and not allowed to pile and serve as barricades.

4.3 Restoration of EXCAVATED/TRENCH

- 4.4a The minimum restoration width of pavement restoration shall be 0.50 meters regardless of width of trench/excavation;
- 4.4b The pavement, either concrete or asphalt, shall be restored to their original design,

strength and thickness, attaining flexural strength of 550 psi or compressive strength 00,500 psi as evidenced by test results;

- 4.4c Base and sub base of pavement including shoulder shall be compacted with vibratory roller/compactor to conform to DPWH Standard specifications and Requirements. No pavement restoration shall be allowed unless actual Field Density Tests (FDT) taken at random by the Utility Agency in the presence of representative of the DPWH and the CEO, have been passed;
- 4.4d An disturbed and/or destroyed roadway structures which include the sub base/base course and surfacing materials of the pavement, curb and gutter, sidewalk, lane markings, road safety devices and signs, traffic signal facilities, drainage system and other infrastructures, shall < be restored/replaced by the Utility Agency concerned at its own expense, to be done under the supervision of the CEO;
- 4.4e Final acceptance of completed restoration work shall be made by the CEO in the presence of the Utility Agency's authorized representative after all work have been inspected and found in accordance with the CEO Specifications and Requirements;
- 4.4f The CEO shall release the 90% posted bond and issue a Certification of Completion to the Utility Agency concerned upon completion of the restoration work and the same has been found to be in accordance with the DPWH requirements and submission of the AS BUILT PLAN.
- 4.4g The remaining 10% cash bond shall be retained by the CEO through the City Treasurer's Office for a period of one (1) year after the Certificate of Completion is issued which shall cover the warranty period of the restoration works undertaken by the Utility Agency or its authorized contractor. The CEO reserves the right to use the cash bond, within the warranty period and after two (2) due notices issued to the Utility Agency, to correct any defects/deficiencies found on the restored portions of the affected road sections;
- 4.4h After the lapse of the one (1) year warranty period and the restored portion was found stable with no evident defects, the CEO shall issue a Certificate of Final Acceptance to the restored Road and release the full/unused amount of cash bond;

ARTICLE III MISCELLANEOUS PROVISIONS

Section 5. The following shall be observed in the implementation of this Ordinance

- 5.1 Billboard indicating the name of the company or its constructor shall be provided and proper barricades, appropriate lightings, notices and other relevant safety devices shall be sufficiently installed and maintained throughout the duration of the excavation and/or until the trench is satisfactorily backfilled and the pavement is restored.
- 5.2 For a major thoroughfare, a traffic enforcer must be provided by the Utility Agency to

maintain free and smooth traffic flow.

- 5.3 Anytime that the City shall need the area/s 'occupied by the Utility's aerial/underground structure, it shall be removed/relocated by the Utility Agency concerned at its own expense within thirty (30) days after receipt of notation.
- 5.4 The duration of the permit shall be within the discretion of the CEO after considering the nature or extent of the excavation. If no notice has been sent by the applicant prior to actual start, effectivity shall be ten (10) days after date of release of this clearance.
- 5.5 A certified Xerox copy of this clearance shall be available at all times in the project site.

ARTICLE IV PENAL PROVISIONS

Section 6. Penalty Provision. any or all violators of this Ordinance: - The following penalties shall be imposed on any or all violators of this ordinance:

- 6.1 For First Offense - Any of the officers of Juridical persons/corporate entities such as the president, general manager and other persons who violate this Ordinance for the First time shall be fined the amount of P3, 000.00 and or imprisonment of one (1) month or both at the discretion of the proper court;
- 6.2 For Second Offense - Any of the officers. of Juridical persons/corporate entities such as the president, general manager and other persons who violate this Ordinance for the Second time shall be fined the amount of P4,000.00 and or imprisonment of six (6) months or both at the discretion of the proper court;
- 6.3 For Third Offense - Any of the officers of Juridical persons/corporate entities such as the president, general manager and other persons who violate this Ordinance for the Third time shall be fined the amount of P5,000.00 and or imprisonment of one (1) year and the absolute perpetual disqualification to indulge in public utilities' business as embodied in this Ordinance or all of these penalties shall be imposed at the discretion of the proper court Juridical persons shall, through its officers, notify their employees about the violations and penalties imposed under this Ordinance.

Section 7. **Repealing Clause** - Local Ordinances, Resolutions, Orders, Rules and Regulations that are inconsistent with this Ordinance are hereby repealed, modified or amended accordingly.

Section 8. **Separability Clause** - If any provision of this Ordinance is declared unconstitutional and or illegal, the remainder of this Ordinance shall not be affected by such declaration and shall therefore, be in full force and effect.

Section .. 9. **Effectivity Clause** -This Ordinance shall take effect immediately Upon satisfaction of its required publication for three consecutive issues in a newspaper of general circulation in the Province of Pampanga and the posting of the same in conspicuous places of the City Hall.