

Republic of the Philippines
Province of Ilocos Norte
SOLSONA

OFFICE OF THE SANGGUNIANG BAYAN

EXCERPTS FROM THE MINUTES OF THE 48TH REGULAR SESSION OF THE 6TH
SANGGUNIANG BAYAN OF SOLSONA, ILOCOS NORTE, HELD
IN ITS SESSION HALL ON DECEMBER 12, 2005.

PRESENT:

Hon. Edison E. de Lara,	Vice Mayor/Presiding Officer,
Hon. Jonathan L. de Lara,	Member,
Hon. Ismael L. Agulay,	Member,
Hon. Gervacio B. Vicente,	Member,
Hon. Bob G. Sacro,	Member,
Hon. Bartolome Q. Asuncion,	Member,
Hon. Samuel F. Balantac,	Member,
Hon. Eliseo J. Resurreccion,	Member,
Hon. Cresencio M. Vitoria,	ABC President/Ex-Officio SB Member,
Hon. Lucky S. Sanchez,	SK President, Ex-Officio SB Member.

ABSENT:

None.

MUNICIPAL ORDINANCE 2005-556

ORDINANCE SUPPLEMENTING ARTICLE L (LOCATIONAL/ZONING CLEARANCE/CERTIFICATE OF ZONING COMPLIANCE) SECTION 119 (IMPOSITION OF FEE) OF THE REVISED REVENUE CODE OF SOLSONA, ILOCOS NORTE ADDING/INSERTING ONE (1) ITEM AND TWO (2) SUB-ITEMS AFTER SECTION 119-G, TO READ: (ITEM NO. 1) SECTION 119-2: SCHEDULE OF FEES AND OTHER CHARGES FOR ZONING/LOCATIONAL APPLICATION; (SUB-ITEM NO. 1) SECTION 119-2A: SCHEDULE OF FINES; AND (SUB-ITEM NO. 2) SECTION 119-2b: GUIDELINES IN THE IMPOSITION OF ADMINISTRATIVE FINES

WHEREAS, after accepting the Housing and Land Use Regulatory Board's functions in October 2004, the municipality is mandated to collect whatever fees and charges, implement policies and guidelines including imposition of fines relative to zoning clearances as per Comprehensive Land Use Plan and Zoning Ordinance;

WHEREAS, the imminent transfer by the HLURB of its power to issue locational clearance for all projects is a privilege allowing the municipality to increase its revenue collections through the imposition of reasonable fees, charges and fines;

WHEREFORE, on motion Hon. Gervacio B. Vicente, duly seconded by Hon. Ismael L. Agulay and Hon. Bartolome Q. Asuncion, be it

ORDAINED, by the Sangguniang Bayan of Solsona, Ilocos Norte, that

SECTION 1 - the addition of an Item and Sub-Items in Article L (Locational Clearance/Certificate Of Zoning Compliance) Section 119 (Imposition Of Fee) of the Revised Revenue Code of Solsona, Ilocos Norte after Section 119-G, to read: (Item No. 1) Section 119-2: Schedule of Fees and other charges for Zoning/Locational Application; (Sub-Item No. 1) Section 119-2a: Schedule of Fines; and (Sub-Item No. 2) Section 119-2b: Guidelines in the imposition of administrative fines, are hereby supplemented

SECTION 2 - the inserted items in Article I Section 119 of the Revised Revenue Code of Solsona, Ilocos Norte are hereby enumerated, to wit:

"SECTION 119 - 2 (ITEM NO. 1)

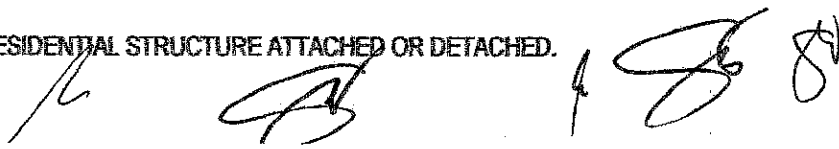
There shall be collected the following fees and other charges from every person applying for zoning/locational clearance who shall construct project of local and national significance within the jurisdiction of Solsona, Ilocos Norte.

ZONING/LOCATIONAL APPLICATION
(PROJECT COST)

SCHEDULE OF FEES AND OTHER CHARGES

AMOUNT

A. SINGLE RESIDENTIAL STRUCTURE ATTACHED OR DETACHED.



1. P50,000.00 AND BELOW	P100.00
2. OVER P50,000.00 TO P100,000.00	P200.00
3. OVER P100,000.00 TO P150,000.00	P300.00
4. OVER 150,000.00 TO P200,000.00	P400.00
5. OVER P200,000.00	P500.00+1/10 OF 1% IN EXCESS OF P200,000.00
6. INDIGENOUS/FDU (FARMER'S DWELLING UNIT) - WITH FLOOR AREA NOT TO EXCEED 25 SQ. M. - FLOOR AREA EXCEEDING 25 SQ.M.	(NO CHARGE) CONSIDERED AS A RESIDENTIAL STRUCTURE
B. APARTMENTS/TOWNHOUSES	
1. P500,000.00 AND BELOW	P1,000.00
2. OVER P500,000 TO P2,000,000.00	P1,500.00
3. OVER P2,000,000.00	P2,500.00+1/10 OF 1% OF COST IN EXCESS OF P2M REGARDLESS THE NUMBER OF DOORS
OF	
C. DORMITORIES	
1. P2 Million and below	P 2,500.00
2. Over P2 Million	P2,500 + 1/10 of 1% of cost in excess of P2M regardless of the number of doors
D. INSTITUTIONAL	
Project cost of which is:	
1. Below P2 Million	P 2,000.00
2. Over P2 Million	P2,000.00+1/10 of 1% of cost in excess of P2M
E. COMMERCIAL, INDUSTRIAL AND AGRO-INDUSTRIAL PROJECT COST OF WHICH IS:	
1. 50,000.00 AND BELOW	P200.00
2. OVER P50,000.00 TO P75,000.00	P400.00
3. OVER P75,000.00 TO P100,000.00	P600.00
4. OVER P100,000.00 TO P200,000.00	P800.00
5. OVER P200,000 TO P300,000.00	P1,000.00
6. OVER P300,000 TO P400,000.00	P1,250.00
7. OVER P400,000 TO P500,000.00	P1,500.00
8. OVER P500,000 TO P1 M	P2,000.00
9. OVER P1 M TO P2 M	P3,000.00
10. OVER P2 M	P5,000.00+1/10 OF 1% OF COST IN EXCESS OF P2 M
F. SPECIAL USES/SPECIAL PROJECTS (Gasoline Station, cell sites, slaughterhouse, treatment Plant, etc.)	
Project cost of which is:	
1. Below P2 Million	P 5, 000
2. Over P2 Million	P 5, 000 + 1/10 of 1 % of cost in excess of P2 M
G. ALTERATION/EXPANSION	SAME AS ORIGINAL AFFECTED AREAS/COST ONLY
H. PROCESSING FEE	
1. RESIDENTIAL	
BELOW P200,000.00	P50.00
ABOVE P200,000.00 TO P500,000.00	P150.00
ABOVE P500,000.00	P200.00
2. APARTMENTS/TOWN HOUSES	P1,000.00
3. DORMITORIES	P1,000.00
4. SPECIAL USES/SPECIAL PROJECTS	P3,500.00
5. COMMERCIAL, INDUSTRIAL AND AGRO-INDUSTRIAL PROJECT COST OF WHICH IS:	
BELOW P50,000.00	P50.00
ABOVE P50,000.00 TO P100,000.00	P150.00
ABOVE P100,000.00	P500.00
I. INSPECTION FEE/VISIT	

- | | |
|---|-----------|
| 1. RESIDENTIAL | P100.00 |
| 2. APARTMENTS/TOWN HOUSES | P1,000.00 |
| 3. DORMITORIES | P1,000.00 |
| 4. SPECIAL USES/SPECIAL PROJECTS | P1,000.00 |
| 5. COMMERCIAL, INDUSTRIAL AND AGRO-INDUSTRIAL | P200.00 |

J. PUBLIC HEARING FEE

PROJECT COST OF WHICH IS:

- | | |
|----------------------------------|-------------------|
| BELOW P100,000.00 | P200.00/HEARING |
| ABOVE P100,000.00 TO P250,000.00 | P300.00/HEARING |
| ABOVE P250,000.00 TO P500,000.00 | P400.00/HEARING |
| ABOVE P500T TO P1 M | P500.00/HEARING |
| ABOVE P1 M | P1,000.00/HEARING |

K. CERTIFICATION FEE

- | | |
|---|---------|
| 1. RESIDENTIAL | P30.00 |
| 2. APARTMENTS/TOWN HOUSES | P200.00 |
| 3. DORMITORIES | P200.00 |
| 4. SPECIAL USES/SPECIAL PROJECTS | P500.00 |
| 5. COMMERCIAL, INDUSTRIAL AND AGRO-INDUSTRIAL | P50.00 |

L. MOTION FOR RECONSIDERATION FEE

- | | |
|---|-----------|
| 1. RESIDENTIAL | P100.00 |
| 2. APARTMENTS/TOWN HOUSES | P1,000.00 |
| 3. DORMITORIES | P1,000.00 |
| 4. SPECIAL USES/SPECIAL PROJECTS | P5,000.00 |
| 5. COMMERCIAL, INDUSTRIAL AND AGRO-INDUSTRIAL | |
| PROJECT COST OF WHICH IS: | |
| BELOW P50,000.00 | P200.00 |
| ABOVE P50,000.00 TO P100,000.00 | P500.00 |
| ABOVE P100,000.00 | P1,000.00 |
| SUB-ITEM NO. 1 | |

SECTION 119-2a. SCHEDULE OF FINES:

A. For violation of TPZ and ULRZ/APD Laws, rules and regulations.

1. Failure to secure locational clearance prior to the start of the project.

CONFORMITY WITH LAND USE 1/

Proj. Type	CONFORMING			NON-CONFORMING		
	Minimum	Medium	Maximum	Minimum	Medium	Maximum
Industrial	1000-2500	2501-4000	4001-5500	2401-4000	4001-7000	7001-10000
Agro-Industrial	750-2000	2001-3500	3501-5000	2001-4000	4001-7000	7001-10000
Agricultural	700-1500	1501-3000	3001-4500	1501-3000	3001-5000	5001-9000
Commercial	-do-	-do-	-do-	-do-	-do-	-do-
Institutional	600-1200	1201-2400	2401-3500	1201-2400	2401-5000	5001-7000
Residential 2/	500-1000	10001- 500	1501-2000	1001-2000	2000-3000	3001-4000
Special Project	1000-3500	3501-6500	6501-10000			

- | | | | |
|---|---------------------|---------------------|----------------------|
| 2. Violation of the terms and conditions of clearance and all other non-compliance with the requirements for locational clearance | Minimum
500-2000 | Medium
2001-3500 | Maximum
3501-5000 |
|---|---------------------|---------------------|----------------------|

1/ As per approved Sangguniang Bayan (SB) or HLURB Comprehensive Land Use Plan and Zoning Ordinance.
2/ Excludes single-detached family dwelling units.

B. For violation of Zoning laws, Rules and Regulations

- | | | | |
|--|----------------------|---------------------|----------------------|
| 1. Failure to secure development permit | Minimum
1000-2000 | Medium
2001-3500 | Maximum
3501-5000 |
| 2. Unauthorized alteration of approved development | -do- | -do- | -do- |

- | | | | |
|--|------|------|------|
| 3. Non-compliance with approved development plan | -do- | -do- | -do- |
| 4. Incomplete development | -do- | -do- | -do- |
| 5. Non-development | -do- | -do- | -do- |

SECTION 119-2b: GUIDELINES IN THE IMPOSITION OF ADMINISTRATIVE FINES:

A. Grounds for imposition

Where the existence of the following acts and omission are duly established, the fine fixed on the schedule of administrative fines corresponding to such act or omission shall be imposed:

1. Failure without just cause to secure any of the clearances, permits, licenses or approval that are required by law regulations to be secured from the Housing and Land Use Regulatory Board (HLURB) and/or LGU;
2. Failure to comply with any of the condition/s set forth in the clearances, permits, licenses or approval issued by the Board and/or LGU;
3. Failure to complete development; non-provision of the required facilities, non-compliance with approved development plan or altering without approval;
4. Misrepresentation of facts and circumstances relative to the project at the time of application or monitoring; and
5. Failure to obey and comply with the order issued by the Board and/or LGU after monitoring the existence of any violation;

A. General Circumstances to be Considered

In determining whether a fine/penalty shall be imposed as well as the nature/extent/amount thereof, the following attending factors/circumstances shall be taken into consideration:

1. The impact, notoriety, or gravity of the violation/s committed;
2. The presence of circumstances indicating good or bad faith on the part of the violator;
3. The presence or possibility of damage, prejudice or inconvenience to the members, neighbors and/or the community in general; or the larger physical, social, or moral impact of the commission or omission to the society;
4. The implication of the continued existence of the violation on the attainment of the objectives/purposes enunciated in the law and regulations;
5. The nature of frequency or violations.

C. General Rules in Imposing Fines/Penalties

In the imposition of fines/penalties the following rules shall apply:

1. In the absence of any mitigating or aggravating circumstances the "Medium Range" of penalties shall apply;
2. Each circumstances shall be generally considered as of equal weight, i.e., one mitigating circumstance shall be equivalent to, and shall offset or cancel an aggravating circumstance, except in following cases:
 - a. Special Aggravating circumstance of repeated violation shall be offset only by two (2) mitigating circumstances.
 - b. Lack foreknowledge, ignorance of the law, where any one of the circumstances mentioned in II D.6. are absent, which shall be considered as a privileged mitigating circumstance that can be offset only by two (2) aggravating circumstances.
3. Within each range (minimum, medium, maximum) there shall be equal sub-ranges based on project classification by land use intensity (e.g. R1, R2, C1, C2, I1, I2, etc.) with those lowest in intensity being imposed the minimum amount for each range and those highest intensity, the maximum amount in the range;
4. Within each sub-range shall be "High" and "Low" period with the applicability of the periods in question being dependent on the presence or absence of rules and regulations at the time the violation is committed;
5. To determine the extent of a period or a sub-range, the sum of the minimum and maximum amounts of each periods or sub-range shall be divided by the number of periods/sub-range to be created and the resulting quotient shall be considered as the extent of such period or sub-range, which shall then be reckoned from the minimum amount of the preceding sub-range, as the case may be

D. Circumstances Justifying Exemption From Fine:

The following circumstances shall be sufficient to exempt the violator from liability for fines.

1. Where the proponent has secured zoning/localational clearance and/or other permits from a local zoning administrator or building official and/or other local officials with apparent authority to issue the same, provided that:

- a. Said permit is secured prior to establishment of a project;
- b. Proponent subsequently voluntarily applies for proper clearance from the Board;
- c. In case there are existing complaints, proper remedial measures shall be instituted;
2. Where project is undertaken by other government agencies and/or corporations;
3. Where the project is established in municipalities within town plans/zoning ordinances provided other permits justifying its existence have been secured;
4. Where the property is located within an APD/ULRZ but is not occupied by qualified tenants, and is sold/mortgage or encumbered under any of the following circumstances:
 - a. When the sale/mortgage is between members of the same family or relatives (up to third degree);
 - b. When the same arose out of partition among co-heirs and co-owners;
 - c. When the area of the property is less than (100) square meters;
 - d. When the sale/mortgage or other encumbrance was due to an immediate medical emergency, which require medical expenses, or to a need to defray funeral expenses of the immediate members of the families and extra ordinary expenses in cases of fire, flood and other natural calamities.
5. Where non-completion of the development of a portion of the subdivision is beyond the control of the developer such as (deterioration of peace and order, occurrence of force majeure, or the area has been established to be illegally occupied; shortage of materials. Extraordinary devaluation of the currency;
6. Lack of foreknowledge in the establishment of any land use/development project, and/or ignorance of the laws and regulations on locational clearance/subdivision regulations provided than both of the following circumstances area also present:
 - a. Either project location is in a remote area, or responsible officials failed to disseminate information concerning pertinent requirements; or require the same.
 - b. Existence of analogous facts/information that may warrant exemption from fine.

E. Mitigating Circumstances Justifying the Imposition of Minimum Range of Fines

The following mitigating circumstances shall warrant the Imposition of the Minimum Level of Fine:

1. When the violation has minimal adverse impact of the adjoining areas or projects or on the rights of affected parties, if any;
2. When the failure to do a required act as due to unforeseen or unavoidable circumstances not totally beyond the control of and brought by violator;
3. When the violation although not conforming does not pose any present danger to public health, safety, convenience and peace and order
4. When the violation can easily rectified, i.e., the law/regulation/condition can still be complied with;
5. Where there was negligence on the part of the violator in failing to immediately comply with the requirements of the law but no adverse consequences have been noted;
6. When the violation has minimal adverse impact on the great numbers of the association, the operation and management of the owners association as well as facilities of the subdivision, the financing institutions or originators which assists the association in the acquisition and development of the occupied lands of the members, and the whole community where the association is situated;

F. Aggravating Circumstances Warranting Imposition of Maximum Range of Fines

1. Where the status/standing/experience and other qualifications of the violator is such that he may be presumed to be already aware of the pertinent requirements of the law and regulations;
2. Where the violator has a history of similar offences or violation over several occasions;
3. Where the remedial/corrective measures are made despite due to notices, or even if measures are undertaken the same are still not adequate;
4. Where owner/developer fails to complete the development of the project without just cause or despite the grant of extension;
5. Where the association, through its directors or officers, fails to comply with the requirements of registration and other acts that it is instructed to observe without just cause or despite the grant of extension to fulfill the order;
6. Where the violation has been established to be deliberately committed or completely without any or reasonable cause;
7. When the project/transaction is subject of actual complaints and found or established to be valid after proper investigation.

G. Grounds for Reconsideration of Penalties/Fines:

A motion for reconsideration of an Order Imposing Penalties/Fines may be filed on any of the following grounds

1. The penalty or fine imposed is not in accordance with nor authorized by law or existing regulations;
2. The fine imposed is excessive, unreasonable, oppressive or arbitrary;
3. The findings of facts do not conform to the truth or do not provide sufficient basis for imposition of fine.

SECTION II-All ordinances or parts thereof, which are inconsistent with the provisions of this ordinance, are hereby amended or repealed accordingly.

SECTION III: this Ordinance shall take effect after the lapse of 24 days posting in three (3) conspicuous public places and after complying with all the requirements described in the Local Government Code of 1991.

Copies of this Municipal Ordinance be furnished the Sangguniang Panlalawian, Laoag City and all others concerned, for their information and consideration;

CARRIED UNANIMOUSLY, with the following votes:

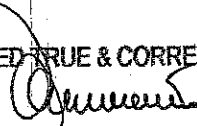
In favor – Hons. Jonathan de Lara, Agulay, Vicente, Sacro, Asuncion, Balantac, Resurreccion, Vitoria and Sanchez;

Against – None.

ATTESTED:


HON. EDISON E. DE LARA
Vice Mayor/Presiding Officer

CERTIFIED TRUE & CORRECT:


GLOBIA S. ESPIRITU
Acting SB Secretary

APPROVED:


HON. JOSEPH E. DE LARA
Municipal Mayor

At-At-At