

Ordinance No. ___ Series of ___

AN ORDINANCE ADOPTING THE GUIDELINES TO FACILITATE THE IMPLEMENTATION OF ENERGY PROJECTS

WHEREAS, The National Economic and Development Authority (NEDA) launched **AmBisyon 2040** which envisions *Filipinos to enjoy a strongly rooted comfortable and secure life in all aspects by 2040.*

WHEREAS, The Philippine Development Plan (PDP) 2017-2022 intends to accelerate all infrastructure development projects, including the energy sector.

WHEREAS, The Philippine Energy Plan (PEP) seeks to unify with government partners and the private sector to meet the country's electricity and fuel requirements through improvements in the energy market, simplification of government procedures, promotion of resiliency in energy systems and infrastructures, and the enhancements of the consumers' power of choice.

WHEREAS, The Philippine Power Development Plan forecasts that the country will need 43,765 megawatts (MW) additional capacity by 2040. With an average annual growth rate of 5.7%, power demand will continue to move in an upward trend.

WHEREAS, President Rodrigo R. Duterte, in adopting a whole-of-government approach for the needs of the energy sector, issued Executive Order No. 30 (EO 30) to streamline regulatory procedures affecting Energy Projects of National Significance.

WHEREAS, The Congress of the Philippines passed Republic Act (RA) 11032 "Ease of Doing Business and Efficient Government Service Delivery (EODB) Act of 2018" and RA 11234 "Energy Virtual One-Stop Shop (EVOSS) Act" to establish the inter-operability of government processes through an online system that streamlines the permitting processes of power generation, transmission, and distribution projects.

WHEREAS, The Department of Energy (DOE), in implementing the pertinent energy laws, sees the Local Government Units (LGUs) as indispensable stakeholders and reiterates the existing and potential benefits for host communities of energy projects, such as Energy Regulation 1-94, national wealth tax or government share, job creations, and other social and economic development programs.

WHEREAS, The Department of the Interior and Local Government (DILG), in support of the DOE, enjoins all LGUs to implement the directive of the President on the implementation of energy projects.

WHEREAS, Section 3 of Administrative Order No. 23 Series of 2020, for processes applicable to energy-related projects, the timelines provided by RA 11234 shall be complied with.

WHEREAS, The DILG and the DOE issued a Joint Memorandum Circular _____ providing for the Guidelines for LGUs to Facilitate the Implementation of Energy Projects.

NOW, THEREFORE, in order to establish, strengthen and integrate the energy policies and mechanisms, with respect to energy safety practices, energy efficiency and conservation, energy resiliency, energy planning which includes energy access and resource development, to harmonize and fast-track the implementation of the EODB Act, EVOSS Act and EO 30, to maximize benefits from energy projects to the host communities, to implement the necessary energy programs and projects, Be it Ordained that:

ARTICLE I. GENERAL PROVISIONS

Section 1. Title. This ordinance shall be known as the Guidelines to Facilitate the Implementation of Energy Projects, otherwise known as the “LGU Energy Code”.

Section 2. Creation of the Energy Sector Committee under the Local Development Council. The Energy Sector Committee is hereby created under the Local Development Council to facilitate the implementation of energy projects, in accordance with the following pertinent energy and other regulatory laws, and issuances:

Republic Act No. 7160, An Act Providing for a Local Government Code of 1991 (Local Government Code of 1991)

Republic Act No. 7638, An Act Creating the Department of Energy, Rationalizing the Organization and Functions of Government Agencies Related to Energy, and for Other Purposes (Department of Energy Act of 1992)

ENERGY-RELATED LAWS

Presidential Decree No. 87, Amending Presidential Decree No. 8 Issued on October 2, 1972 and Promulgation of an Amended Act to Promote the Discovery and Production of Indigenous Petroleum and Appropriate Funds Therefor (The Oil Exploration and Development Act of 1972)

Presidential Decree No. 972, Promulgating an Act to Promote an Accelerated Exploration, Development, Exploitation, Production and Utilization of Coal (The Coal Development Act of 1976)

Republic Act No. 7638, An Act Creating the Department of Energy, Rationalizing the Organization and Functions of Government Agencies Related to Energy, and for Other Purposes (Department of Energy Act of 1992)

Republic Act No. 8479, An Act Deregulating the Downstream Oil Industry and for Other Purposes (Downstream Oil Industry Deregulation Act of 1998)

Republic Act No. 9136, An Act Ordaining Reforms in the Electric Power Industry, Amending for the Purpose Certain Laws and for Other Purposes (Electric Power Industry Reform Act of 2001)

Republic Act No. 9367, An Act to Direct the Use of Biofuels, Establishing for this Purpose the Biofuel Program, Appropriating Funds Therefor, and for Other Purposes (Biofuels Act of 2006)

Republic Act No. 9513, An Act Promoting the Development, Utilization and Commercialization of Renewable Energy Resources and for Other Purposes (Renewable Energy Act of 2008)

Republic Act No. 10632, An Act Amending Certain Provisions of Republic Act No. 7581 (An Act Providing Protection to Consumers by Stabilizing the Prices of Basic Necessities and Prime Commodities and by Prescribing Measures Against Undue Price Increases During Emergency Situations and like Occasions and for Other Purposes)

Republic Act No. 11285, An Act Institutionalizing Energy Efficiency and Conservation, Enhancing the Efficient Use of Energy, and Granting Incentives to Energy Efficiency and Conservation Project (Energy Efficiency and Conservation Act)

Republic Act No. 11361, An Act Ensuring the Continuous and Uninterrupted Transmission and Distribution of Electricity and the Protection of the Integrity and Reliability of Power Lines, and Providing Penalties for Violations Thereof (Anti-Obstruction of Power Lines Act)

PRIVATE SECTOR PARTICIPATION LAWS

Republic Act No. 7718, An Act Amending Certain Sections of Republic Act No. 6957 (An Act Authorizing the Financing, Construction, Operation, and Maintenance of Infrastructure Projects by the Private Sector, and for Other Purposes)

REGULATORY REFORM LAWS

Republic Act No. 11234, An Act Establishing the Energy Virtual One-Stop Shop for the Purpose of Streamlining the Permitting Process of Power Generation, Transmission, and Distribution Projects (Energy Virtual One-Stop Shop Act)

Republic Act No. 11032, Ease of Doing Business and Efficient Government Service Delivery Act of 2018 (Ease of Doing Business Act of 2018)

Executive No. 30 entitled, "*Creating the Energy Investment Coordinating Council (EICC) in order to Streamline the Regulatory Procedures Affecting Energy Projects (EO 30)*"

SUPPORTING POLICIES

DILG-DOE Joint Circular 95-01 dated 31 October 1995 entitled, "*Utilization of Shares from National Wealth*"

DOE Department Circular No. DC2003-11-010 entitled, "*Rules and Regulations Governing the Business of Retailing Liquid Petroleum Products*"

DOE Department Circular No. DC2007-02-0002 entitled, "*Providing for the Rules and Regulations Governing the Business of Supplying, Hauling, Storage, Handling, Marketing and Distribution of Liquefied Petroleum Gas (LPG) for Automotive Use*"

DOE Department Circular No. DC2014-01-0001 entitled, "*Providing for the Rules and Regulations Governing the LPG Industry*"

DOE Department Circular No. DC2017-11-0011 entitled, "*Promulgating a Revised Rules and Regulations Governing the Business of Retailing Liquid Fuels*"

DOE Department Circular No. DC2019-05-0007 entitled, "*Rules and Regulations Implementing Republic Act No. 11234 (Energy Virtual One-Stop Shop Act)*"

DOE Department Circular No. DC2019-11-0014 entitled, *“Implementing Rules and Regulations of Republic Act No. 11285 (Energy Efficiency and Conservation Act)”*

DOE Department Circular No. DC2020-02-0002 entitled, *“The Implementing Rules and Regulations of Republic Act No. 11361, Otherwise Known as the “Anti-Obstruction of Power Lines Act”*”

DILG-DPWH-DICT-DTI Joint Memorandum Circular No. 2018-01 entitled, *“Guidelines in Streamlining the Processes for the Issuance of Building Permits and Certificate of Occupancy”*

DILG-DOF Joint Memorandum Circular No. 2019-01 entitled, *“Guidelines for the Review, Adjustment, Setting and/or Adoption of Reasonable Regulatory Fees and Charges of Local Government Units”*

DILG Memorandum Circular No. 2019-117 entitled, *“Guidelines in the Integration of the Issuance of Barangay Clearance in the Permitting Processes of Cities and Municipalities”*

DILG-ARTA Joint Memorandum Circular No. 2019-01 entitled, *“Guidelines on the Regulatory Reform for LGUs pursuant to the Ease of Doing Business and Efficient Government Service Delivery (EODB-EGSD) Act of 2018”*

PPPC-DILG Joint Memorandum Circular No. 2019-01 entitled *“Supplemental Guidelines for the Implementation of Public-Private Partnership for the People Initiative for Local Government (LGU P4)”*

DOJ Opinion Number 18 Series of 2019, Opinion of the Secretary of Justice on the Implementation of Republic Act No. 11234 or the EVOSS Act in relation to Republic Act No. 11032 or EODB Act and Executive Order No. 30 s. 2017

Administrative Order No. 23 Series of 2020, Eliminating Overregulation to Promote Efficiency of Government Processes

ARTICLE II. INCORPORATION OF ENERGY PROJECTS INTO THE LGU SPATIAL PLAN AND COMPREHENSIVE DEVELOPMENT PLAN

Section 3. Incorporation to the Spatial Plan. The LGU shall incorporate the energy programs, policies, and projects into the spatial plan of the LGU (Physical Framework Plan or Comprehensive Land Use Plan, whichever is applicable) and the comprehensive development plan.

SPATIAL PLAN

Section 4. The LGU Cities, and Municipalities, in consultation with concerned stakeholders, shall identify upstream conventional (coal, oil, or natural gas) and/or renewable energy (biomass, geothermal, solar, hydropower, ocean, and wind) resources within its area of jurisdiction which shall be posted on its website.

The LGU Cities and Municipalities, in consultation with concerned stakeholders, shall plot existing upstream and downstream energy facilities with coordinates in accordance with the Philippine Reference System 1992 (PRS 92).

The LGU Cities and Municipalities shall coordinate with existing private sector stakeholders on the expansion plans of the existing upstream and downstream energy facilities.

The LGU Cities and Municipalities shall submit the data under Section 4 to their LGU Province (when applicable), to the concerned DILG Regional Office and DOE Field Office. All data shall be submitted to the DILG and DOE Central Offices.

The LGU Cities and Municipalities may coordinate with the PPP Center for investment opportunities and potential private-public partnerships.

COMPREHENSIVE DEVELOPMENT PLAN

Section 5. Benefits OF Energy Projects Incorporation into the Comprehensive Development Plan. The LGU Barangay, Municipality, City, and Province shall monitor and collect the benefits of energy projects and incorporate these benefits in its comprehensive development plan. The benefits to host communities from energy projects include Energy Regulation 1-94 (ER1-94), the National Wealth Tax, among other pertinent laws.

The LGU Barangay, Municipality, City, and Province shall include all local energy policies, plans, and programs covering energy safety and best practices, energy efficiency and conservation, and energy resiliency in its comprehensive development plan which shall be submitted to its respective Regional Development Council and integration to each of its Regional Development Plan.

ARTICLE III. ENERGY PERMITS REGULATORY REFORMS

Section 6. Implementation of the EVOSS Act. The LGU shall streamline the processes in issuing the necessary permits on energy-related projects in accordance with Section 14 of the EVOSS Act.

The LGU shall submit a unified and streamlined permitting process and corresponding fees.

The LGU shall process permits within the prescribed time frame as stated for in the EVOSS Act to fast track processing of necessary permits to expedite their completion.

The LGU shall designate a focal person/s or units to ensure the implementation of the EVOSS Act and its IRR.

Upon the submission of the complete documents by the energy project applicant, the concerned LGU (barangay, municipality, city or province) shall issue the corresponding permit within fifteen (15) calendar days for the proposed generation, transmission and/or distribution project, unless the coverage of the energy project is expanded by the EVOSS Steering Committee.

Section 7. Deemed Approved. Failure of an LGU to act on applications duly submitted with complete supporting electronic documents within in the time frame shall be deemed an approval of such application by the LGU.

Section 8. Penalties. Section 19 of the EVOSS Act states:

“Any person found guilty of committing the acts stated in Section 17 (a) and (b) shall be penalized as follows:

- (a) First offense - Thirty (30) days suspension without pay;*
- (b) Second offense - Three (3) months suspension without pay; and*
- (c) Third offense - Dismissal and perpetual disqualification from public service.*

Any person found guilty of committing the act stated in Section 17 (c) shall be penalized as follows:

- (a) First offense - Thirty (30) days suspension without pay and mandatory attendance in Values Orientation Program;*
- (b) Second offense - Three (3) months suspension without pay; and*
- (c) Third offense - Dismissal and perpetual disqualification from public service, and forfeiture of retirement benefits.*

Any person found guilty of committing the act stated in Section 17 (d) shall suffer the penalty of dismissal and perpetual disqualification from public service.

Any person found guilty of violating Section 18 shall suffer the penalty of dismissal and perpetual disqualification from public service.

In cases of violation by the system operator and market operator of Section 17 (a), (b), and (c), the ERC shall impose a fine of One hundred thousand pesos (P100,000.00) for every day of delay.”

ARTICLE IV. DOWNSTREAM OIL FACILITIES

Section 9. The LGUs shall assist the DOE through the LGUs’ suspension of Mayor’s/Business Permit and stop the actual operation of Liquefied Fuel (LF) Retail Outlets or Gasoline Stations, Household Liquefied Petroleum Gas (LPG) Establishments (i.e. Refiller, Dealer, and/or Retailer), and Auto LPG Dispensing Stations which do not have the DOE Certificate of Compliance (COC) and Standards Compliance Certificate (SCC).

The LGUs shall enforce its mandate to calibrate instruments of weights and measures of dispensing pump meters in LF Retail Outlets and weighing devices in LPG Establishments.

The LGU shall implement price freeze of household LPG and kerosene upon the declaration of state of calamity in the locality. The price freeze will be implemented for a maximum of fifteen (15) days, starting from the day of the official declaration and conduct regular price monitoring of LPG and kerosene that will serve as basis for the price freeze.

ARTICLE V. POWER DISTRIBUTION DEVELOPMENT PLAN

Section 10. For all applications for Building Permits, the LGUs shall inform or coordinate with the Distribution Utilities for the inclusion of the additional supply and demand of energy in the DDP. Furthermore, the LGUs shall ensure compliance with RA 11361 (Anti-Obstruction of Power Lines Act).

ARTICLE VI. ENERGY EFFICIENCY AND CONSERVATION

Section 11. Energy Efficiency and Conservation Office (EECO). The LGUs, except the barangays, shall establish their respective EECOs, which may be part of the planning and

development office, using appropriations from their General Funds established under the Local Government Code.

The DOE, in coordination with the DILG, shall issue the necessary guidelines and templates for the reports and updates to assist the LGUs in the development and implementation of their respective Local Energy Efficiency and Conservation Plans.

Within three (3) years from the effectivity of the EEC-IRR, the respective planning and development offices of the covered LGUs shall be considered as the EECO of such LGU.

Section 12. Energy Efficiency and Conservation Officer.

Section 12.1 Appointment/Designation of the EEC Officer. The EEC Officer, who shall head the EECO, must be at least a college graduate and may be designated by the local chief executive from the existing personnel of the LGU or hired through external recruitment. The EEC Officer shall ensure the LGU's compliance with the EEC Act and its IRR, the Local EEC Plan and all energy conservation issuances. Within three (3) years from the effectivity of the EEC-IRR, the head of the respective planning and development offices of the covered LGUs shall be considered as the EEC Officer of such LGU.

Section 12.2 Funding for Remuneration of the EEC Officer. Funding requirements for the remuneration of the EEC Officer's services shall be charged from the existing fund of the respective LGUs.

Section 13. National Energy Efficiency and Conservation Office (NEE&C Office). To support the National Energy Efficiency and Conservation Coordinating Officer (NEECCO), the NEE&C Office is hereby established. The NEE&C Office shall support the NEECCO designated in the integration of all Local EE&C Plans and assist the NEECCO in participating on matters pertaining to the Government Energy Management Program (GEMP) for the LGUs in the Inter-Agency Energy Efficiency and Conservation Committee (IAEECC).

Section 14. Local Energy Efficiency and Conservation Plan. LGUs, except barangays, through their respective EECOs and planning development offices, with the assistance of the DOE and in coordination with the DILG, shall develop and implement their respective Local EE&C Plans and incorporate these in their local development plans. The DOE, in coordination with the DILG, shall issue the necessary guidelines and templates for reports and updates to assist the LGUs in the development and implementation of their respective Local EE&C Plans.

ARTICLE VII. PRIVATE SECTOR PARTICIPATION

Section 15. Local Investment Incentives Plan (LIIP). In coordination with the PPP Center, the LGU shall explore energy development projects with the private sector.

Pursuant to Section 109 of RA 7160 and in the interest of promoting energy efficiency in the local setting, the LGUs, through their LDCs, may include energy efficiency projects in their respective Investment Priority Areas (IPA) and shall grant applicable incentives, including assistance or fast-tracking of permits and licenses indicated in the LIIP to establishments with energy efficiency projects upon registration and compliance with the requirements of the LGU.

Furthermore, the LGUs shall encourage the participation of the private sector on opportunities provided by the upstream and downstream laws enumerated in this Ordinance.

ARTICLE VIII. FINAL PROVISIONS

Section 16. Information Education Communication Campaign. The LGU, in coordination with the DILG and the DOE, shall disseminate and capacitate its concerned stakeholders and constituents on energy safety practices, energy efficiency and conservation, energy resiliency, energy planning which includes energy access and resource development, energy programs, policies, and projects.

Section 17. Funding Support. The (name of LGU) shall allocate _____ .

Section 18. Separability Clause. If for any reason, any section of provision of this Ordinance is declared illegal or unconstitutional other sections or provisions hereof which are not affected thereby shall continue to be in full force and effect.

Section 19. Repealing Clause. All previous issuances, ordinances, rules and regulations or parts thereof which are inconsistent or in conflict with the provisions of this Ordinance are hereby repealed or modified accordingly.

Section 20. Effectivity Clause. This Ordinance shall take effect fifteen (15) days after its approval and _____.

**ENACTED BY THE SANGGUNIANG _____ AT ITS _____ SESSION
HELD ON _____, 2020.**

Signed.