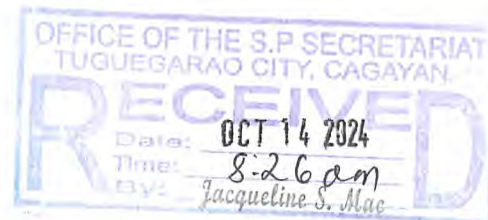




BAGONG PILIPINAS

Republic of the Philippines
Province of Cagayan
TUGUEGARAO CITY

Phone number : 0953-588-3721 | email address : cmotuguegaraocity@gmail.com



OFFICE OF THE CITY MAYOR

11 October 2024

THE PRESIDING OFFICER AND MEMBERS

Sangguniang Panlungsod
This City

Dear *Presiding Officer and Members of the Sanggunian*:

The officials of the Intellectual Property Office of the Philippines (IPOP HL) visited Tuguegarao City today, October 11, 2024, to discuss the institutionalization of mechanisms that will ensure the protection of intellectual property rights.

In view thereof, per request of the IPOP HL, we are reiterating Section 5.0 of DILG Memorandum Circular No. 2020-124 which requires the passage of an ordinance banning the sale, rental, transfer, distribution, manufacture, or production of pirated, counterfeit, or fake goods and services.

For your information and appropriate action.

Thank you!

In the name of public service,


MAILA ROSARIO S. TING-QUE
City Mayor

Copy furnished:

- *Intellectual Property Office of the Philippines*
- *BPLO*
- *City Legal Office*
- *CIPC*





INTELLECTUAL PROPERTY RIGHTS PROTECTION

Memorandum Circular No. 2020-124
21 SEP 2020

1.0. Background

- 1.1. Republic Act No. 8293, or the Intellectual Property Rights Code of the Philippines recognizes the protection of the exclusive rights of scientists, inventors, artists and other gifted citizens to their intellectual property creations.
- 1.2. Piracy counterfeiting of intellectual property rights does not only cause economic prejudice and demoralization among legitimate businessmen and establishments, but also undermine strategies for growth and development, resulting to unrealized revenues and taxes.
- 1.3. The National Government adheres to curb the proliferation and introduction into commerce of pirated, counterfeit or fake goods, articles, or services, and the commission of other acts that violate intellectual property rights as protected by law.
- 1.4. This Memorandum Circular is a reiteration of DILG MC Nos. 2003-229, 2009-104, 2011-89, and 2013-110, in view of the continuous proliferation of the sale and distribution of fake, counterfeit and pirated goods and articles despite previous issuances.

2.0 Legal Basis

- 2.1 Republic Act No. 9239, or the Optical Media Act of 2003;
- 2.2 DILG Memorandum Circular No. 2011-056 dated April 27, 2011 on *Submission of OMB-issued licenses prior to release of business permits for optical media establishments*;

- 2.3 OMB Memorandum Circular No. 2016-001 or the Regulation of Hard Disk Drives and Optical Media Writers/Drives;
- 2.4 OMB Memorandum Circular No. 2016-007 or the Regulation of Accessories, add-ons, supplements of optical and magnetic media; and
- 2.5 OMB Memorandum Circular No. 2018-002 or the Regulation of the manufacturing, importation, exportation, distribution, sale, rental and other commercial activities involving all technical variations of optical and magnetic media.

3.0 Purpose

- 3.1 This Memorandum Circular aims to enjoin local government units (LGUs) to issue an ordinance banning the sale, transfer, distribution, manufacture, and/or production of pirated, counterfeit, or fake goods within the LGU, and to require business establishments that are engaged in business involving optical media to secure OMB license prior to the issuance of business permits.

4.0 Scope/Coverage

- 4.1 This Memorandum Circular covers all Provinces, Cities, Municipalities and Barangays in all Regions, including the Bangsamoro Autonomous Region of Muslim Mindanao (BARMM)

5.0 Policy Content and Guidelines

All Provincial Governors, City Mayors, Municipal Mayors, Punong Barangays and Presiding Officers of the Sanggunians at all levels shall:

- 5.1 **Ensure the passage of an ordinance banning the sale, rental, transfer, distribution, manufacture, or production of pirated, counterfeit, or fake good and services, to include the following provisions:**

5.1.1 The *Optical Media Board License* shall be a mandatory requirement in the issuance of Business Permit/Mayor's Permit to those engaged in the business or activities of *importation, exportation, acquisition, sale or distribution of optical media, manufacturing equipment, parts and accessories and manufacturing used or intended for use in the mastering, manufacture or replication of optical media*, pursuant to Section 13 of Republic Act No. 9239 (The Optical Media Board Act),

5.1.2 All business licenses and permits that are issued by the City and/or Municipal Business Permit and Licensing Office shall carry the express condition that the licensee shall not engage in the sale, rental, transfer, distribution, manufacture or production of pirated, counterfeit, or fake goods, articles, or services, nor shall permit other persons to commit said acts within the licensee's business establishments or premises.

5.1.3 Any breach or violation thereof shall be a ground for the suspension, or cancellation of the business permit or license; and

5.1.4 The pirated, counterfeit, or fake goods, articles, or services of any person engaged in any business or trade, with or without any license or permit, shall be taken into preventive custody and to be disposed on in accordance with law.

A sample Ordinance is hereto attached as Annex "A", for easy reference.

- 5.2 . Ensure the submission of OMB-issued license prior to the release of business permit for optical media establishment.
 - 5.3 Ensure the use of licensed software for computer and other ICT devices by the LGU.
 - 5.4 Provide security and assistance to the law enforcement agency officials during the conduct of enforcement operations, particularly in the seizure of goods and in the proper disposal thereof.
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All DILG Regional Directors and the BARMM Minister for Local Government are hereby directed to cause the widest dissemination of this Memorandum Circular within their areas of responsibility.

6.0 Effectivity

6.1 This Memorandum Circular shall take effect immediately.

7.0 Approving Authority


EDUARDO M. AÑO
Secretary *mv*

8.0 Feedback

7.1. For related queries, all concerned may contact the Intellectual Property Office through Telephone No. (02) 7238-6300 loc. 5405 and 5406, or email at mail@ipophil.gov.ph, or visit their website at www.ipophil.gov.ph.



Republic of the Philippines
(Name of the LGU)

ORDINANCE No. _____
Series of _____

AN ORDINANCE TO CURTAIL THE SALE, RENTAL TRANSFER, DISTRIBUTION, MANUFACTURE, AND/OR PRODUCTION OF PIRATED, COUNTERFEIT, OR FAKE GOODS, ARTICLES, OR SERVICES, AND FOR OTHER PURPOSES

WHEREAS, the (LGU Name) adheres to the policy of the national government to curb the proliferation and introduction into commerce of pirated, counterfeit, or fake goods, articles or services, and the commission of other acts that violate intellectual property rights as protected by law;

WHEREAS, piracy and counterfeiting of intellectual property rights not only cause economic prejudice and demoralization among legitimate businessmen and establishments which offer products and services dependent on intellectual property protection, but also undermine the (LGU type)'s strategy for growth and development and result in unrealized revenues and taxes;

WHEREAS, the State's policy to enhance the enforcement of intellectual property rights requires the determined and active support of the local government units;

NOW THEREFORE, BE IT ORDAINED BY THE SANGGUNIANG (_____), IN SESSION DULY ASSEMBLED:

GENERAL PROVISIONS

SECTION 1. All business licenses and permits issued by the (LGU name) shall be issued with prior requirement of an *Optical Media Board Clearance/Certificate* to those engaged in the business or activities of importation, exportation, acquisition, sale or distribution of optical media,

manufacturing equipment, parts and accessories and manufacturing used or intended for use in the mastering, manufacture or replication of optical media, pursuant to Section 13 of Republic Act No. 9239 (The Optical Media Board Act).

SECTION 2. All business licenses and permits issued by the City and/or Municipal Licensing Office shall carry the express condition that the licensee shall not engage in the sale, rental, transfer, distribution, manufacture or production of pirated, counterfeit, or fake goods, articles, or services, nor shall permit other persons to commit said acts within the licensee's business establishments or premises.

For this purpose, any stall, table, or equivalent contraptions or devices within two (2) meters from the door, window or any opening leading to the licensee's establishment shall be deemed included in the term "premises"

SECTION 3. Any breach or violation of the condition as set forth in the preceding Section shall be a ground for the suspension of the business permit or license for a period of not more than ten (10) days for the first violation, thirty (30) days for the second violation, and cancellation thereof for a third and subsequent violations.

SECTION 4. The pirated, counterfeit, or fake goods and articles of any person engaged in any business or trade, with or without any license or permit shall be taken into preventive custody and disposed of in accordance with law.

SECTION 5. In the cases covered under Sections 2 and 3, the respondent may move to reconsider said order/s, within twenty (20) hours from notice of an order to suspend or cancel the business license or permit to take custody of pirated, counterfeit, or fake goods, articles or services. The (Local Chief Executive) shall decide the said motion within fifteen (15) days from receipt.

The notice of suspension or cancellation of the business license or permit shall be issued by the (Local Chief Executive) after an inspection of the business establishment concerned is conducted. The inspection may be on occasion of a general inspection regularly conducted by the (LGU type), or for such purpose only upon receipt of a complaint or information that the license is engaged in the sale, rental, transfer,

distribution, manufacture, and/or production or pirated, counterfeit, or fake goods, articles, or services.

The LGU may seek the assistance or coordination of the Philippine National Police (PNP), the National Bureau of Investigation (NBI), the Optical Media Board (OMB) and/or other law enforcement agencies, in conducting the inspection or in securing the goods seized during the conduct of enforcement operations, to maintain peace and order.

PENAL PROVISIONS

SECTION 6. The penalty of a fine of Two Thousand Five Hundred Pesos (PhP 2,500.00) or an imprisonment for a period not exceeding six (6) months, or both, in the discretion of the court, shall be imposed upon:

- 6.1 Any person which, having been issued a business license or permit, shall commit a breach of the condition thereof imposed by Section 1 of this Ordinance;
- 6.2 Any person who, without any business license or permit, shall engage in the sale, rental, transfer, distribution, manufacture, and/or production of pirated, counterfeit, or fake goods, articles, or service; and
- 6.3 Any person who shall violate the order of the (Local Chief Executive) suspending or cancelling a license or permit or taking the subject goods into custody.

SECTION 7. The prosecution of commission of any of the foregoing offenses shall not constitute a bar for the prosecution of offense under the Intellectual Property Code and other related laws.

SECTION 8. Should the offense be committed by juridical person, the stockholder, chairperson, president, office director, trustee, partner, or manager who committed or caused the commission of such offense, shall be liable.

FINAL PROVISIONS

SECTION 9. If any provision or part thereof is declared invalid or unconstitutional, the remainder of the ordinance or part hereof not otherwise affected shall remain valid and subsisting.

SECTION 10. All ordinances and resolutions inconsistent herewith are hereby deemed rescinded or modified accordingly.

SECTION 11. This ordinance shall take effect upon approval and after fifteen (15) days from posting in at least three (3) conspicuous places within the (LGU type), and publication in a newspaper of general or local circulation.