

Understanding Environmental Laws¹

Prepared and Compiled by



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REPUBLIC ACT NO. 7942
[AN ACT INSTITUTING A NEW SYSTEM OF MINERAL RESOURCES
EXPLORATION, DEVELOPMENT, UTILIZATION, AND CONSERVATION]

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

CHAPTER I

INTRODUCTORY PROVISIONS

Section 1

Title

This Act shall be known as the "Philippine Mining Act of 1995."

Section 2

Declaration of Policy

All mineral resources in public and private lands within the territory and exclusive economic zone of the Republic of the Philippines are owned by the State. It shall be the responsibility of the State to promote their rational exploration, development, utilization and conservation through the combined efforts of government and the private sector in order to enhance national growth in a way that effectively safeguards the environment and protect the rights of affected communities.

Section 3

Definition of Terms

As used in and for purposes of this Act, the following terms, whether in singular or plural, shall mean:

- a. Ancestral lands refers to all lands exclusively and actually possessed, occupied, or utilized by indigenous cultural communities by themselves or through their ancestors in accordance with their customs and traditions since time immemorial, and as may be defined and delineated by law.
- b. Block or meridional block means an area bounded by one-half (1/2) minute of latitude and one-half (1/2) minute of longitude, containing approximately eighty-one hectares (81 has.).
- c. Bureau means the Mines and Geosciences Bureau under the Department of Environment and Natural Resources.
- d. Carrying capacity refers to the capacity of natural and human environments to accommodate and absorb change without experiencing conditions of instability and attendant degradation.
- e. Contiguous zone refers to water, sea bottom and substratum measured twenty-four nautical miles (24 n.m.) seaward from the base line of the Philippine archipelago.
- f. Contract area means land or body of water delineated for purposes of exploration, development, or utilization of the minerals found therein.
- g. Contractor means a qualified person acting alone or in consortium who is a party to a mineral agreement or to a financial or technical assistance agreement.
 - h. Co-production agreement (CA) means an agreement entered into between the

Government and one or more contractors in accordance with Section 26(b) hereof.

i. Department means the Department of Environment and Natural Resources.

j. Development means the work undertaken to explore and prepare an ore body or a mineral deposit for mining, including the construction of necessary infrastructure and related facilities.

k. Director means the Director of the Mines and Geosciences Bureau.

l. Ecological profile or eco-profile refers to geographic-based instruments for planners and decision-makers which presents an evaluation of the environmental quality and carrying capacity of an area.

m. Environmental compliance certificate (ECC) refers to the document issued by the government agency concerned certifying that the project under consideration will not bring about an unacceptable environmental impact and that the proponent has complied with the requirements of the environmental impact statement system.

n. Environmental impact statement (EIS) is the document which aims to identify, predict, interpret, and communicate information regarding changes in environmental quality associated with a proposed project and which examines the range of alternatives for the objectives of the proposal and their impact on the environment.

o. Exclusive economic zone means the water, sea bottom and subsurface measured from the baseline of the Philippine archipelago up to two hundred nautical miles (200 n.m.) offshore.

p. Existing mining/quarrying right means a valid and subsisting mining claim or permit or quarry permit or any mining lease contract or agreement covering a mineralized area granted/issued under pertinent mining laws.

q. Exploration means the searching or prospecting for mineral resources by geological, geochemical or geophysical surveys, remote sensing, test pitting, trenching, drilling, shaft sinking, tunneling or any other means for the purpose of determining the existence, extent, quantity and quality thereof and the feasibility of mining them for profit.

r. Financial or technical assistance agreement means a contract involving financial or technical assistance for large-scale exploration, development, and utilization of mineral resources.

s. Force majeure means acts or circumstances beyond the reasonable control of contractor including, but not limited to, war, rebellion, insurrection, riots, civil disturbance, blockade, sabotage, embargo, strike, lockout, any dispute with surface owners and other labor disputes, epidemic, earthquake, storm, flood or other adverse weather conditions, explosion, fire, adverse action by government or by any instrumentality or subdivision thereof, act of God or any public enemy and any cause that herein describe over which the affected party has no reasonable control.

t. Foreign-owned corporation means any corporation, partnership, association, or cooperative duly registered in accordance with law in which less than fifty per centum (50%) of the capital is owned by Filipino citizens.

u. Government means the government of the Republic of the Philippines.

- v. Gross output means the actual market value of minerals or mineral products from its mining area as defined in the National Internal Revenue Code.
- w. Indigenous cultural community means a group or tribe of indigenous Filipinos who have continuously lived as communities on communally-bounded and defined land since time immemorial and have succeeded in preserving, maintaining, and sharing common bonds of languages, customs, traditions, and other distinctive cultural traits, and as may be defined and delineated by law.
- x. Joint venture agreement (JVA) means an agreement entered into between the Government and one or more contractors in accordance with Section 26(c) hereof.
- y. Mineral processing means the milling, beneficiation or upgrading of ores or minerals and rocks or by similar means to convert the same into marketable products.
- z. Mine wastes and tailings shall mean soil and rock materials from surface or underground mining and milling operations with no economic value to the generator of the same.
- aa. Minerals refers to all naturally occurring inorganic substance in solid, gas, liquid, or any intermediate state excluding energy materials such as coal, petroleum, natural gas, radioactive materials, and geothermal energy.
- ab. Mineral agreement means a contract between the government and a contractor, involving mineral production-sharing agreement, co-production agreement, or joint-venture agreement.
- ac. Mineral land means any area where mineral resources are found.
- ad. Mineral resource means any concentration of minerals/rocks with potential economic value.
- ae. Mining area means a portion of the contract area identified by the contractor for purposes of development, mining, utilization, and sites for support facilities or in the immediate vicinity of the mining operations.
- af. Mining operation means mining activities involving exploration, feasibility, development, utilization, and processing.
- ag. Non-governmental organization (NGO) includes nonstock, nonprofit organizations involved in activities dealing with resource and environmental conservation, management and protection.
- ah. Net assets refers to the property, plant and equipment as reflected in the audited financial statement of the contractor net of depreciation, as computed for tax purposes, excluding appraisal increase and construction in progress.
- ai. Offshore means the water, sea bottom and subsurface from the shore or coastline reckoned from the mean low tide level up to the two hundred nautical miles (200 n.m.) exclusive economic zone including the archipelagic sea and contiguous zone.
- aj. Onshore means the landward side from the mean tide elevation, including submerged lands in lakes, rivers and creeks.
- ak. Ore means a naturally occurring substance or material from which a mineral or element

can be mined and/or processed for profit.

al. Permittee means the holder of an exploration permit.

am. Pollution control and infrastructure devices refers to infrastructure, machinery, equipment and/or improvements used for impounding, treating or neutralizing, precipitating, filtering, conveying and cleansing mine industrial waste and tailings as well as eliminating or reducing hazardous effects of solid particles, chemicals, liquids or other harmful byproducts and gases emitted from any facility utilized in mining operations for their disposal.

an. President means the President of the Republic of the Philippines.

ao. Private land refers to any land belonging to any private person which includes alienable and disposable land being claimed by a holder, claimant, or occupant who has already acquired a vested right thereto under the law, although the corresponding certificate or evidence of title or patent has not been actually issued.

ap. Public land refers to lands of the public domain which have been classified as agricultural lands and subject to management and disposition or concession under existing laws.

aq. Qualified person means any citizen of the Philippines with capacity to contract, or a corporation, partnership, association, or cooperative organized or authorized for the purpose of engaging in mining, with technical and financial capability to undertake mineral resources development and duly registered in accordance with law at least sixty per centum (60%) of the capital of which is owned by citizens of the Philippines: Provided, That a legally organized foreign-owned corporation shall be deemed a qualified person for purposes of granting an exploration permit, financial or technical assistance agreement or mineral processing permit.

ar. Quarrying means the process of extracting, removing and disposing quarry resources found on or underneath the surface of private or public land.

as. Quarry permit means a document granted to a qualified person for the extraction and utilization of quarry resources on public or private lands.

at. Quarry resources refers to any common rock or other mineral substances as the Director of Mines and Geosciences Bureau may declare to be quarry resources such as, but not limited to, andesite, basalt, conglomerate, coral sand, diatomaceous earth, diorite, decorative stones, gabbro, granite, limestone, marble, marl, red burning clays for potteries and bricks, rhyolite, rock phosphate, sandstone, serpentine, shale, tuff, volcanic cinders, and volcanic glass: Provided, That such quarry resources do not contain metals or metallic constituents and/or other valuable minerals in economically workable quantities: Provided, further, That non-metallic minerals such as kaolin, feldspar, bull quartz, quartz or silica, sand and pebbles, bentonite, talc, asbestos, barite, gypsum, bauxite, magnesite, dolomite, mica, precious and semi-precious stones, and other non-metallic minerals that may later be discovered and which the Director declares the same to be of economically workable quantities, shall not be classified under the category of quarry resources.

au. Regional director means the regional director of any mines regional office under the Department of Environment and Natural Resources.

av. Regional office means any of the mines regional offices of the Department of Environment and Natural Resources.

aw. Secretary means the Secretary of the Department of Environment and Natural Resources.

ax. Special allowance refers to payment to the claim-owners or surface right-owners particularly during the transition period from Presidential Decree No. 463 and Executive Order No. 279, series of 1987.

ay. State means the Republic of the Philippines.

az. Utilization means the extraction or disposition of minerals.

CHAPTER II GOVERNMENT MANAGEMENT

Section 4 Ownership of Mineral Resources

Mineral resources are owned by the State and the exploration; development, utilization, and processing thereof shall be under its full control and supervision. The State may directly undertake such activities or it may enter into mineral agreements with contractors. The State shall recognize and protect the rights of the indigenous cultural communities to their ancestral lands as provided for by the Constitution.

Section 5 Mineral Reservations

When the national interest so requires, such as when there is a need to preserve strategic raw materials for industries critical to national development, or certain minerals for scientific, cultural or ecological value, the President may establish mineral reservations upon the recommendation of the Director through the Secretary. Mining operations in existing mineral reservations and such other reservations as may thereafter be established, shall be undertaken by the Department or through a contractor: Provided, That a small scale-mining cooperative covered by Republic Act No. 7076 shall be given preferential right to apply for a small-scale mining agreement for a maximum aggregate area of twenty-five percent (25%) of such mineral reservation, subject to valid existing mining/quarrying rights as provided under Section 112 Chapter XX hereof. All submerged lands within the contiguous zone and in the exclusive economic zone of the Philippines are hereby declared to be mineral reservations. A ten per centum (10%) share of all royalties and revenues to be derived by the government from the development and utilization of the mineral resources within mineral reservations as provided under this Act shall accrue to the Mines and Geosciences Bureau to be allotted for special projects and other administrative expenses related to the exploration and development of other mineral reservations mentioned in Section 6 hereof.

Section 6 Other Reservations

Mining operations in reserved lands other than mineral reservations may be undertaken by the Department, subject to limitations as herein provided. In the event that the Department cannot undertake such activities, they may be undertaken by a qualified person in accordance with the rules and regulations promulgated by the Secretary. The right to develop and utilize the minerals found therein shall be awarded by the President under such terms and conditions as recommended by the Director and approved by the Secretary: Provided, That the party who undertook the exploration of said reservation shall be given priority. The mineral land so awarded shall be automatically excluded from the reservation during the term of the agreement: Provided, further, That the right of the lessee of a valid mining contract existing within the reservation at the time of its establishment shall not be prejudiced or impaired.

Section 7

Periodic Review of Existing Mineral Reservations

The Secretary shall periodically review existing mineral reservations for the purpose of determining whether their continued existence is consistent with the national interest, and upon his recommendation, the President may, by proclamation, alter or modify the boundaries thereof or revert the same to the public domain without prejudice to prior existing rights.

Section 8 Authority of the Department

The Department shall be the primary government agency responsible for the conservation, management, development, and proper use of the State's mineral resources including those in reservations, watershed areas, and lands of the public domain. The Secretary shall have the authority to enter into mineral agreements on behalf of the Government upon the recommendation of the Director, promulgate such rules and regulations as may be necessary to implement the intent and provisions of this Act.

Section 9 Authority of the Bureau

The Bureau shall have direct charge in the administration and disposition of mineral lands and mineral resources and shall undertake geological, mining, metallurgical, chemical, and other researches as well as geological and mineral exploration surveys. The Director shall recommend to the Secretary the granting of mineral agreements to duly qualified persons and shall monitor the compliance by the contractor of the terms and conditions of the mineral agreements. The Bureau may confiscate surety, performance and guaranty bonds posted through an order to be promulgated by the Director. The Director may deputize, when necessary, any member or unit of the Philippine National Police, barangay, duly registered non-governmental organization (NGO) or any qualified person to police all mining activities.

Section 10 Regional Offices

There shall be as many regional offices in the country as may be established by the Secretary, upon the recommendation of the Director.

Section 11 Processing of Applications

The system of processing applications for mining rights shall be prescribed in the rules and regulations of this Act.

Section 12 Survey, Charting and Delineation of Mining Areas

A sketch plan or map of the contract or mining area prepared by a deputized geodetic engineer suitable for publication purposes shall be required during the filing of a mineral agreement or financial or technical assistance agreement application. Thereafter, the contract or mining area shall be surveyed and monumented by a deputized geodetic engineer or bureau geodetic engineer and the survey plan shall be approved by the Director before the approval of the mining feasibility.

Section 13 Meridional Blocks

For purposes of the delineation of the contract or mining areas under this Act, the Philippine territory and its exclusive economic zone shall be divided into meridional blocks of one-half (1/2) minute of

latitude and one-half (1/2) minute of longitude.

Section 14 Recording System

There shall be established a national and regional filing and recording system. A mineral resource database system shall be set up in the Bureau which shall include, among others, a mineral rights management system. The Bureau shall publish at least annually, a mineral gazette of nationwide circulation containing among others, a current list of mineral rights, their location in the map, mining rules and regulations, other official acts affecting mining, and other information relevant to mineral resources development. A system and publication fund shall be included in the regular budget of the Bureau.

CHAPTER III SCOPE OF APPLICATION

Section 15 Scope of Application

This Act shall govern the exploration, development, utilization and processing of all mineral resources.

Section 16 Opening of Ancestral Lands for Mining Operations

No ancestral land shall be opened for mining-operations without prior consent of the indigenous cultural community concerned.

Section 17 Royalty Payments for Indigenous Cultural Communities

In the event of an agreement with an indigenous cultural community pursuant to the preceding section, the royalty payment, upon utilization of the minerals shall be agreed upon by the parties. The said royalty shall form part of a trust fund for the socioeconomic well-being of the indigenous cultural community.

Section 18 Areas Open to Mining Operations

Subject to any existing rights or reservations and prior agreements of all parties, all mineral resources in public or private lands, including timber or forestlands as defined in existing laws, shall be open to mineral agreements or financial or technical assistance agreement applications. Any conflict that may arise under this provision shall be heard and resolved by the panel of arbitrators.

Section 19 Areas Closed to Mining Applications

Mineral agreement or financial or technical assistance agreement applications shall not be allowed:

- a. In military and other government reservations, except upon prior written clearance by the government agency concerned;
- b. Near or under public or private buildings, cemeteries, archeological and historic sites, bridges, highways, waterways, railroads, reservoirs, dams or other infrastructure projects, public or private works including plantations or valuable crops, except upon written consent of the government agency or private entity concerned;
- c. In areas covered by valid and existing mining rights;

- d. In areas expressly prohibited by law;
- e. In areas covered by small-scale miners as defined by law unless with prior consent of the small-scale miners, in which case a royalty payment upon the utilization of minerals shall be agreed upon by the parties, said royalty forming a trust fund for the socioeconomic development of the community concerned; and
- f. Old growth or virgin forests, proclaimed watershed forest reserves, wilderness areas, mangrove forests, mossy forests, national parks provincial/municipal forests, parks, greenbelts, game refuge and bird sanctuaries as defined by law and in areas expressly prohibited under the National Integrated Protected Areas System (NIPAS) under Republic Act No. 7586, Department Administrative Order No. 25, series of 1992 and other laws.

CHAPTER IV
EXPLORATION PERMIT
Section 20
Exploration Permit

An exploration permit grants the right to conduct exploration for all minerals in specified areas. The Bureau shall have the authority to grant an exploration Permit to a qualified person.

Section 21
Terms and Conditions of the Exploration Permit

An exploration permit shall be for a period of two (2) years, subject to annual review and relinquishment or renewal upon the recommendation of the Director.

Section 22
Maximum Areas for Exploration Permit

The maximum area that a qualified person may hold at any one time shall be:

- a. Onshore, in any one province
 - 1. for individuals, twenty (20) blocks; and
- b. for partnerships, corporations, cooperatives, or associations, two hundred (200) blocks.
- b. Onshore, in the entire Philippines
 - 1. for individuals, forty (40) blocks; and
 - 2. for partnerships, corporations, cooperatives, or associations, four hundred (400) blocks.
- c. Offshore, beyond five hundred meters (500m) from the mean low tide level:
 - 1. for individuals, one hundred (100) blocks; and
 - 2. for partnerships, corporations, cooperatives, or associations, one thousand (1,000) blocks.

Section 23
Rights and Obligations of the Permittee

An exploration permit shall grant to the permittee, his heirs or successors-in-interest, the right to enter, occupy and explore the area: Provided, That if private or other parties are affected, the permittee shall first discuss with the said parties the extent, necessity, and manner of his entry, occupation and exploration and in case of disagreement, a panel of arbitrators shall resolve the conflict or disagreement.

The permittee shall undertake an exploration work on the area as specified by its permit based on an approved work program.

Any expenditure in excess of the yearly budget of the approved work program may be carried forward and credited to the succeeding years covering the duration of the permit. The Secretary, through the Director, shall promulgate rules and regulations governing the terms and conditions of the permit.

The permittee may apply for a mineral production sharing agreement, joint venture agreement, co-production agreement or financial or technical assistance agreement over the permit area, which application shall be granted if the permittee meets the necessary qualifications and the terms and conditions of any such agreement: Provided, That the exploration period covered by the exploration permit shall be included as part of the exploration period of the mineral agreement or financial or technical assistance agreement.

Section 24 Declaration of Mining Project Feasibility

A holder of an exploration permit who determines the commercial viability of a project covering a mining area may, within the term of the permit, file with the Bureau a declaration of mining project feasibility accompanied by a work program for development. The approval of the mining project feasibility and compliance with other requirements provided in this Act shall entitle the holder to an exclusive right to a mineral production sharing agreement or other mineral agreements or financial or technical assistance agreement.

Section 25 Transfer or Assignment

An exploration permit may be transferred or assigned to a qualified person subject to the approval of the Secretary upon the recommendation of the Director.

CHAPTER V MINERAL AGREEMENTS

Section 26 Modes of Mineral Agreement

For purposes of mining operations, a mineral agreement may take the following forms as herein defined:

a. Mineral production sharing agreement is an agreement where the Government grants to the contractor the exclusive right to conduct mining operations within a contract area and shares in the gross output. The contractor shall provide the financing, technology, management and personnel necessary for the implementation of this agreement.

b. Co-production agreement is an agreement between the Government and the contractor wherein the Government shall provide inputs to the mining operations other than the mineral resource.

c. Joint venture agreement is an agreement where a joint-venture company is organized by the Government and the contractor with both parties having equity shares. Aside from earnings in equity, the Government shall be entitled to a share in the gross output.

A mineral agreement shall grant to the contractor the exclusive right to conduct mining operations and to extract all mineral resources found in the contract area. In addition, the contractor may be allowed to convert his agreement into any of the modes of mineral agreements or financial or technical assistance agreement covering the remaining period of the original agreement subject to the approval of the Secretary.

Section 27

Eligibility

A qualified person may enter into any of the three (3) modes of mineral agreement with the government for the exploration, development and utilization of mineral resources: Provided, That in case the applicant has been in the mining industry for any length of time, he should possess a satisfactory environmental track record as determined by the Mines and Geosciences Bureau and in consultation with the Environmental Management Bureau of the Department.

Section 28 Maximum Areas for Mineral Agreement

The maximum area that a qualified person may hold at any time under a mineral agreement shall be:

- a. Onshore, in any one province
 1. for individuals, ten (10) blocks; and
 2. for partnerships, cooperatives, associations, or corporations, one hundred (100) blocks.
- b. Onshore, in the entire Philippines
 1. for individuals, twenty (20) blocks; and
 2. for partnerships, cooperatives, associations, or corporations, two hundred (200) blocks.
- c. Offshore, in the entire Philippines
 1. for individuals fifty (50) blocks;
 2. for partnerships, cooperatives, associations, or corporations, five hundred (500) blocks; and
 3. for the exclusive economic zone, a larger area to be determined by the Secretary.

The maximum areas mentioned above that a contractor may hold under a mineral agreement shall not include mining/quarry areas under operating agreements between the contractor and a claimowner/lessee/permittee/licensee entered into under Presidential Decree No. 463.

Section 29 Filing and Approval of Mineral Agreements

All proposed mineral agreements shall be filed in the region where the areas of interest are located, except in mineral reservations which shall be filed with the Bureau.

The filing of a proposal for a mineral agreement shall give the proponent the prior right to areas covered by the same. The proposed mineral agreement will be approved by the Secretary and copies thereof shall be submitted to the President. Thereafter, the President shall provide a list to Congress of every approved mineral agreement within thirty (30) days from its approval by the Secretary.

Section 30 Assignment/Transfer

Any assignment or transfer of rights and obligations under any mineral agreement except a financial or technical assistance agreement shall be subject to the prior approval of the Secretary. Such assignment or transfer shall be deemed automatically approved if not acted upon by the Secretary within thirty (30) working days from official receipt thereof, unless patently unconstitutional or illegal.

Section 31 Withdrawal from Mineral Agreements

The contractor may, by giving due notice at any time during the term of the agreement, apply for the cancellation of the mineral agreement due to causes which, in the opinion of the contractor, make continued mining operations no longer feasible or viable. The Secretary shall consider the notice and issue its decision within a period of thirty (30) days: Provided, That the contractor has met all its financial, fiscal and legal obligations.

Section 32 **Terms**

Mineral agreements shall have a term not exceeding twenty-five (25) years to start from the date of execution thereof, and renewable for another term not exceeding twenty-five (25) years under the same terms and conditions thereof, without prejudice to changes mutually agreed upon by the parties. After the renewal period, the operation of the mine may be undertaken by the Government or through a contractor. The contract for the operation of a mine shall be awarded to the highest bidder in a public bidding after due publication of the notice thereof: Provided, That the contractor shall have the right to equal the highest bid upon reimbursement of all reasonable expenses of the highest bidder.

CHAPTER VI **FINANCIAL OR TECHNICAL ASSISTANCE AGREEMENT**

Section 33 **Eligibility**

Any qualified person with technical and financial capability to undertake large-scale exploration, development, and utilization of mineral resources in the Philippines may enter into a financial or technical assistance agreement directly with the Government through the Department.

Section 34 **Maximum Contract Area**

The maximum contract area that may be granted per qualified person, subject to relinquishment shall be:

- a. 1,000 meridional blocks onshore;
- b. 4,000 meridional blocks offshore; or
- c. Combinations of a and b provided that it shall not exceed the maximum limits for onshore and offshore areas.

Section 35 **Terms and Conditions**

The following terms, conditions, and warranties shall be incorporated in the financial or technical assistance agreement, to wit:

- a. A firm commitment in the form of a sworn statement, of an amount corresponding to the expenditure obligation that will be invested in the contract area: Provided, That such amount shall be subject to changes as may be provided for in the rules and regulations of this Act;
- b. A financial guarantee bond shall be posted in favor of the Government in an amount equivalent to the expenditure obligation of the applicant for any year;
- c. Submission of proof of technical competence, such as, but not limited to, its track record in mineral resource exploration, development, and utilization; details of technology to be employed in the proposed operation; and details of technical personnel to undertake the

operation;

d. Representations and warranties that the applicant has all the qualifications and none of the disqualifications for entering into the agreement;

e. Representations and warranties that the contractor has or has access to all the financing, managerial and technical expertise and, if circumstances demand, the technology required to promptly and effectively carry out the objectives of the agreement with the understanding to timely deploy these resources under its supervision pursuant to the periodic work programs and related budgets, when proper, providing an exploration period up to two (2) years, extendible for another two (2) years but subject to annual review by the Secretary in accordance with the implementing rules and regulations of this Act, and further, subject to the relinquishment obligations;

f. Representations and warranties that, except for payments for dispositions for its equity, foreign investments in local enterprises which are qualified for repatriation, and local supplier's credits and such other generally accepted and permissible financial schemes for raising funds for valid business purposes, the contractor shall not raise any form of financing from domestic sources of funds, whether in Philippine or foreign currency, for conducting its mining operations for and in the contract area;

g. The mining operations shall be conducted in accordance with the provisions of this Act and its implementing rules and regulations;

h. Work programs and minimum expenditures commitments;

i. Preferential use of local goods and services to the maximum extent practicable;

j. A stipulation that the contractors are obligated to give preference to Filipinos in all types of mining employment for which they are qualified and that technology shall be transferred to the same;

k. Requiring the proponent to effectively use appropriate anti-pollution technology and facilities to protect the environment and to restore or rehabilitate mined out areas and other areas affected by mine tailings and other forms of pollution or destruction;

l. The contractors shall furnish the Government records of geologic, accounting, and other relevant data for its mining operations, and that book of accounts and records shall be open for inspection by the government;

m. Requiring the proponent to dispose of the minerals and byproducts produced under a financial or technical assistance agreement at the highest price and more advantageous terms and conditions as provided for under the rules and regulations of this Act;

n. Provide for consultation and arbitration with respect to the interpretation and implementation of the terms and conditions of the agreements; and

o. Such other terms and conditions consistent with the Constitution and with this Act as the Secretary may deem to be for the best interest of the State and the welfare of the Filipino people.

Section 36 **Negotiations**

A financial or technical assistance agreement shall be negotiated by the Department and executed and approved by the President. The President shall notify Congress of all financial or technical assistance

agreements within thirty (30) days from execution and approval thereof.

Section 37

Filing and Evaluation of Financial or Technical Assistance Agreement Proposals

All financial or technical assistance agreement proposals shall be filed with the Bureau after payment of the required processing fees. If the proposal is found to be sufficient and meritorious in form and substance after evaluation, it shall be recorded with the appropriate government agency to give the proponent the prior right to the area covered by such proposal: Provided, That existing mineral agreements, financial or technical assistance agreements and other mining rights are not impaired or prejudiced thereby. The Secretary shall recommend its approval to the President.

Section 38

Term of Financial or Technical Assistance Agreement

A financial or technical assistance agreement shall have a term not exceeding twenty-five (25) years to start from the execution thereof, renewable for not more than twenty-five (25) years under such terms and conditions as may be provided by law.

Section 39

Option to Convert into a Mineral Agreement

The contractor has the option to convert the financial or technical assistance agreement to a mineral agreement at any time during the term of the agreement, if the economic viability of the contract area is found to be inadequate to justify large-scale mining operations, after proper notice to the Secretary as provided for under the implementing rules and regulations: Provided, That the mineral agreement shall only be for the remaining period of the original agreement.

In the case of a foreign contractor, it shall reduce its equity to forty percent (40%) in the corporation, partnership, association, or cooperative. Upon compliance with this requirement by the contractor, the Secretary shall approve the conversion and execute the mineral production-sharing agreement.

Section 40

Assignment/Transfer

A financial or technical assistance agreement may be assigned or transferred, in whole or in part, to a qualified person subject to the prior approval of the President: Provided, That the President shall notify Congress of every financial or technical assistance agreement assigned or converted in accordance with this provision within thirty (30) days from the date of the approval thereof.

Section 41

Withdrawal from Financial or Technical Assistance Agreement

The contractor shall manifest in writing to the Secretary his intention to withdraw from the agreement, if in his judgment the mining project is no longer economically feasible, even after he has exerted reasonable diligence to remedy the cause or the situation. The Secretary may accept the withdrawal: Provided, That the contractor has complied or satisfied all his financial, fiscal or legal obligations.

CHAPTER VII

SMALL-SCALE MINING

Section 42

Small-scale Mining

Small-scale mining shall continue to be governed by Republic Act No. 7076 and other pertinent laws.

CHAPTER VIII QUARRY RESOURCES

Section 43

Quarry Permit

Any qualified person may apply to the provincial/city mining regulatory board for a quarry permit on privately-owned lands and/or public lands for building and construction materials such as marble, basalt, andesite, conglomerate, tuff, adobe, granite, gabbro, serpentine, inset filling materials, clay for ceramic tiles and building bricks, pumice, perlite and other similar materials that are extracted by quarrying from the ground. The provincial governor shall grant the permit after the applicant has complied with all the requirements as prescribed by the rules and regulations.

The maximum area which a qualified person may hold at any one time shall be five hectares (5 has.): Provided, That in large-scale quarry operations involving cement raw materials, marble, granite, sand and gravel and construction aggregates, a qualified person and the government may enter into a mineral agreement as defined herein.

A quarry permit shall have a term of five (5) years, renewable for like periods but not to exceed a total term of twenty-five (25) years. No quarry permit shall be issued or granted on any area covered by a mineral agreement or financial or technical assistance agreement.

Section 44

Quarry Fee and Taxes

A permittee shall, during the term of his permit, pay a quarry fee as provided for under the implementing rules and regulations. The permittee shall also pay the excise tax as provided by pertinent laws.

Section 45

Cancellation of Quarry Permit

A quarry permit may be cancelled by the provincial governor for violations of the provisions of this Act or its implementing rules and regulations or the terms and conditions of said permit: Provided, That before the cancellation of such permit, the holder thereof shall be given the opportunity to be heard in an investigation conducted for the purpose.

Section 46

Commercial Sand and Gravel Permit

Any qualified person may be granted a permit by the provincial governor to extract and remove sand and gravel or other loose or unconsolidated materials which are used in their natural state, without undergoing processing from an area of not more than five hectares (5 has.) and in such quantities as may be specified in the permit.

Section 47

Industrial Sand and Gravel Permit

Any qualified person may be granted an industrial sand and gravel permit by the Bureau for the extraction of sand and gravel and other loose or unconsolidated materials that necessitate the use of mechanical processing covering an area of more than five hectares (5 has.) at any one time. The permit shall have a term of five (5) years, renewable for a like period but not to exceed a total term of twenty-five (25) years.

Section 48

Exclusive Sand and Gravel Permit

Any qualified person may be granted an exclusive sand and gravel permit by the provincial governor to

quarry and utilize sand and gravel or other loose or unconsolidated materials from public lands for his own use, provided that there will be no commercial disposition thereof.

A mineral agreement or a financial technical assistance agreement contractor shall, however, have the right to extract and remove sand and gravel and other loose unconsolidated materials without need of a permit within the area covered by the mining agreement for the exclusive use in the mining operations: Provided, That monthly reports of the quantity of materials extracted therefrom shall be submitted to the mines regional office concerned: Provided, further, That said right shall be coterminous with the expiration of the agreement. Holders of existing mining leases shall likewise have the same rights as that of a contractor: Provided, That said right shall be coterminous with the expiry dates of the lease.

Section 49 Government Gratuitous Permit

Any government entity or instrumentality may be granted a gratuitous permit by the provincial governor to extract sand and gravel, quarry or loose unconsolidated materials needed in the construction of building and/or infrastructure for public use or other purposes over an area of not more than two hectares (2 has.) for a period coterminous with said construction.

Section 50 Private Gratuitous Permit

Any owner of land may be granted a private gratuitous permit by the provincial governor.

Section 51 Guano Permit

Any qualified person may be granted a guano permit by the provincial governor to extract and utilize loose unconsolidated guano and other organic fertilizer materials in any portion of a municipality where he has established domicile. The permit shall be for specific caves and/or for confined sites with locations verified by the Department's field officer in accordance with existing rules and regulations.

Section 52 Gemstone Gathering Permit

Any qualified person may be granted a non-exclusive gemstone gathering permit by the provincial governor to gather loose stones useful as gemstones in rivers and other locations.

CHAPTER IX TRANSPORT, SALE AND PROCESSING OF MINERALS

Section 53 Ore Transport Permit

A permit specifying the origin and quantity of non-processed mineral ores or minerals shall be required for their transport. Transport permits shall be issued by the mines regional director who has jurisdiction over the area where the ores were extracted. In the case of mineral ores or minerals being transported from the small-scale mining areas to the custom mills or processing plants, the Provincial Mining Regulatory Board (PMRB) concerned shall formulate their own policies to govern such transport of ores produced by small-scale miners. The absence of a permit shall be considered as prima facie evidence of illegal mining and shall be sufficient cause for the Government to confiscate the ores or minerals being transported, the tools and equipment utilized, and the vehicle containing the same. Ore samples not exceeding two metric tons (2 m.t.) to be used exclusively for assay or pilot test purposes shall be exempted from such requirement.

Section 54 Mineral Trading Registration

No person shall engage in the trading of mineral products, either locally or internationally, unless registered with the Department of Trade and Industry and accredited by the Department, with a copy of said registration submitted to the Bureau.

Section 55
Minerals Processing Permit

No person shall engage in the processing of minerals without first securing a minerals processing permit from the Secretary. Minerals processing permit shall be for a period of five (5) years renewable for like periods but not to exceed a total term of twenty-five (25) years. In the case of mineral ores or minerals produced by the small-scale miners, the processing thereof as well as the licensing of their custom mills, or processing plants shall continue to be governed by the provisions of Republic Act No. 7076.

Section 56
Eligibility of Foreign-owned/-controlled Corporation

A foreign-owned/-controlled corporation may be granted a mineral processing permit.

CHAPTER X
DEVELOPMENT OF MINING COMMUNITIES, SCIENCE AND MINING TECHNOLOGY

Section 57
Expenditure for Community Development and Science and Mining Technology

A contractor shall assist in the development of its mining community, the promotion of the general welfare of its inhabitants, and the development of science and mining technology.

Section 58
Credited Activities

Activities that may be credited as expenditures for development of mining communities, and science and mining technology are the following:

- a. Any activity or expenditure intended to enhance the development of the mining and neighboring communities of a mining operation other than those required or provided for under existing laws, or collective bargaining agreements, and the like; and
- b. Any activity or expenditure directed towards the development of geosciences and mining technology such as, but not limited to, institutional and manpower development, and basic and applied researches. Appropriate supervision and control mechanisms shall be prescribed in the implementing rules and regulations of this Act.

Section 59
Training and Development

A contractor shall maintain an effective program of manpower training and development throughout the term of the mineral agreement and shall encourage and train Filipinos to participate in all aspects of the mining operations, including the management thereof. For highly-technical and specialized mining operations, the contractor may, subject to the necessary government clearances, employ qualified foreigners.

Section 60
Use of Indigenous Goods, Services and Technologies

A contractor shall give preference to the use of local goods, services and scientific and technical resources in the mining operations, where the same are of equivalent quality, and are available on equivalent terms as their imported counterparts.

Section 61

Donations/Turn Over of Facilities

Prior to cessation of mining operations occasioned by abandonment or withdrawal of operations, on public lands by the contractor, the latter shall have a period of one (1) year therefrom within which to remove his improvements; otherwise, all the social infrastructure and facilities shall be turned over or donated tax-free to the proper government authorities, national or local, to ensure that said infrastructure and facilities are continuously maintained and utilized by the host and neighboring communities.

Section 62

Employment of Filipinos

A contractor shall give preference to Filipino citizens in all types of mining employment within the country insofar as such citizens are qualified to perform the corresponding work with reasonable efficiency and without hazard to the safety of the operations. The contractor, however, shall not be hindered from hiring employees of his own selection, subject to the provisions of Commonwealth Act No. 613, as amended, for technical and specialized work which, in his judgment and with the approval of the Director, requires highly-specialized training or long experience in exploration, development or utilization of mineral resources: Provided, That in no case shall each employment exceed five (5) years or the payback period as represented in original project study, whichever is longer: Provided, further, That each foreigner employed as mine manager, vice-president for operations or in an equivalent managerial position in charge of mining, milling, quarrying or drilling operation shall:

- a. Present evidence of his qualification and work experience; or
- b. Shall pass the appropriate government licensure examination; or
- c. In special cases, may be permitted to work by the Director for a period not exceeding one (1) year: Provided, however, That if reciprocal privileges are extended to Filipino nationals in the country of domicile, the Director may grant waivers or exemptions.

CHAPTER XI

SAFETY AND ENVIRONMENTAL PROTECTION

Section 63

Mines Safety and Environmental Protection

All contractors and permittees shall strictly comply with all the mines safety rules and regulations as may be promulgated by the Secretary concerning the safe and sanitary upkeep of the mining operations and achieve waste-free and efficient mine development. Personnel of the Department involved in the implementation of mines safety, health and environmental rules and regulations shall be covered under Republic Act No. 7305.

Section 64

Mine Labor

No person under sixteen (16) years of age shall be employed in any phase of mining operations and no person under eighteen (18) years of age shall be employed underground in a mine.

Section 65

Mine Supervision

All mining and quarrying operations that employ more than fifty (50) workers shall have at least one (1) licensed mining engineer with at least five (5) years of experience in mining operations, and one (1) registered foreman.

Section 66
Mine Inspection

The regional director shall have exclusive jurisdiction over the safety inspection of all installations, surface or underground, in mining operations at reasonable hours of the day or night and as much as possible in a manner that will not impede or obstruct work in progress of a contractor or permittee.

Section 67
Power to Issue Orders

The mines regional director shall, in consultation with the Environmental Management Bureau, forthwith or within such time as specified in his order, require the contractor to remedy any practice connected with mining or quarrying operations, which is not in accordance with safety and anti-pollution laws and regulations. In case of imminent danger to life or property, the mines regional director may summarily suspend the mining or quarrying operations until the danger is removed, or appropriate measures are taken by the contractor or permittee.

Section 68
Report of Accidents

In case of any incident or accident, causing or creating the danger of loss of life or serious physical injuries, the person in charge of operations shall immediately report the same to the regional office where the operations are situated. Failure to report the same without justifiable reason shall be a cause for the imposition of administrative sanctions prescribed in the rules and regulations implementing this Act.

Section 69
Environmental Protection

Every contractor shall undertake an environmental protection and enhancement program covering the period of the mineral agreement or permit. Such environmental program shall be incorporated in the work program which the contractor or permittee shall submit as an accompanying document to the application for a mineral agreement or permit. The work program shall include not only plans relative to mining operations but also to rehabilitation, regeneration, revegetation and reforestation of mineralized areas, slope stabilization of mined-out and tailings covered areas, aquaculture, watershed development and water conservation; and socioeconomic development.

Section 70
Environmental Impact Assessment (EIA)

Except during the exploration period of a mineral agreement or financial or technical assistance agreement or an exploration permit, an environmental clearance certificate shall be required based on an environmental impact assessment and procedures under the Philippine Environmental Impact Assessment System including Sections 26 and 27 of the Local Government Code of 1991 which require national government agencies to maintain ecological balance, and prior consultation with the local government units, non-governmental and people's organizations and other concerned sectors of the community: Provided, That a completed ecological profile of the proposed mining area shall also constitute part of the environmental impact assessment. People's organizations and non-governmental organizations shall be allowed and encouraged to participate in ensuring that contractors/permittees

shall observe all the requirements of environmental protection.

Section 71 **Rehabilitation**

Contractors and permittees shall technically and biologically rehabilitate the excavated, mined-out, tailings covered and disturbed areas to the condition of environmental safety, as may be provided in the implementing rules and regulations of this Act. A mine rehabilitation fund shall be created, based on the contractor's approved work program, and shall be deposited as a trust fund in a government depository bank and used for physical and social rehabilitation of areas and communities affected by mining activities and for research on the social, technical and preventive aspects of rehabilitation. Failure to fulfill the above obligation shall mean immediate suspension or closure of the mining activities of the contractor/permittee concerned.

CHAPTER XII **AUXILIARY MINING RIGHTS**

Section 72 **Timber Rights**

Any provision of law to the contrary notwithstanding, a contractor may be granted a right to cut trees or timber within his mining area as may be necessary for his mining operations subject to forestry laws, rules and regulations: Provided, That if the land covered by the mining area is already covered by existing timber concessions, the volume of timber needed and the manner of cutting and removal thereof shall be determined by the mines regional director, upon consultation with the contractor, the timber concessionaire/permittee and the Forest Management Bureau of the Department: Provided, further, That in case of disagreement between the contractor and the timber concessionaire, the matter shall be submitted to the Secretary whose decision shall be final. The contractor shall perform reforestation work within his mining area in accordance with forestry laws, rules and regulations.

Section 73 **Water Rights**

A contractor shall have water rights for mining operations upon approval of application with the appropriate government agency in accordance with existing water laws, rules and regulations promulgated thereunder: Provided, That water rights already granted or vested through long use, recognized and acknowledged by local customs, laws, and decisions of courts shall not thereby be impaired: Provided, further, That the Government reserves the right to regulate water rights and the reasonable and equitable distribution of water supply so as to prevent the monopoly of the use thereof.

Section 74 **Right to Possess Explosives**

A contractor/exploration permittee shall have the right to possess and use explosives within his contract/permit area as may be necessary for his mining operations upon approval of application with the appropriate government agency in accordance with existing laws, rules and regulations promulgated thereunder: Provided, That the Government reserves the right to regulate and control the explosive accessories to ensure safe mining operations.

Section 75 **Easement Rights**

When mining areas are so situated that for purposes of more convenient mining operations it is necessary to build, construct or install on the mining areas or lands owned, occupied or leased by other persons, such infrastructure as roads, railroads, mills, waste dump sites, tailings ponds, warehouses, staging or storage areas and port facilities, tramways, runways, airports, electric transmission, telephone or telegraph lines, dams and their normal flood and catchment areas, sites for water wells, ditches, canals, new river beds, pipelines, flumes, cuts, shafts, tunnels, or mills, the contractor, upon payment of just compensation, shall be entitled to enter and occupy said mining areas or lands.

Section 76
Entry into Private Lands and Concession Areas

Subject to prior notification, holders of mining rights shall not be prevented from entry into private lands and concession areas by surface owners, occupants, or concessionaires when conducting mining operations therein: Provided, That any damage done to the property of the surface owner, occupant, or concessionaire as a consequence of such operations shall be properly compensated as may be provided for in the implementing rules and regulations: Provided, further, That to guarantee such compensation, the person authorized to conduct mining operation shall, prior thereto, post a bond with the regional director based on the type of properties, the prevailing prices in and around the area where the mining operations are to be conducted, with surety or sureties satisfactory to the regional director.

CHAPTER XIII
SETTLEMENT OF CONFLICTS
Section 77
Panel of Arbitrators

There shall be a panel of arbitrators in the regional office of the Department composed of three (3) members, two (2) of whom must be members of the Philippine Bar in good standing and one a licensed mining engineer or a professional in a related field, and duly designated by the Secretary as recommended by the Mines and Geosciences Bureau Director. Those designated as members of the panel shall serve as such in addition to their work in the Department without receiving any additional compensation As much as practicable, said members shall come from the different bureaus of the Department in the region. The presiding officer thereof shall be selected by the drawing of lots. His tenure as presiding officer shall be on a yearly basis. The members of the panel shall perform their duties and obligations in hearing and deciding cases until their designation is withdrawn or revoked by the Secretary. Within thirty (30) working days, after the submission of the case by the parties for decision, the panel shall have exclusive and original jurisdiction to hear and decide on the following:

- a. Disputes involving rights to mining areas;
- b. Disputes involving mineral agreements or permits;
- c. Disputes involving surface owners, occupants and claimholders/concessionaires; and
- d. Disputes pending before the Bureau and the Department at the date of the effectivity of this Act.

Section 78
Appellate Jurisdiction

The decision or order of the panel of arbitrators may be appealed by the party not satisfied thereto to the Mines Adjudication Board within fifteen (15) days from receipt thereof which must decide the case within thirty (30) days from submission thereof for decision.

Section 79
Mines Adjudication Board

The Mines Adjudication Board shall be composed of three (3) members. The Secretary shall be the chairman with the Director of the Mines and Geosciences Bureau and the Undersecretary for Operations of the Department as members thereof. The Board shall have the following powers and functions:

- a. To promulgate rules and regulations governing the hearing and disposition of cases before it, as well as those pertaining to its internal functions, and such rules and regulations as may be necessary to carry out its functions;
- b. To administer oaths, summon the parties to a controversy, issue subpoenas requiring the attendance and testimony of witnesses or the production of such books, papers, contracts, records, statement of accounts, agreements, and other documents as may be material to a just

determination of the matter under investigation, and to testify in any investigation or hearing conducted in pursuance of this Act;

c. To conduct hearings on all matters within its jurisdiction, proceed to hear and determine the disputes in the absence of any party thereto who has been summoned or served with notice to appear, conduct its proceedings or any part thereof in public or in private, adjourn its hearings at any time and place, refer technical matters or accounts to an expert and to accept his report as evidence after hearing of the parties upon due notice, direct parties to be joined in or excluded from the proceedings, correct, amend, or waive any error, defect or irregularity, whether in substance or in form, give all such directions as it may deem necessary or expedient in the determination of the dispute before it, and dismiss the mining dispute as part thereof, where it is trivial or where further proceedings by the Board are not necessary or desirable:

1. To hold any person in contempt, directly or indirectly, and impose appropriate penalties therefor; and
2. To enjoin any or all acts involving or arising from any case pending before it which, if not restrained forthwith, may cause grave or irreparable damage to any of the parties to the case or seriously affect social and economic stability.
In any proceeding before the Board, the rules of evidence prevailing in courts of law or equity shall not be controlling and it is the spirit and intention of this Act that shall govern. The Board shall use every and all reasonable means to ascertain the facts in each case speedily and objectively and without regard to technicalities of law or procedure, all in the interest of due process. In any proceeding before the Board, the parties may be represented by legal counsel. The findings of fact of the Board shall be conclusive and binding on the parties and its decision or order shall be final and executory.
A petition for review by certiorari and question of law may be filed by the aggrieved party with the Supreme Court within thirty (30) days from receipt of the order or decision of the Board.

CHAPTER XIV
GOVERNMENT SHARE
Section 80
Government Share
in Mineral Production Sharing Agreement

The total government share in a mineral production sharing agreement shall be the excise tax on mineral products as provided in Republic Act No. 7729, amending Section 151(a) of the National Internal Revenue Code, as amended.

Section 81
Government Share in Other Mineral Agreements

The share of the Government in co-production and joint-venture agreements shall be negotiated by the Government and the contractor taking into consideration the:

- a. capital investment of the project;
- b. risks involved;
- c. contribution of the project to the economy; and
- d. other factors that will provide for a fair and equitable sharing between the Government and the contractor.

The Government shall also be entitled to compensations for its other contributions which shall be agreed upon by the parties, and shall consist, among other things, the contractor's income tax, excise tax, special allowance, withholding tax due from the contractor's foreign stockholders arising from dividend or interest payments to the said foreign stockholders, in case of a foreign national, and all such other taxes, duties and fees as provided for under existing laws.

The Government share in financial or technical assistance agreement shall consist of, among other things, the contractor's corporate income tax, excise tax, special allowance, withholding tax due from the contractor's foreign stockholders arising from dividend or interest payments to the said foreign stockholder in case of a foreign national and all such other taxes, duties and fees as provided for under existing laws.

The collection of Government share in financial or technical assistance agreement shall commence after the financial or technical assistance agreement contractor has fully recovered its pre-operating expenses, exploration, and development expenditures, inclusive.

Section 82

Allocation of Government Share

The Government share as referred to in the preceding sections shall be shared and allocated in accordance with Sections 290 and 292 of Republic Act No. 7160 otherwise known as the Local Government Code of 1991. In case the development and utilization of mineral resources is undertaken by a government-owned or -controlled corporation, the sharing and allocation shall be in accordance with Sections 291 and 292 of the said Code.

CHAPTER XV TAXES AND FEES

Section 83

Income Taxes

After the lapse of the income tax holiday as provided for in the Omnibus Investments Code, the contractor shall be liable to pay income tax as provided in the National Internal Revenue Code, as amended.

Section 84

Excise Tax on Mineral Products

The contractor shall be liable to pay the excise tax on mineral products as provided for under Section 151 of the National Internal Revenue Code: Provided, however, That with respect to a mineral production sharing agreement, the excise tax on mineral products shall be the government share under said agreement.

Section 85

Mine Wastes and Tailings Fees

A semi-annual fee to be known as mine wastes and tailings fee is hereby imposed on all operating mining companies in accordance with the implementing rules and regulations. The mine wastes and tailings fee shall accrue to a reserve fund to be used exclusively for payment for damages to:

- a. Lives and personal safety;**
- b. Lands, agricultural crops and forest products, marine life and aquatic resources, cultural resources; and**
- c. Infrastructure and the revegetation and rehabilitation of silted farm lands and other areas devoted to agriculture and fishing caused by mining pollution.**

This is in addition to the suspension or closure of the activities of the contractor at any time and the penal sanctions imposed upon the same.

The Secretary is authorized to increase mine wastes and tailings fees, when public interest so requires, upon the recommendation of the Director.

Section 86 **Occupation Fees**

There shall be collected from any holder of a mineral agreement, financial or technical assistance agreement or exploration permit on public or private lands, an annual occupation fee in accordance with the following schedule:

- a. For exploration permit — Five pesos (P5.00) per hectare or fraction thereof per annum;
- b. For mineral agreements and financial or technical assistance agreements — Fifty pesos (P50.00) per hectare or fraction thereof per annum; and
- c. For mineral reservation — One hundred pesos (P100.00) per hectare or fraction thereof per annum.

The Secretary is authorized to increase the occupation fees provided herein when the public interest so requires, upon recommendation of the Bureau Director.

Section 87 **Manner of Payment of Fees**

The fees shall be paid on the date the mining agreement is registered with the appropriate office and on the same date every year thereafter. It shall be paid to the treasurer of the municipality or city where the onshore mining areas are located, or to the Director in case of offshore mining areas. For this purpose, the appropriate officer shall submit to the treasurer of the municipality or city where the onshore mining area is located, a complete list of all onshore mining rights registered with his office, indicating therein the names of the holders, area in hectares, location, and date registered. If the fee is not paid on the date specified, it shall be increased by twenty-five per centum (25%).

Section 88 **Allocation of Occupation Fees**

Thirty per centum (30%) of all occupational fees collected from holders of mining rights in onshore mining areas shall accrue to the province and seventy per centum (70%) to the municipality in which the onshore mining areas are located. In a chartered city, the full amount shall accrue to the city concerned.

Section 89 **Filing Fees and Other Charges**

The Secretary is authorized to charge reasonable filing fees and other charges as he may prescribe in accordance with the implementing rules and regulations.

CHAPTER XVI **INCENTIVES** **Section 90** **Incentives**

The contractors in mineral agreements, and financial or technical assistance agreements shall be entitled to the applicable fiscal and non-fiscal incentives as provided for under Executive Order No. 226, otherwise known as the Omnibus Investments Code of 1987. Provided, That holders of exploration permits may register with the Board of Investments and be entitled to the fiscal incentives granted under the said Code for the duration of the permits or extensions thereof: Provided, further, That mining

activities shall always be included in the investment priorities plan.

Section 91 **Incentives for Pollution Control Devices**

Pollution control devices acquired, constructed or installed by contractors shall not be considered as improvements on the land or building where they are placed, and shall not be subject to real property and other taxes or assessments: Provided, however, That payment of mine wastes and tailings fees is not exempted.

Section 92 **Income Tax-Carry Forward of Losses**

A net operating loss without the benefit of incentives incurred in any of the first ten (10) years of operations may be carried over as a deduction from taxable income for the next five (5) years immediately following the year of such loss. The entire amount of the loss shall be carried over to the first of the five (5) taxable years following the loss, and any portion of such loss which exceeds the taxable income of such first year shall be deducted in like manner from the taxable income of the next remaining four (4) years.

Section 93 **Income Tax-Accelerated Depreciation**

Fixed assets may be depreciated as follows:

- a. To the extent of not more than twice as fast as the normal rate of depreciation or depreciated at normal rate of depreciation if the expected life is ten (10) years or less; or
- b. Depreciated over any number of years between five (5) years and the expected life if the latter is more than ten (10) years, and the depreciation thereon allowed as deduction from taxable income: Provided, That the contractor notifies the Bureau of Internal Revenue at the beginning of the depreciation period which depreciation rate allowed by this section will be used.

In computing for taxable income, unless otherwise provided in this Act, the contractor may, at his option, deduct exploration and development expenditures accumulated at cost as of the date of the prospecting or exploration and development expenditures paid or incurred during the taxable year: Provided, That the total amount deductible for exploration and development expenditures shall not exceed twenty-five per centum (25%) of the net income from mining operations. The actual exploration and development expenditures minus the twenty-five per centum (25%) net income from mining shall be carried forward to the succeeding years until fully deducted.

Net income from mining operation is defined as gross income from operations less allowable deductions which are necessary or related to mining operations. Allowable deductions shall include mining, milling and marketing expenses, depreciation of properties directly used in the mining operations. This paragraph shall not apply to expenditures for the acquisition or improvement of property of a character which is subject to the allowances for depreciation.

Section 94 **Investment Guarantees**

The contractor shall be entitled to the basic rights and guarantees provided in the Constitution and such other rights recognized by the government as enumerated hereunder:

- a. Repatriation of investments. The right to repatriate the entire proceeds of the liquidation of the foreign investment in the currency in which the investment was originally made and at the exchange rate prevailing at the time of repatriation.
- b. Remittance of earnings. The right to remit earnings from the investment in the

currency in which the foreign investment was originally made and at the exchange rate prevailing at the time of remittance.

c. Foreign loans and contracts. The right to remit at the exchange rate prevailing at the time of remittance such sums as may be necessary to meet the payments of interest and principal on foreign loans and foreign obligations arising from financial or technical assistance contracts.

d. Freedom from expropriation. The right to be free from expropriation by the Government of the property represented by investments or loans, or of the property of the enterprise except for public use or in the interest of national welfare or defense and upon payment of just compensation. In such cases, foreign investors or enterprises shall have the right to remit sums received as compensation for the expropriated property in the currency in which the investment was originally made and at the exchange rate prevailing at the time of remittance.

e. Requisition of investment. The right to be free from requisition of the property represented by the investment or of the property of the enterprises except in case of war or national emergency and only for the duration thereof. Just compensation shall be determined and paid either at the time or immediately after cessation of the state of war or national emergency. Payments received as compensation for the requisitioned property may be remitted in the currency in which the investments were originally made and at the exchange rate prevailing at the time of remittance.

f. Confidentiality. Any confidential information supplied by the contractor pursuant to this Act and its implementing rules and regulations shall be treated as such by the Department and the Government, and during the term of the project to which it relates.

CHAPTER XVII GROUND FOR CANCELLATION, REVOCATION, AND TERMINATION

Section 95 Late or Non-filing of Requirements

Failure of the permittee or contractor to comply with any of the requirements provided in this Act or in its implementing rules and regulations, without a valid reason, shall be sufficient ground for the suspension of any permit or agreement provided under this Act.

Section 96 Violation of the Terms and Conditions of Permits or Agreements

Violation of the terms and conditions of the permits or agreements shall be a sufficient ground for cancellation of the same.

Section 97 Non-Payment of Taxes and Fees

Failure to pay the taxes and fees due the Government for two (2) consecutive years shall cause the cancellation of the exploration permit, mineral agreement, financial or technical assistance agreement and other agreements and the re-opening of the area subject thereof to new applicants.

Section 98 Suspension or Cancellation of Tax Incentives and Credits

Failure to abide by the terms and conditions of tax incentive and credits shall cause the suspension or cancellation of said incentives and credits.

Section 99

Falsehood or Omission of Facts in the Statement

All statements made in the exploration permit, mining agreement and financial or technical assistance agreement shall be considered as conditions and essential parts thereof and any falsehood in said statements or omission of facts therein which may alter, change or affect substantially the facts set forth in said statements may cause the revocation and termination of the exploration permit, mining agreement and financial or technical assistance agreement.

CHAPTER XVIII

ORGANIZATIONAL AND INSTITUTIONAL ARRANGEMENTS

Section 100

From Staff Bureau to Line Bureau

The Mines and Geosciences Bureau is hereby transformed into a line bureau consistent with Section 9 of this Act: Provided, That under the Mines and Geosciences Bureau shall be the necessary mines regional, district and other pertinent offices — the number and specific functions of which shall be provided in the implementing rules and regulations of this Act.

CHAPTER XIX

PENAL PROVISIONS

Section 101

False Statements

Any person who knowingly presents any false application, declaration, or evidence to the Government or publishes or causes to be published any prospectus or other information containing any false statement relating to mines, mining operations or mineral agreements, financial or technical assistance agreements and permits shall, upon conviction, be penalized by a fine of not exceeding Ten thousand pesos (P10,000.00).

Section 102

Illegal Exploration

Any person undertaking exploration work without the necessary exploration permit shall, upon conviction, be penalized by a fine of not exceeding Fifty thousand pesos (P50,000.00).

Section 103

Theft of Minerals

Any person extracting minerals and disposing the same without a mining agreement, lease, permit, license, or steals minerals or ores or the products thereof from mines or mills or processing plants shall, upon conviction, be imprisoned from six (6) months to six (6) years or pay a fine from Ten thousand pesos (P10,000.00) to Twenty thousand pesos (P20,000.00) or both, at the discretion of the appropriate court. In addition, he shall be liable to pay damages and compensation for the minerals removed, extracted, and disposed of. In the case of associations, partnerships, or corporations, the president and each of the directors thereof shall be responsible for the acts committed by such association, corporation, or partnership.

Section 104

Destruction of Mining Structures

Any person who willfully destroys or damages structures in or on the mining area or on the mill sites shall, upon conviction, be imprisoned for a period not to exceed five (5) years and shall, in addition, pay compensation for the damages which may have been caused thereby.

Section 105
Mines Arson

Any person who willfully sets fire to any mineral stockpile, mine or workings, fittings or a mine, shall be guilty of arson and shall be punished, upon conviction, by the appropriate court in accordance with the provisions of the Revised Penal Code and shall, in addition, pay compensation for the damages caused hereby.

Section 106
Willful Damage to a Mine

Any person who willfully damages a mine, unlawfully causes water to run into a mine, or obstructs any shaft or passage to a mine, or renders useless, damages or destroys any machine, appliance, apparatus, rope, chain, tackle, or any other things used in a mine, shall be punished, upon conviction, by the appropriate court, by imprisonment not exceeding a period of five (5) years and shall, in addition, pay compensation for the damages caused thereby.

Section 107
Illegal Obstruction to Permittees or Contractors

Any person who, without justifiable cause, prevents or obstructs the holder of any permit, agreement or lease from undertaking his mining operations shall be punished, upon conviction by the appropriate court, by a fine not exceeding Five thousand pesos (P5,000.00) or imprisonment not exceeding one (1) year, or both, at the discretion of the court.

Section 108
Violation of the Terms and Conditions of the Environmental Compliance Certificate

Any person who willfully violates or grossly neglects to abide by the terms and conditions of the environmental compliance certificate issued to said person and which causes environmental damage through pollution shall suffer the penalty of imprisonment of six (6) months to six (6) years or a fine of Fifty thousand pesos (P50,000.00) to Two hundred thousand pesos (P200,000.00), or both, at the discretion of the court.

Section 109
Illegal Obstruction to Government Officials

Any person who illegally prevents or obstructs the Secretary, the Director or any of their representatives in the performance of their duties under the provisions of this Act and of the regulations promulgated hereunder shall be punished upon conviction, by the appropriate court, by a fine not exceeding Five thousand pesos (P5,000.00) or by imprisonment not exceeding one (1) year, or both, at the discretion of the court.

Section 110
Other Violations

Any other violation of this Act and its implementing rules and regulations shall constitute an offense punishable with a fine not exceeding Five thousand pesos (P5,000.00).

Section 111
Fines

The Secretary is authorized to charge fines for late or non-submission of reports in accordance with the implementing rules and regulations of this Act.

**CHAPTER XX
TRANSITORY AND MISCELLANEOUS PROVISIONS**

Section 112

**Non-Impairment
of Existing Mining/Quarrying Rights**

All valid and existing mining lease contracts, permits/licenses, leases pending renewal, mineral production-sharing agreements granted under Executive Order No. 279, at the date of effectivity of this Act, shall remain valid, shall not be impaired, and shall be recognized by the Government: Provided, That the provisions of Chapter XIV on government share in mineral production-sharing agreement and of Chapter XVI on incentives of this Act shall immediately govern and apply to a mining lessee or contractor unless the mining lessee or contractor indicates his intention to the secretary, in writing, not to avail of said provisions: Provided, further, That no renewal of mining lease contracts shall be made after the expiration of its term: Provided, finally, That such leases, production-sharing agreements, financial or technical assistance agreements shall comply with the applicable provisions of this Act and its implementing rules and regulations.

Section 113

Recognition of Valid and Existing Mining Claims and Lease/Quarry Applications

Holders of valid and existing mining claims, lease/quarry applications shall be given preferential rights to enter into any mode of mineral agreement with the government within two (2) years from the promulgation of the rules and regulations implementing this Act.

Section 114

Separability Clause

If any of the provision of this Act is held or declared to be unconstitutional or invalid by a competent court, the other provisions hereof shall continue to be in force as if the provision so annulled or voided had never been incorporated in this Act.

Section 115

Repealing and Amending Clause

All laws, executive orders, presidential decrees, rules and regulations or parts thereof which are inconsistent with any of the provisions of this Act are hereby repealed or amended accordingly.

Section 116

Effectivity Clause

This Act shall take effect thirty (30) days following its complete publication in two (2) newspapers of general circulation in the Philippines.

Approved: March 3, 1995

DENR Administrative Order No. 99-34
SUBJECT : CLARIFICATORY GUIDELINES IN THE IMPLEMENTATION OF DENR
ADMINISTRATIVE ORDER NO. 96-40 OR "REVISED IMPLEMENTING RULES AND
REGULATIONS OF REPUBLIC ACT NO. 7942 OTHERWISE KNOWN AS THE
'PHILIPPINE MINING ACT OF 1995' "

In order to achieve a consistent implementation of DENR Administrative Order No. 96-40 or the Revised Implementing Rules and Regulations of Republic Act No. 7942, the following clarificatory guidelines are hereby promulgated:

Section 1. Area Status and Clearance of Applications for Exploration Permit, Mineral Agreement and Financial or Technical Assistance Agreement

Before securing the Area Status and Clearance from the pertinent DENR Sectors, the Bureau/concerned Regional Office(s) shall first check in its control maps if the area is free/open for mining applications. Only cleared mining applications shall be forwarded to the pertinent DENR Sectors for Area Status and Clearance in accordance with DENR Memorandum Order No. 98 - 03.

Section 2. "Duly Authorized Representative" of Permittee

Under the terms and conditions of an Exploration Permit, the duly authorized representative of a Permittee refers to entities/service contractors to whom the Permittee has entered into an operating agreement or other similar forms of agreement duly approved by the Secretary.

Section 3. Renewal of Exploration Permit

The failure of a Permittee to apply for a renewal of the Exploration Permit within the prescribed period shall automatically open the area to mining applications upon the expiration of the said Permit.

Section 4. Mandatory Requirements by a Permittee for an Application for MA/FTAA (Section 30)

The Exploration and Environmental Work Programs are not applicable as mandatory requirements for an application for a Mineral Agreement or Financial or Technical Assistance Agreement by a Permittee, hence, these documents shall not be required in the filing of said application.

Section 5. Mandatory Requirements for Mineral Agreement Application

Mineral Agreement applications going directly into the development/operating phase shall be required to submit a Three (3)-Year Development/Utilization Work Program, instead of a Two (2)-Year Exploration Work Program. The Development/Utilization Work Program shall be accompanied by an appropriate Mining Project Feasibility Study (MGB Form No. 5-3) duly prepared, signed and sealed by a licensed Mining Engineer, Geologist or Metallurgical Engineer and the pertinent Declaration of Mining Project Feasibility duly signed by the applicant.

Section 6. Registration of Mineral Agreement

In the registration of the Mineral Agreement, it shall be first forwarded to the Bureau for numbering upon approval of the Secretary, thence, to the concerned Regional Office for registration, for areas outside Mineral Reservations. The Director/concerned Regional Director shall notify the Contractor to cause the

registration of its Mineral Agreement with the Bureau for areas inside Mineral Reservations or with the concerned Regional Office for areas outside Mineral Reservations within fifteen (15) working days from receipt of the written notice.

Section 7. Availment of Multiphase Activities under the FTAA

Any two (2) or more of the periods (Exploration, Pre-Feasibility Study, Feasibility Study) provided in Section 52 of the DENR Administrative Order No. 96-40 may be simultaneously undertaken in one approved contract area, as the need of the Contractor may arise, subject to the pertinent provisions of Section 60 of the same Administrative Order: Provided, That the Contractor shall file a Notice to the concerned Regional Office, copy furnished the Bureau, of its intention to avail of the renewal of the Exploration Period or to advance to/avail of the Pre-Feasibility Study/Feasibility Study/Development and Construction/ Operating Period, as deemed applicable, either in the whole or a portion of the Contract Area, subject to the approval of the Director.

Failure of the Contractor to file the Notice to avail of the renewal of the Exploration Period or to advance to/avail of the Pre-Feasibility Study/ Feasibility Study Period shall mean that the said periods shall not be availed of by the Contractor.

Section 8. Three (3) Letters-Notice Policy

The Mines and Geosciences Bureau shall adopt the Three (3) Letters-Notice policy in exacting compliance of mining applicants with all requirements to support mining applications. Thus, each Letter-Notice shall give the mining applicant fifteen (15) to thirty (30) days upon receipt of the Letter-Notice to comply with the pertinent requirements: Provided, That an interval of no more than thirty (30) days between deadlines shall be observed in sending the Letters-Notice.

The failure of the mining applicant to fully comply with the requirement as embodied in the Letters-Notice shall be a ground for denial of the mining application.

Section 9. Authorized Capitalization

The minimum authorized capital of Ten Million Pesos (P 10,000,000.00) and paid-up capital of Two Million Five Hundred Thousand Pesos (P 2,500,000.00) required for a corporation/association/cooperative/ partnership under DENR Memorandum Order No. 99-10 shall apply to the principal applicant whether or not this applicant is supported by an operator or service contractor thru an operating agreement or other similar forms of agreement: Provided, That in the case of a mining application with two (2) or more applicants as co-applicants, the minimum authorized capital of P 10 Million and paid-up capital of P 2.5 Million may be required from just one (1) of the co-applicants.

In the case of a mining application by an individual, the minimum amount of Two Million Five Hundred Thousand Pesos (P 2,500,000.00) shall be required as proof of financial capability, which shall be in the form of a bank deposit or credit line.

Consistent with the provisions of DENR Memorandum Order No. 99-10, the foregoing requirements shall be mandatory in the acceptance of a mining application.

Section 10. Prior Approval by the Sanggunian

Prior approval or indorsement by any two (2) of the concerned Sanggunian (Panlalawigan, Bayan and Barangay) shall be required in support of mining applications intended for development and/or utilization purposes. In the case of mining applications intended for exploration, a proof of consultation with/project presentation to any two (2) of the concerned Sanggunian shall be required.

In either case, the proof of prior approval, indorsement, consultation and/or project presentation shall be in the form of a formal Resolution or Certification by the concerned Sanggunian.

Section 11. Approval of Memorandum of Agreement/Option Agreement/ Operating Agreement and other similar forms of Agreement under Mining Rights/Applications

Memorandum of Agreement(s)/Option Agreement(s)/Operating Agreement(s) and other similar forms of Agreements under a mining application shall be registered with the Bureau/concerned Regional Office and shall form part of the supporting document of a mining application, subject to the evaluation of the Bureau/Regional Office. Such agreement shall be deemed approved upon approval of the mining application.

Memorandum of Agreement(s)/Option Agreement(s)/Operation Agreement or other similar forms of Agreement entered into under a mining permit/contract shall be registered with the Bureau/concerned Regional Office and shall be subject to the approval of the Secretary upon evaluation and recommendation by the Director. Any of such Agreement that is not duly registered and/or approved by the DENR Secretary shall be deemed void in so far as the Department is concerned.

Section 12. Effectivity

This Order shall take effect fifteen (15) days after its complete publication in a newspaper of general circulation and fifteen (15) days after registration with the Office of the National Administrative Register.

ANTONIO H. CERILLES
Secretary

REPUBLIC ACT NO. 7076
AN ACT CREATING A PEOPLE'S SMALL-SCALE MINING PROGRAM
AND FOR OTHER PURPOSES.

Section 1. Title. — This Act shall be known as the "People's Small-scale Mining Act of 1991."

Sec. 2. Declaration of Policy. — It is hereby declared of the State to promote, develop, protect and rationalize viable small-scale mining activities in order to generate more employment opportunities and provide an equitable sharing of the nation's wealth and natural resources, giving due regard to existing rights as herein provided.

Sec. 3. Definitions. — For purposes of this Act, the following terms shall be defined as follows:

- (a) "Mineralized areas" refer to areas with naturally occurring mineral deposits of gold, silver, chromite, kaolin, silica, marble, gravel, clay and like mineral resources;
- (b) "Small-scale mining" refers to mining activities which rely heavily on manual labor using simple implement and methods and do not use explosives or heavy mining equipment;
- (c) "Small-scale miners" refer to Filipino citizens who, individually or in the company of other Filipino citizens, voluntarily form a cooperative duly licensed by the Department of Environment and Natural Resources to engage, under the terms and conditions of a contract, in the extraction or removal of minerals or ore-bearing materials from the ground;
- (d) "Small-scale mining contract" refers to co-production, joint venture or mineral production sharing agreement between the State and a small-scale mining contractor for the small-scale utilization of a plot of mineral land;
- (e) "Small-scale mining contractor" refers to an individual or a cooperative of small-scale miners, registered with the Securities and Exchange Commission or other appropriate government agency, which has entered into an agreement with the State for the small-scale utilization of a plot of mineral land within a people's small-scale mining area;
- (f) "Active mining area" refers to areas under actual exploration, development, exploitation or commercial production as determined by the Secretary after the necessary field investigation or verification including contiguous and geologically related areas belonging to the same claimowner and/or under contract with an operator, but in no case to exceed the maximum area allowed by law;
- (g) "Existing mining right" refers to perfected and subsisting claim, lease, license or permit covering a mineralized area prior to its declaration as a people's small-scale mining area;
- (h) "Claimowner" refers to a holder of an existing mining right;
- (i) "Processor" refers to a person issued a license to engage in the treatment of minerals or ore-bearing materials such as by gravity concentration, leaching beneficiation, cyanidation, cutting, sizing, polishing and other similar activities;

(j) "License" refers to the privilege granted to a person to legitimately pursue his occupation as a small-scale miner or processor under this Act;

(k) "Mining plan" refers to a two-year program of activities and methodologies employed in the extraction and production of minerals or ore-bearing materials, including the financial plan and other resources in support thereof;

(l) "Director" refers to the regional executive director of the Department of Environment and Natural Resources; and

(m) "Secretary" refers to the Secretary of the Department of Environment and Natural Resources.

Sec. 4. People's Small-scale Mining Program. — For the purpose of carrying out the declared policy provided in Section 2 hereof, there is hereby established a People's Small-scale Mining Program to be implemented by the Secretary of the Department of Environment and Natural Resources, hereinafter called the Department, in coordination with other concerned government agencies, designed to achieve an orderly, systematic and rational scheme for the small-scale development and utilization of mineral resources in certain mineral areas in order to address the social, economic, technical, and environmental connected with small-scale mining activities.

The People's Small-scale Mining Program shall include the following features:

- (a) The identification, segregation and reservation of certain mineral lands as people's small-scale mining areas;
- (b) The recognition of prior existing rights and productivity;
- (c) The encouragement of the formation of cooperatives;
- (d) The extension of technical and financial assistance, and other social services;
- (e) The extension of assistance in processing and marketing;
- (f) The generation of ancillary livelihood activities;
- (g) The regulation of the small-scale mining industry with the view to encourage growth and productivity; and
- (h) The efficient collection of government revenue.

Sec. 5. Declaration of People's Small-scale Mining Areas. — The Board is hereby authorized to declare and set aside people's small-scale mining areas in sites onshore suitable for small-scale mining, subject to review by the Secretary, immediately giving priority to areas already occupied and actively mined by small-scale miners before August 1, 1987: Provided, That such areas are not considered as active mining areas: Provided, further, That the minerals found therein are technically and commercially suitable for small-scale mining activities: Provided, finally, That the areas are not covered by existing forest rights or reservations and have not been declared as tourist or marine reserved, parks and wildlife reservations, unless their status as such is withdrawn by competent authority.

Sec. 6. Future People's Small-scale Mining Areas. — The following lands, when suitable for small-scale mining, may be declared by the Board as people's small scale mining areas:

- (a) Public lands not subject to any existing right;
- (b) Public lands covered by existing mining rights which are not active mining areas; and
- (c) Private lands, subject to certain rights and conditions, except those with substantial improvements or in bona fide and regular use as a yard, stockyard, garden, plant nursery, plantation, cemetery or burial site, or land situated within one hundred meters (100 m.) from such cemetery or burial site, water reservoir or a separate parcel of land with an area of ten thousand square meters (10,000 sq. m.) or less.

Sec. 7. Ancestral Lands. — No ancestral land may be declared as a people's small-scale mining area without the prior consent of the cultural communities concerned: Provided, That, if ancestral lands are declared as people's small-scale mining areas, the members of the cultural communities therein shall be given priority in the awarding of small-scale mining contracts.

Sec. 8. Registration of Small-scale Miners. — All persons undertaking small-scale mining activities shall register as miners with the Board and may organize themselves into cooperatives in order to qualify for the awarding of a people's small-scale mining contract.

Sec. 9. Award of People's Small-scale Mining Contracts. — A people's small-scale mining contract may be awarded by the Board to small-scale miners who have voluntarily organized and have duly registered with the appropriate government agency as an individual miner or cooperative;

Provided, That only one (1) people's small-scale mining contract may be awarded at any one time to a small-scale mining operations within one (1) year from the date of award: Provided, further, That priority shall be given or city where the small-scale mining area is located.

Applications for a contract shall be subject to a reasonable fee to be paid to the Department of Environment and Natural Resources regional office having jurisdiction over the area.

Sec. 10. Extent of Contract Area. — The Board shall determine the reasonable size and shape of the contract area following the meridional block system established under Presidential Decree No. 463, as amended, otherwise known as the Mineral Resources Development Decree of 1974, but in no case shall the area exceed twenty hectares (20 has.) per contractor and the depth or length of the tunnel or adit not exceeding that recommended by the director taking into account the following circumstances:

- (a) Size of membership and capitalization of the cooperative;
- (b) Size of mineralized area;
- (c) Quantity of mineral deposits;
- (d) Safety of miners;chan robes virtual law library
- (e) Environmental impact and other considerations; and
- (f) Other related circumstances.

Sec. 11. Easement Rights. — Upon the declaration of a people's small-scale mining area, the director, in consultation with the operator, claimowner, landowner or lessor of an affected area, shall determine the right of the small scale miners to existing facilities such as mining and logging roads, private roads, port and communication facilities, processing plants which are necessary for the effective implementation of the People's Small-scale Mining Program, subject to payment of reasonable fees to the operator, claimowner, landowner or lessor.

Sec. 12. Rights Under a People's Small-scale Mining Contract. — A people's small-scale mining contract entitles the small-scale mining contractor to the right to mine, extract and dispose of mineral ores for commercial purposes. In no case shall a small-scale mining contract be subcontracted, assigned or otherwise transferred.

Sec. 13. Terms and Conditions of the Contract. — A contract shall have a term of two (2) years, renewable subject to verification by the Board for like periods as long as the contractor complies with the provisions set forth in this Act, and confers upon the contractor the right to mine within the contract area: Provided, That the holder of a small-scale mining contract shall have the following duties and obligations:

- (a) Undertake mining activities only in accordance with a mining plan duly approved by the Board;
- (b) Abide by the Mines and Geosciences Bureau and the small-scale Mining Safety Rules and Regulations;
- (c) Comply with his obligations to the holder of an existing mining right;
- (d) Pay all taxes, royalties or government production share as are now or may hereafter be provided by law;
- (e) Comply with pertinent rules and regulations on environmental protection and conservation, particularly those on tree-cutting mineral-processing and pollution control;
- (f) File under oath at the end of each month a detailed production and financial report to the Board; and
- (g) Assume responsibility for the safety of persons working in the mines.

Sec. 14. Rights of Claimowners. — In case a site declared and set aside as a people's-scale mining area is covered by an existing mining right, the claimowner and the small-scale miners therein are encouraged to enter into a voluntary and acceptable contractual agreement with respect to the small-scale utilization of the mineral values from the area under claim. In case of disagreement, the claimowner shall be entitled to the following rights and privileges:

- (a) Exemption from the performance of annual work obligations and payment of occupation fees, rental, and real property taxes;
- (b) Subject to the approval of the Board, free access to the contract area to conduct metallurgical tests, explorations and other activities, provided such activities do not unduly interfere with the operations of the small-scale miners; and
- (c) **Royalty equivalent to one and one half percent (1 1/2%) of the gross value of the metallic mineral output or one percent (1%) of the gross value of the nonmetallic mineral output to be paid to the claimowner:** Provided, That such rights and privileges shall be available only if he is not delinquent and other performance of his annual work obligations and other requirements for the last two (2) years prior to the effectivity of this Act.

Sec. 15. Rights of Private Landowners. — The private landowner or lawful possessor shall be notified of any plan or petition to declare his land as a people's small-scale mining area. Said landowner may oppose such plan or petition in an appropriate proceeding and hearing conducted before the Board.

If a private land is declared as a people's small-scale mining area, the owner and the small-scale mining contractors are encouraged to enter into a voluntary and acceptable contractual agreement for the small-scale utilization of the mineral values from the private land: Provided, That the owner shall in all cases be entitled to the payment of actual damages which he may suffer as a result of such declaration: Provided, further, **That royalties paid to the owner shall in no case exceed one percent (1%) of the gross value of the minerals recovered as royalty.**

Sec. 16. Ownership of Mill Tailings. — The small-scale mining contractor shall be the owner of all mill tailings produced from the contract area. He may sell the tailings or have them processed in any custom mill in the area: Provided, That, if the small-scale mining contractor decide to sell its mill tailings, the claimowner shall have a preemptive right to purchase said mill tailings at the prevailing market price.

Sec. 17. Sale of Gold. — **All gold produced by small-scale miners in any mineral area shall be sold to the Central Bank,** or its duly authorized representatives, which shall buy it at prices competitive with those prevailing in the world market regardless of volume or weight. The Central Bank shall establish as many buying stations in gold-rush areas to fully service the requirements of the small-scale minerals thereat.

Sec. 18. Custom Mills. — The establishment and operation of safe and efficient custom mills to process minerals or ore-bearing materials shall be limited to mineral processing zones duly designated by the local government unit concerned upon recommendation of the Board. In mining areas where the private sector is unable to establish custom mills, the Government shall construct such custom mills upon the recommendation of the Board based on the viability of the project.

The Board shall issue licenses for the operation of custom mills and other processing plants subject to pollution control and safety standards. The Department shall establish assay laboratories to cross-check the integrity of custom mills and to render metallurgical and laboratory services to mines. Custom mills shall be constituted as withholding agents for the royalties, production share or other taxes due the Government.

Sec. 19. Government Share and Allotment. — The revenue to be derived by the Government from the operation of the mining program herein established shall be subject to the sharing provided in the Local Government Code.

Sec. 20. People's Small-scale Mining Protection Fund. — There is hereby created a People's Small-scale Mining Protection Fund which shall be fifteen percent (15%) of the national government's share due the Government which shall be used primarily for information dissemination and training of small-scale miners on safety, health and environmental protection, and the establishment of mine rescue and recovery teams including the procurement of rescue equipment necessary in cases of emergencies such as landslides, tunnel collapse, or the like.

The fund shall also be made available to address the needs of the small-scale miners brought about by accidents and/or fortuitous events.

Sec. 21. Rescission of Contracts and Administrative Fines. — The noncompliance with the terms and conditions of the contract or violation of the rules and regulations issued by the Secretary pursuant to this Act, as well as the abandonment of the mining site by the contractor, shall constitute a ground for the cancellation of the contracts and the ejection from the people's small-scale mining area of the contractor. In addition, the Secretary may impose fines against the violator in an amount of not less than Twenty thousand pesos (P20,000.00) and not more than One hundred thousand pesos (P100,000.00). Nonpayment of the fine imposed shall render the small-scale mining contractor ineligible for other small-scale mining contracts.

Sec. 22. Reversion of People's Small-scale Mining Areas. — The Secretary, upon recommendation of the director, shall withdraw the status of the people's small-scale mining area when it can no longer feasibly operated on a small-scale mining basis or when the safety, health and environmental conditions warrant that the same shall revert to the State for proper disposition.

Sec. 23. Actual Occupation by Small-scale Miners. — Small-scale miners who have been in actual operation of mineral lands on or before August 1, 1987 as determined by the Board shall not be dispossessed, ejected or removed from said areas: Provided, That they comply with the provisions of this Act.

Sec. 24. Provincial/City Mining Regulatory Board. — There is hereby created under the direct supervision and control of the Secretary a provincial/city mining regulatory board, herein called the Board, which shall be the implementing agency of the Department, and shall exercise the following powers and functions, subject to review by the Secretary:

- (a) Declare and segregate existing gold-rush areas for small-scale mining;
- (b) Reserve future gold and other mining areas for small-scale mining;
- (c) Award contracts to small-scale miners;
- (d) Formulate and implement rules and regulations related to small-scale mining;

- (e) Settle disputes, conflicts or litigations over conflicting claims within a people's small-scale mining area, an area that is declared a small-mining; and
- (f) Perform such other functions as may be necessary to achieve the goals and objectives of this Act.

Sec. 25. Composition of the Provincial/City Mining Regulatory Board. — The Board shall be composed of the Department of Environment and Natural Resources representative as Chairman; and the representative of the governor or city mayor, as the representative of the governor or city mayor, as the case may be, one (1) small scale mining representative, one (1) big-scale mining representative, and the representative from a nongovernment organization who shall come from an environmental group, as members.

The representatives from the private sector shall be nominated by their respective organizations and appointed by the Department regional director. The Department shall provide the staff support to the

Sec. 26. Administrative Supervision over the People's Small-scale Mining Program. — The Secretary through his representative shall exercise direct supervision and control over the program and activities of the small-scale miners within the people's small-scale mining area. The Secretary shall within ninety (90) days from the effectivity of this Act promulgate rules and regulations to effectively implement the provisions of the same. Priority shall be given to such rules and regulations that will ensure the least disruption in the operations of the small-scale miners.

Sec. 27. Penal Sanctions. — Violations of the provisions of this Act or of the rules and regulations issued pursuant hereto shall be penalized with imprisonment of not less than six (6) months nor more than six (6) years and shall include the confiscation and seizure of equipment, tools and instruments.

Sec. 28. Repealing Clause. — All laws, decrees, letters of instruction, executive orders, rules and regulations, and other issuances, or parts thereof, in conflict or inconsistent with this Act are hereby repealed or modified accordingly.

Sec. 29. Separability Clause. — Any section or provision of this Act which may be declared unconstitutional shall not affect the other sections or provisions hereof.

Sec. 30. Effectivity. — This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a national newspaper of general circulation. chan robes virtual law library

Approved: June 27, 1991

PRESIDENTIAL DECREE NO. 1899
January 23, 1984
ESTABLISHING SMALL-SCALE MINING
AS A NEW DIMENSION IN MINERAL DEVELOPMENT

WHEREAS, the Philippine mining industry has always been dominated by large-scale mining operations; prevailing statutes, policies, incentives and financing are generally addressed to the large-scale sector of the industry; and capital intensity with high debt-equity ratio, mechanization and heavy energy requirements characterize such type of operations, whose main attraction is the attainment of economies of scale through low cost but large tonnage operations;

WHEREAS, the advent of inflation, volatile commodity prices, multiple increases of oil and fuel prices, stringent environmental control measures and high cost of capital proved to be most disastrous for Philippine large-scale mines.

WHEREAS, abundance of cheap labor in the Philippines, relative flexibility and simplicity of operations, minimum capital requirements, less fuel dependent operations and minimal effects on the environment are among the arguments that lend support to the development of small-scale mining;

WHEREAS, there exist small mineral deposits that are being or could be worked profitably at small tonnages requiring minimal capital investments utilizing manual labor; and

WHEREAS, the development of these small mineral deposits will generate more employment opportunities, thereby alleviating the living conditions the rural areas and will contribute additional foreign exchange earnings;

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Republic of the Philippines, by virtue of the powers vested in me by the Constitution, do hereby decree and order as follows:

SECTION 1. Small-scale mining refers to any single unit mining operation having an annual production of not more than 50,000 metric tons of ore and satisfying the following requisites:

1. The working is artisanal, either open cast or shallow underground mining, without the use of sophisticated mining equipment;
2. Minimal investment on infrastructures and processing plant;
3. Heavy reliance on manual labor; and
4. Owned, managed or controlled by an individual or entity qualified under existing mining laws, rules and regulations.

SECTION 2. The holders of mining rights meeting the conditions of the preceding section may apply at any time as small-scale mining permittee/licensee, provided they are holders of valid and existing mining rights, who have subsequently complied with existing mining laws, rules and regulations before the promulgation of this Decree. A permit or license issued for this purpose shall be valid for two (2) years renewable for another like period.

SECTION 3. The permittee or licensee shall produce within twelve (12) months from the date of the issuance of the permit or license and shall submit verified periodic reports.
Non-compliance with these requirements shall result in the forfeiture of the rights granted under this Decree.

SECTION 4. The small scale mining permittee/ licensee shall, during the term of the permit or license, be exempt from payment of all taxes, except income tax.

SECTION 5. The Bureau of Mines and Geo-Sciences shall provide technical assistance, whenever feasible, as determined by the Director of Mines and Geo-Sciences.

SECTION 6. The Director of Mines and Geo-Sciences may waive some other requirements from other government agencies, which he may deem unnecessary for the proper implementation of the provisions of this Decree.

SECTION 7. New mining areas and/or areas covered by existing reservations not covered by valid and existing mining claims at the time of the promulgation of this Decree shall be governed by the implementing rules and regulations that shall be hereinafter promulgated.

The permit area falling under this Section, and its immediate vicinity, shall be closed to mining location and the permittee/licensee shall have the first option to locate such areas under other mining laws/decrees, which shall be exercised within the period of two (2) years from the grant of the permit or license to cover an area equivalent to but not exceeding one meridional block.

SECTION 8. The Minister of Natural Resources, upon the recommendation of the Director of Mines and Geo-Sciences, shall promulgate rules and regulations to properly implement the provisions of this Decree.

SECTION 9. All laws, decrees, letter of instructions, executive orders, administrative orders, rules and regulations, or parts thereof, which are inconsistent with any provisions of this Decree, are hereby repealed, amended or modified accordingly.

SECTION 10. This Decree shall take effect immediately.

Done in the City of Manila, this 23rd, day of January, in the year of Our Lord, Nineteen Hundred and Eighty-four.

FERDINAND E. MARCOS
President of Republic of the Philippines

Republic of the Philippines
Congress of the Philippines
Metro Manila
Fifth Regular Session
Begun and held in Metro Manila,
on Monday, the twenty-second day of July,
nineteen hundred and ninety one

REPUBLIC ACT NO. 7586
AN ACT PROVIDING FOR THE ESTABLISHMENT AND MANAGEMENT OF
NATIONAL INTEGRATED PROTECTED AREAS SYSTEM,
DEFINING ITS SCOPE AND COVERAGE, AND FOR OTHER PURPOSES

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Title - This Act shall be known and referred to as the "National Integrated Protected Areas System Act of 1992".

SECTION 2. Declaration of Policy - Cognizant of the profound impact of man's activities on all components of the natural environment particularly the effect of increasing population, resource exploitation and industrial advancement and recognizing the critical importance of protecting and maintaining the natural biological and physical diversities of the environment notably on areas with biologically unique features to sustain human life and development, as well as plant and animal life, it is hereby declared the policy of the State to secure for the Filipino people of present and future generations the perpetual existence of all native plants and animals through the establishment of a comprehensive system of integrated protected areas within the classification of national park as provided for in the Constitution.

It is hereby recognized that these areas, although distinct in features, possess common ecological values that may be incorporated into a holistic plan representative of our natural heritage; that effective administration of this area is possible only through cooperation among national government, local government and concerned private organizations; that the use and enjoyment of these protected areas must be consistent with the principles of biological diversity and sustainable development.

To this end, there is hereby established a National Integrated Protected Areas System (NIPAS), which shall encompass outstandingly remarkable areas and biologically important public lands that are habitats of rare and endangered species of plants and animals, biogeographic zones and related ecosystems, whether terrestrial, wetland or marine, all of which shall be designated as "protected areas".

SECTION 3. Categories - The following categories of protected areas are hereby established:

- a. Strict nature reserve;
- b. Natural park;
- c. Natural monument;

- d. Wildlife sanctuary;
- e. Protected landscapes and seascapes;
- f. Resource reserve;
- g. Natural biotic areas; and
- h. Other categories established by law, conventions or international agreements which the Philippine Government is a signatory.

SECTION 4. Definition of Terms - For purposes of this Act, the following terms shall be defined as follows:

"National Integrated Protected Areas System (NIPAS)" is the classification and administration of all designated protected areas to maintain essential ecological processes and life-support systems, to preserve genetic diversity, to ensure sustainable use of resources found therein, and to maintain their natural conditions to the greatest extent possible;

"Protected Area" refers to identified portions of land and water set aside by reason of their unique physical and biological significance, managed to enhance biological diversity and protected against destructive human exploitation;

"Buffer zones" are identified areas outside the boundaries of and immediately adjacent to designated protected areas pursuant to Section 8 that need special development control in order to avoid or minimize harm to the protected area;

"Indigenous cultural community" refers to a group of people sharing common bonds of language, customs, traditions and other distinctive cultural traits and who have since time immemorial, occupied, possessed and utilized a territory;

"National park" refers to a forest reservation essentially of natural wilderness character which has been withdrawn from settlement, occupancy or any form of exploitation except in conformity with approved management plan and set aside as such exclusively to conserve the area or preserve the scenery, the natural and historic objects, wild animals and plants therein and to provide enjoyment of these features in such areas;

"Natural monuments" is a relatively small area focused on protection of small features to protect or preserve nationally significant natural features on account of their special interest or unique characteristics;

"Natural biotic area" is an area set aside to allow the way of life of societies living in harmony with the environment to adapt to modern technology at their pace;

"Natural park" is a relatively large area not materially altered by human activity where extractive resource uses are not allowed and maintained to protect outstanding natural and scenic areas of national or international significance for scientific, educational and recreational use;

"Protected landscapes/seascapes" are areas of national significance which are characterized by the harmonious interaction of man and land while providing opportunities for public enjoyment through the recreation and tourism within the normal lifestyle and economic activity of these areas;

"Resource reserve" is an extensive and relatively isolated and uninhabited area normally with difficult access designated as such to protect natural resources of the area for future use and prevent or contain development activities that could affect the resource pending the establishment of

objectives which are based upon appropriate knowledge and planning;

"Strict nature reserve" is an area possessing some outstanding ecosystem, features and/or species of flora and fauna of national scientific importance maintained to protect nature and maintain processes in an undisturbed state in order to have ecologically representative examples of the natural environment available for scientific study, environmental monitoring, education, and for the maintenance of genetic resources in a dynamic and evolutionary state;

"Tenured migrant communities" are communities within protected areas which have actually and continuously occupied such areas for five (5) years before the designation of the same as protected areas in accordance with this Act and are solely dependent therein for subsistence; and

"Wildlife sanctuary" comprises an area which assures the natural conditions necessary to protect nationally significant species, groups of species, biotic communities or physical features of the environment where these may require specific human manipulations for their perpetuation.

SECTION 5. Establishment and Extent of the System - The establishment and operationalization of the System shall involve the following:

All areas or islands in the Philippines proclaimed, designated or set aside pursuant to a law, presidential decree, presidential proclamation or executive order as national park, game refuge, bird and wildlife sanctuary, wilderness area, strict nature reserve, watershed, mangrove reserve, fish sanctuary, natural and historical landmark, protected and managed landscape/seascape as well as identified virgin forests before the effectivity of this Act are hereby designated as initial components of the System. The initial components of the System shall be governed by existing laws, rules and regulations, not inconsistent with this Act;

Within one (1) year from the effectivity of this Act, the DENR shall submit to the Senate and the House of Representatives a map and legal descriptions or natural boundaries of each protected area initially comprising the System. Such maps and legal description shall, by virtue of this Act, constitute the official documentary representation of the entire System, subject to such changes as Congress deems necessary;

All DENR records pertaining to said protected areas, including maps and legal descriptions or natural boundaries, copies of rules and regulations governing them, copies of public notices of, and reports submitted to Congress regarding pending additions, eliminations, or modifications shall be made available to the public. These legal documents pertaining to protected areas shall also be available to the public in the respective DENR Regional Offices, Provincial Environment and Natural Resources Offices (PENROs) and Community Environment and Natural Resources Offices (CENROs) where NIPAS areas are located;

Within three (3) years from the effectivity of this Act, the DENR shall study and review each area tentatively composing the System as to its suitability or non-suitability for preservation as protected area and inclusion in the System according to the categories established in Section 3 hereof and report its findings to the President as soon as each study is completed. The study must include in each area:

1. A forest occupants survey;
2. An ethnographic study;
3. A protected area resource profile;
4. Land use plans done in coordination with the respective Regional Development Councils; and
5. Such other background studies as will be sufficient bases for selection.

The DENR shall:

Notify the public of proposed action through publication in a newspaper of general circulation, and such other means as the System deems necessary in the area or areas in the vicinity of the affected land thirty (30) days prior to the public hearing;

- i. Conduct public hearings at the locations nearest to the area affected;
- ii. At least thirty (30) days prior to the date of hearing, advise all Local Government Units (LGUs) in the affected areas, national agencies concerned, people's organizations and non-government organizations and invite such officials to submit their views on the proposed action at the hearing not later than thirty (30) days following the date of hearing; and
- iii. Give due consideration to the recommendations at the public hearing; and provide sufficient explanation for his recommendations contrary to the general sentiments expressed in the public hearing;

Upon receipt of the recommendations of the DENR, the President shall issue a presidential proclamation designating the recommended areas as protected areas and providing for measures for their protection until such time when Congress shall have enacted a law finally declaring such recommended areas as part of the integrated protected area systems; and

Thereafter, the President shall send to the Senate and the House of Representatives his recommendations with respect to the designations as protected areas or reclassification of each area on which review has been completed, together with maps and legal description of boundaries. The President, in his recommendation, may propose the alteration of existing boundaries of any or all proclaimed protected areas, addition of any contiguous area of public land of predominant physical and biological value. Nothing contained herein shall limit the President to propose, as part of his recommendation to Congress, additional areas which have not been designated, proclaimed or set aside by law, presidential decree, proclamation or executive orders as protected area/s.

SECTION 6. Additional Areas to be Integrated to the System. - Notwithstanding the establishment of the initial component of the additional areas with outstanding physical features, anthropological significance and biological diversity in accordance with the provisions of Section 5d.

SECTION 7. Disestablishment as Protected Area. - When in the opinion of the DENR a certain protected area should be withdrawn or disestablished, or its boundaries modified as warranted by a study and sanctioned by the majority of the members of the respective boards for the protected area as herein established in Section 11, it shall, in turn, advise Congress. Disestablishment of a protected area under the System or modification of its boundary shall take effect pursuant to an act of Congress. Thereafter, said area shall revert to the category of public forests unless otherwise classified by Congress: Provided however, that after disestablishment by Congress, the Secretary may recommend the transfer of such disestablished area to other government agencies to serve other priority programs of national interest.

SECTION 8. Buffer Zones. - For each protected area, **there shall be established peripheral buffer zones when necessary**, in the same manner as Congress establishes the protected area, to protect the same from activities that will directly and indirectly harm it. Such buffer zones shall be included in the individual protected area management plan that shall prepared for each protected area. The DENR shall exercise its authority over protected areas as provided in this Act on such area and designated as buffer zones.

SECTION 9. Management Plans. - There shall be a general management planning strategy to serve as guide in formulating individual plans for each protected area. The management planning strategy shall, at the minimum, promote the adoption and implementation of innovative

management techniques including if necessary, the concept of zoning, buffer zone management for multiple use and protection, habitat conservation and rehabilitation, diversity management, community organizing, socioeconomic and scientific researches, site-specific policy development, pest management, and fire control. The management planning strategy shall also provide guidelines for the protection of indigenous cultural communities, other tenured migrant communities and sites for close coordination between and among local agencies of the Government as well as the private sector.

Each component area of the System shall be planned and administered to further protect and enhance the permanent preservation of its natural conditions. A management manual shall be formulated and developed which must contain the following: an individual management plan prepared by three (3) experts, basic background information, field inventory of the resources within the area, an assessment of assets and limitations, regional interrelationships, particular objectives for managing the area, appropriate division of the area into management zones, a review of the boundaries of the area, and a design of the management programs.

SECTION 10. Administration and Management of the System. - The National Integrated Protected Areas System is hereby placed under the control and administration of the Department of Environment and Natural Resources. For this purpose, there is hereby created a division in the regional offices of the Department to be called the Protected Areas and Wildlife Division in regions where protected areas have been established, which shall be under the supervision of a Regional Technical Director, and shall include subordinate officers, clerks, and employees as may be proposed by the Secretary, duly approved by the Department of Budget and Management, and appropriated by the Congress. The Service thus established shall manage protected areas and promote the permanent preservation, to the greatest extent possible of their natural conditions.

To carry out the mandate of this Act, the Secretary of the DENR is empowered to perform any and all of the following acts:

- a. To conduct studies on various characteristic features and conditions of the different protected areas, using commonalities in their characteristics, classify and define them into categories and prescribe permissible or prohibited human activities in each category in the System;
- b. To adopt and enforce a land use scheme and zoning plan in adjoining areas for the preservation and control of activities that may threaten the ecological balance in the protected areas;
- c. To cause the preparation of and exercise the power to review all plans and proposals for the management of protected areas;
- d. To promulgate rules and regulations necessary to carry out the provisions of this Act;
- e. To deputize field officers and delegate any of his powers under this Act and other laws to expedite its implementation and enforcement;
- f. To fix and prescribe reasonable NIPAS fees to be collected from government agencies or any person, firm or corporation deriving benefits from the protected areas;
- g. To exact administrative fees and fines as authorized in Section 21 for violation of guidelines, rules and regulations of this Act as would endanger the viability of protected areas;
- h. To enter into contracts and/or agreements with private entities or public agencies as may be necessary to carry out the purposes of this Act;
- i. To accept in the name of the Philippine Government and in behalf of NIPAS funds, gifts or bequests of money for immediate disbursements or other property in the interest of the NIPAS, its activities or its services;
- j. To call on any agency or instrumentality of the Government as well as academic institutions, non-government organizations and the private sector as may be necessary to accomplish the objectives and activities of the System;
- k. To submit an annual report to the President of the Philippines and to Congress on the status of protected areas in the country;
- l. To establish a uniform marker of the System, including an appropriate and distinctive symbol for each category in the System, in consultation with appropriate government agencies and public and private organizations;

- m. To determine the specification of the class, type and style of buildings and other structures to be constructed in protected areas and the materials to be used;
- n. Control the construction, operation and maintenance of roads, trails, waterworks, sewerage, fire protection, and sanitation systems and other public utilities within the protected area;
- o. Control occupancy of suitable portions of the protected area and resettle outside of said area forest occupants therein, with the exception of the members of indigenous communities area; and
- p. To perform such other functions as may be directed by the President of the Philippines, and to do such acts as may be necessary or incidental to the accomplishment of the purpose and objectives of the System.

SECTION 11. Protected Area Management Board. - A Protected Area Management Board for each of the established protected area shall be created and shall be composed of the following: The Regional Executive Director under whose jurisdiction the protected area is located; one (1) representative from the autonomous regional government, if applicable; the Provincial Development Officer; one (1) representative from the municipal government; one (1) representative from each barangay covering the protected area; one (1) representative from each tribal community, if applicable; and, at least three (3) representatives from non-government organizations/local community organizations, and if necessary, one (1) representative from other departments or national government agencies involved in protected area management.

The Board shall, by a majority vote, decide the allocations for budget, approve proposals for funding, decide matters relating to planning, peripheral protection and general administration of the area in accordance with the general management strategy. The members of the Board shall serve for a term of five (5) years without compensation, except for actual and necessary traveling and subsistence expenses incurred in the performance of their duties. They shall be appointed by the Secretary of the DENR as follows:

- a. A member who shall be appointed to represent each local government down to barangay level whose territory or portion is included in the protected area. Each appointee shall be the person designated by the head of such LGU, except for the Provincial Development Officer who shall serve ex officio;
- b. A member from non-government organizations who shall be endorsed by heads of organizations which are preferably based in the area or which have established and recognized interest in protected areas;
- c. The RED/s in the region/s where such protected area lies shall sit as ex officio member of the Board and shall serve as adviser/s in matters related to the technical aspect of management of the area; and
- d. The RED shall act as chairman of the Board. When there are two (2) or more REDs in the Board, the Secretary shall designate one (1) of them to be the Chairman. Vacancies shall be filled in the same manner as the original appointment.

SECTION 12. Environmental Impact Assessment. - Proposals for activities which are outside the scope of the management plan for protected areas shall be subject to an environmental impact assessment as required by law before they are adopted, and the results thereof shall be taken into consideration in the decision-making process.

No actual implementation of such activities shall be allowed without the required Environmental Compliance Certificate (ECC) under the Philippine Environmental Impact Assessment (EIA) system. In instances where such activities are allowed to be undertaken, the proponent shall plan and carry them out in such manner as will minimize any adverse effects and take preventive and remedial action when appropriate. The proponent shall be liable for any damage due to lack of caution or indiscretion.

SECTION 13. Ancestral Lands and Rights Over Them. - Ancestral lands and customary rights and interest arising shall be accorded due recognition. The DENR shall prescribe rules and regulations to govern ancestral lands within protected areas: Provided, that the DENR shall

have so power to evict indigenous communities from their present occupancy nor resettle them to another area without their consent: Provided, however, That all rules and regulations, whether adversely affecting said communities or not, shall be subjected to notice and hearing to be participated in by members of concerned indigenous community.

SECTION 14. Survey for Energy Resources. - Consistent with the policies declared in Section 2 hereof, protected areas, except strict nature reserves and natural parks, may be subjected to exploration only for the purpose of gathering information on energy resources and only if such activity is carried out with the least damage to surrounding areas. Surveys shall be conducted only in accordance with a program approved by the DENR, and the result of such surveys shall be made available to the public and submitted to the President for recommendation to Congress. Any exploitation and utilization of energy resources found within NIPAS areas shall be allowed only through a law passed by Congress.

SECTION 15. Areas Under the Management of Other Departments and Government Instrumentalities. - Should there be protected areas, or portions thereof, under the jurisdiction of government instrumentalities other than the DENR, such jurisdiction shall, prior to the passage of this Act, remain in the said department or government instrumentality; Provided, That the department or government instrumentality exercising administrative jurisdiction over said protected area or a portion thereof shall coordinate with the DENR in the preparation of its management plans, upon the effectivity of this Act.

SECTION 16. Integrated Protected Areas Fund. - There is hereby established a trust fund to be known as Integrated Protected Areas (IPAS) Fund for purposes of financing projects of the System. The IPAS may solicit and receive donations, endowments, and grants in the form of contributions, and such endowment shall be exempted from income or gift taxes and all other taxes, charges or fees imposed by the Government or any political subdivision or instrumentality thereof.

All incomes generated from the operation of the System or management of wild flora and fauna shall accrue to the Fund and may be utilized directly by the DENR for the above purpose. These incomes shall be derived from:

- a. Taxes from the permitted sale and export of flora and fauna and other resources from protected areas;
 - b. Proceeds from lease of multiple use areas;
 - c. Contributions from industries and facilities directly benefiting from the protected area; and
 - d. Such other fees and incomes derived from the operation of the protected area.
- Disbursements from the Funds shall be made solely for the protection, maintenance, administration, and management of the System, and duly approved projects endorsed by the PAMBs, in the amounts authorized by the DENR.

SECTION 17. Annual Report to Congress. - At the opening of each session of Congress, the DENR shall report to the President, for transmission to Congress, on the status of the System, regulation in force and other pertinent information, together with recommendations.

SECTION 18. Field Officers. - All officials, technical personnel and forest guards employed in the integrated protected area service or all persons deputized by the DENR, upon recommendation of the Management Board shall be considered as field officers and shall have the authority to investigate and search premises and buildings and make arrests in accordance with the rules on criminal procedure for the violation of laws and regulations relating to the protected areas. Persons arrested shall be brought to the nearest police precinct for investigation. Nothing herein mentioned shall be construed as preventing regular law enforcers and police officers from arresting any person in the act of violating said laws and regulations.

SECTION 19. Special Prosecutors. - The Department of Justice shall designate special prosecutors to prosecute violations of laws, rules and regulations in protected areas.

SECTION 20. Prohibited Acts. - Except as may be allowed by the nature of their categories and pursuant to rules and regulations governing the same, the following acts are prohibited within protected areas:

- a. Hunting, destroying, disturbing, or mere possession of any plants or animals or products derived therefrom without a permit from the Management Board;
- b. Dumping of any waste products detrimental to the protected area, or to the plants and animals or inhabitants therein;
- c. Use of any motorized equipment without a permit from the Management Board;
- d. Mutilating, defacing or destroying objects of natural beauty, or objects of interest to cultural communities (of scenic value);
- e. Damaging and leaving roads and trails in a damaged condition;
- f. Squatting, mineral locating, or otherwise occupying any land;
- g. Constructing or maintaining any kind of structure, fence or enclosures, conducting any business enterprise without a permit;
- h. Leaving in exposed or unsanitary conditions refuse or debris, or depositing in ground or in bodies of water; and
- i. Altering, removing destroying or defacing boundary marks or signs.

SECTION 21. Penalties. - Whoever violates this Act or any rules and regulations issued by the Department pursuant to this Act or whoever is found guilty by a competent court of justice of any of the offenses in the preceding section shall be fined in the amount of not less than Five thousand pesos (P5,000) nor more than Five hundred thousand pesos (P500,000), exclusive of the value of the thing damaged or imprisonment for not less than one (1) year but not more than six (6) years, or both, as determined by the court: Provided, that, if the area requires rehabilitation or restoration as determined by the court, the offender shall be required to restore or compensate for the restoration to the damages: Provided, further, that court shall order the eviction of the offender from the land and the forfeiture in favor of the Government of all minerals, timber or any species collected or removed including all equipment, devices and firearms used in connection therewith, and any construction or improvement made thereon by the offender. If the offender is an association or corporation, the president or manager shall be directly responsible for the act of his employees and laborers: Provided, finally, that the DENR may impose administrative fines and penalties consistent with this Act.

SECTION 22. Separability Clause. - If any part or section of this Act is declared unconstitutional, such declaration shall not affect the other parts or sections of this Act.

SECTION 23. Repealing Clause. - All laws, presidential decrees, executive orders, rules and regulations inconsistent with any provisions of this Act shall be deemed repealed or modified accordingly.

SECTION 24. Effectivity Clause. - This Act shall take effect fifteen (15) days after its complete publication in two (2) newspapers of general circulation.

Approved;

NEPTALI A. GONZALES
President of the Senate

RAMON V. MITRA
Speaker of the House of Representative

This Act which is a consolidation of House Bill No. 34696 and Senate Bill No. 1914 was finally passed by the House of Representatives and the Senate on February 6, 1992.

ANACLETO D. BADOY, JR.
Secretary of the Senate

CAMILO L. SABIO
Secretary General
House of Representatives

Approved: June 01 1992

(SGD.) CORAZON C. AQUINO
President of the Philippines

**INDIGENOUS PEOPLES' RIGHTS ACT
REPUBLIC ACT NO. 8371**

**AN ACT TO RECOGNIZE, PROTECT AND PROMOTE THE RIGHTS OF
INDIGENOUS CULTURAL COMMUNITIES/INDIGENOUS PEOPLE, CREATING A
NATIONAL COMMISSION OF INDIGENOUS PEOPLE, ESTABLISHING
IMPLEMENTING MECHANISMS, APPROPRIATING FUNDS THEREFOR,
AND FOR OTHER PURPOSES.**

CHAPTER I

GENERAL PROVISIONS

Section 1. Short Title.- This Act shall be known as "The Indigenous Peoples Rights Act of 1997."

Sec. 2. Declaration of State Policies.- The State shall recognize and promote all the rights of Indigenous Cultural Communities/Indigenous Peoples (ICCs/IPs) hereunder enumerated within the framework of the Constitution:

- a) The State shall recognize and promote the rights of ICCs/IPs within the framework of national unity and development;
- b) The State shall protect the rights of ICCs/IPs to their ancestral domains to ensure their economic, social and cultural well being and shall recognize the applicability of customary laws governing property rights or relations in determining the ownership and extent of ancestral domain;
- c) The State shall recognize, respect and protect the rights of ICCs/IPs to preserve and develop their cultures, traditions and institutions. It shall consider these rights in the formulation of national laws and policies;
- d) The State shall guarantee that members of the ICCs/IPs regardless of sex, shall equally enjoy the full measure of human rights and freedoms without distinctions or discriminations;
- e) The State shall take measures, with the participation of the ICCs/IPs concerned, to protect their rights and guarantee respect for their cultural integrity, and to ensure that members of the ICCs/IPs benefit on an equal footing from the rights and opportunities which national laws and regulations grant to other members of the population and
- f) The State recognizes its obligations to respond to the strong expression of the ICCs/IPs for cultural integrity by assuring maximum ICC/IP participation in the direction of education, health, as well as other services of ICCs/IPs, in order to render such services more responsive to the needs and desires of these communities.

Towards these ends, the State shall institute and establish the necessary mechanisms to enforce and guarantee the realization of these rights, taking into consideration their customs, traditions, values, beliefs, their rights to their ancestral domains.

CHAPTER II

DEFINITION OF TERMS

Sec. 3. Definition of Terms.- For purposes of this Act, the following terms shall mean:

- a) Ancestral Domains - Subject to Section 56 hereof, refer to all areas generally belonging to ICCs/IPs comprising lands, inland waters, coastal areas, and natural resources therein, held under a claim of ownership, occupied or possessed by ICCs/IPs, themselves or through their ancestors, communally or individually since time immemorial, continuously to the present except when interrupted by war, force majeure or displacement by force, deceit, stealth or as a consequence of government projects or any other voluntary dealings entered into by government and private individuals, corporations, and which are necessary to ensure their economic, social and cultural welfare. It shall include ancestral land, forests, pasture, residential, agricultural, and other lands individually owned whether alienable and disposable or otherwise, hunting grounds, burial grounds, worship areas, bodies of water, mineral and other natural resources, and lands which may no longer be exclusively occupied by ICCs/IPs but from which their traditionally had access to for their subsistence and traditional activities, particularly the home ranges of ICCs/IPs who are still nomadic and/or shifting cultivators;
- b) Ancestral Lands - Subject to Section 56 hereof, refers to land occupied, possessed and utilized by individuals, families and clans who are members of the ICCs/IPs since time immemorial, by themselves or through their predecessors-in-interest, under claims of individual or traditional group ownership, continuously, to the present except when interrupted by war, force majeure or displacement by force, deceit, stealth, or as a consequence of government projects and other voluntary dealings entered into by government and private individuals/corporations, including, but not limited to, residential lots, rice terraces or paddies, private forests, swidden farms and tree lots;
- c) Certificate of Ancestral Domain Title - refers to a title formally recognizing the rights of possession and ownership of ICCs/IPs over their ancestral domains identified and delineated in accordance with this law;
- d) Certificate of Ancestral Lands Title - refers to a title formally recognizing the rights of ICCs/IPs over their ancestral lands;
- e) Communal Claims - refer to claims on land, resources and rights thereon, belonging to the whole community within a defined territory
- f) Customary Laws - refer to a body of written and/or unwritten rules, usages, customs and practices traditionally and continually recognized, accepted and observed by respective ICCs/IPs;
- g) Free and Prior Informed Consent - as used in this Act shall mean the consensus of all members of the ICCs/IPs to; be determined in accordance with their respective customary laws and practices, free from any external manipulation, interference and coercion, and obtained after fully disclosing the intent and scope of the activity, in a language an process understandable to the community;**

h) Indigenous Cultural Communities/Indigenous Peoples - refer to a group of people or homogenous societies identified by self-ascription and ascription by other, who have continuously lived as organized community on communally bounded and defined territory, and who have, under claims of ownership since time immemorial, occupied, possessed customs, tradition and other distinctive cultural traits, or who have, through resistance to political, social and cultural inroads of colonization, non-indigenous religions and culture, became historically differentiated from the majority of Filipinos. ICCs/IPs shall likewise include peoples who are regarded as indigenous on account of their descent from the populations which inhabited the country, at the time of conquest or colonization, or at the time of inroads of non-indigenous religions and cultures, or the establishment of present state boundaries, who retain some or all of their own social, economic, cultural and political institutions, but who may have been displaced from their traditional domains or who may have resettled outside their ancestral domains;

i) Indigenous Political Structure - refer to organizational and cultural leadership systems, institutions, relationships, patterns and processes for decision-making and participation, identified by ICCs/IPs such as, but not limited to, Council of Elders, Council of Timuays, Bodong Holder, or any other tribunal or body of similar nature;

j) Individual Claims - refer to claims on land and rights thereon which have been devolved to individuals, families and clans including, but not limited to, residential lots, rice terraces or paddies and tree lots;

k) National Commission on Indigenous Peoples (NCIP) - refers to the office created under this Act, which shall be under the Office of the President, and which shall be the primary government agency responsible for the formulation and implementation of policies, plans and programs to recognize, protect and promote the rights of ICCs/IPs;

l) Native Title - refers to pre-conquest rights to lands and domains which, as far back as memory reaches, have been held under a claim of private ownership by ICCs/IPs, have never been public lands and are thus indisputably presumed to have been held that way since before the Spanish Conquest;

m) Nongovernment Organization - refers to a private, nonprofit voluntary organization that has been organized primarily for the delivery of various services to the ICCs/IPs and has an established track record for effectiveness and acceptability in the community where it serves;

n) People's Organization - refers to a private, nonprofit voluntary organization of members of an ICC/IP which is accepted as representative of such ICCs/IPs;

o) Sustainable Traditional Resource Rights - refer to the rights of ICCs/IPs to sustainably use, manage, protect and conserve a) land, air, water, and minerals; b) plants, animals and other organisms; c) collecting, fishing and hunting grounds; d) sacred sites; and e) other areas of economic, ceremonial and aesthetic value in accordance with their indigenous knowledge, beliefs, systems and practices; and

p) Time Immemorial - refers to a period of time when as far back as memory can go, certain ICCs/IPs are known to have occupied, possessed in the concept of owner, and utilized a defined territory devolved to them, by operation of customary law or inherited from their ancestors, in accordance with their customs and traditions.

CHAPTER III

RIGHTS TO ANCESTRAL DOMAINS

Sec. 4. Concept of Ancestral Lands/Domains.- Ancestral lands/domains shall include such concepts of territories which cover not only the physical environment but the total environment including the spiritual and cultural bonds to the area which the ICCs/IPs possess, occupy and use and to which they have claims of ownership.

Sec. 5. Indigenous Concept of Ownership.- Indigenous concept of ownership sustains the view that ancestral domains and all resources found therein shall serve as the material bases of their cultural integrity. The indigenous concept of ownership generally holds that ancestral domains are the ICC's/IP's private but community property which belongs to all generations and therefore cannot be sold, disposed or destroyed. It likewise covers sustainable traditional resource rights.

Sec. 6. Composition of Ancestral Lands/Domains.- Ancestral lands and domains shall consist of all areas generally belonging to ICCs/IPs as referred under Sec. 3, items (a) and (b) of this Act.

Sec. 7. Rights to Ancestral Domains.- The rights of ownership and possession of ICCs/IPs to their ancestral domains shall be recognized and protected. Such rights shall include:

a. Rights of Ownership.- The right to claim ownership over lands, bodies of water traditionally and actually occupied by ICCs/IPs, sacred places, traditional hunting and fishing grounds, and all improvements made by them at any time within the domains;

b. Right to Develop Lands and Natural Resources.- Subject to Section 56 hereof, right to develop, control and use lands and territories traditionally occupied, owned, or used; to manage and conserve natural resources within the territories and uphold the responsibilities for future generations; to benefit and share the profits from allocation and utilization of the natural resources found therein; the right to negotiate the terms and conditions for the exploration of natural resources in the areas for the purpose of ensuring ecological, environmental protection and the conservation measures, pursuant to national and customary laws; the right to an informed and intelligent participation in the formulation and implementation of any project, government or private, that will affect or impact upon the ancestral domains and to receive just and fair compensation for any damages which they sustain as a result of the project; and the right to effective measures by the government to prevent any interfere with, alienation and encroachment upon these rights;

c. Right to Stay in the Territories.- The right to stay in the territory and not be removed therefrom. No ICCs/IPs will be relocated without their free and prior informed consent, nor through any means other than eminent domain. Where relocation is considered necessary as an exceptional measure, such relocation shall take place only with the free and prior informed consent of the ICCs/IPs concerned and whenever possible, they shall be guaranteed the right to return to their ancestral domains, as soon as the grounds for relocation cease to exist. When such return is not possible, as determined by agreement or through appropriate procedures, ICCs/IPs shall be provided in all possible cases with lands of quality and legal status at least equal to that of the land previously occupied by them, suitable to provide for their present needs and future development. Persons thus relocated shall likewise be fully compensated for any resulting loss or injury;

d. Right in Case of Displacement.- In case displacement occurs as a result of natural catastrophes, the State shall endeavor to resettle the displaced ICCs/IPs in suitable areas where they can have temporary life support system: Provided, That the displaced ICCs/IPs shall have the right to return to their abandoned lands until such time that the normalcy and safety of such lands shall be determined: Provided, further, That should their ancestral domain

cease to exist and normalcy and safety of the previous settlements are not possible, displaced ICCs/IPs shall enjoy security of tenure over lands to which they have been resettled: Provided, furthermore, That basic services and livelihood shall be provided to them to ensure that their needs are adequately addressed:

e. Right to Regulate Entry of Migrants.- Right to regulate the entry of migrant settlers and organizations into the domains;

f. Right to Safe and Clean Air and Water.- For this purpose, the ICCs/IPs shall have access to integrated systems for the management of their inland waters and air space;

g. Right to Claim Parts of Reservations.- The right to claim parts of the ancestral domains which have been reserved for various purposes, except those reserved and intended for common and public welfare and service; and

h. Right to Resolve Conflict.- Right to resolve land conflicts in accordance with customary laws of the area where the land is located, and only in default thereof shall the complaints be submitted to amicable settlement and to the Courts of Justice whenever necessary.

Sec. 8. Rights to Ancestral Lands.- The right of ownership and possession of the ICCs/IPs, to their ancestral lands shall be recognized and protected.

a. Right to transfer land/property.- Such right shall include the right to transfer land or property rights to/among members of the same ICCs/IPs, subject to customary laws and traditions of the community concerned.

b. Right to Redemption.- In cases where it is shown that the transfer of land/property rights by virtue of any agreement or devise, to a non-member of the concerned ICCs/IPs is tainted by the vitiated consent of the ICCs/IPs, or is transferred for an unconscionable consideration or price, the transferor ICC/IP shall have the right to redeem the same within a period not exceeding fifteen (15) years from the date of transfer.

Sec. 9. Responsibilities of ICCs/IPs to their Ancestral Domains.- ICCs/IPs occupying a duly certified ancestral domain shall have the following responsibilities:

a. Maintain Ecological Balance.- To preserve, restore, and maintain a balanced ecology in the ancestral domain by protecting the flora and fauna, watershed areas, and other reserves;

b. Restore Denuded Areas.- To actively initiate, undertake and participate in the reforestation of denuded areas and other development programs and projects subject to just and reasonable remuneration; and

c. Observe Laws.- To observe and comply with the provisions of this Act and the rules and regulations for its effective implementation.

Sec. 10. Unauthorized and Unlawful Intrusion.- Unauthorized and unlawful intrusion upon, or use of any portion of the ancestral domain, or any violation of the rights herein before enumerated, shall be punishable under this law. Furthermore, the Government shall take measures to prevent non-ICCs/IPs from taking advantage of the ICCs/IPs customs or lack of understanding of laws to secure ownership, possession of land belonging to said ICCs/IPs.

Sec. 11. Recognition of Ancestral Domain Rights.- The rights of ICCs/IPs to their ancestral domains by virtue of Native Title shall be recognized and respected. Formal recognition, when solicited by ICCs/IPs concerned, shall be embodied in a Certificate of Ancestral Domain Title (CADT), which shall recognize the title of the concerned ICCs/IPs over the territories identified and delineated.

Sec. 12. Option to Secure Certificate of Title under Commonwealth Act 141, as amended, or the Land Registration Act 496.- Individual members of cultural communities, with respect to individually-owned ancestral lands who, by themselves or through their predecessors-in -interest, have been in continuous possession and occupation of the same in the concept of owner since the immemorial or for a period of not less than thirty (30) years immediately preceding the approval of this Act and uncontested by the members of the same ICCs/IPs shall have the option to secure title to their ancestral lands under the provisions of Commonwealth Act 141, as amended, or the Land Registration Act 496.

For this purpose, said individually-owned ancestral lands, which are agricultural in character and actually used for agricultural, residential, pasture, and tree farming purposes, including those with a slope of eighteen percent (18%) or more, are hereby classified as alienable and disposable agricultural lands.

The option granted under this Section shall be exercised within twenty (20) years from the approval of this Act.

CHAPTER IV RIGHT TO SELF-GOVERNANCE AND EMPOWERMENT

Sec. 13. Self-Governance.- The State recognizes the inherent right of ICCs/IPs to self-governance and self-determination and respects the integrity of their values, practices and institutions. Consequently, the State shall guarantee the right of ICCs/IPs to freely pursue their economic, social and cultural development.

Sec. 14. Support for Autonomous Regions.- The State shall continue to strengthen and support the autonomous regions created under the Constitution as they may require or need. The State shall likewise encourage other ICCs/IPs not included or outside Muslim Mindanao and the Cordillera to use the form and content of their ways of life as may be compatible with the fundamental rights defined in the Constitution of the Republic of the Philippines and other internationally recognized human rights.

Sec. 15. Justice System, Conflict Resolution Institutions and Peace Building Processes.- The ICCs/IPs shall have the right to use their own commonly accepted justice systems, conflict resolution institutions, peace building processes or mechanisms and other customary laws and practices within their respective communities and as may be compatible with the national legal system and with internationally recognized human rights.

Sec. 16. Right to Participate in Decision -Making.- ICCs/IPs have the right to participate fully, if they so choose, at all levels of decision-making in matters which may affect their rights, lives and destinies through procedures determined by them as well as to maintain and develop their own indigenous political structures. Consequently, the State shall ensure that the ICCs/IPs shall be given mandatory representation in policy-making bodies and other local legislative councils.

Sec. 17. Right to Determine and Decide Priorities for Development.- The ICCs/IPs shall have the right to determine and decide their own priorities for development affecting their lives, beliefs, institutions, spiritual well-being, and the lands they own, occupy or use. They shall participate in the formulation, implementation and evaluation of policies, plans and programs for national, regional and local development which may directly affect them.

Sec. 18. Tribal Barangays.- The ICCs/IPs living in contiguous areas or communities where they form the predominant population but which are located in municipalities, provinces or cities where they do not constitute the majority of the population, may form or constitute a separate barangay in accordance with the Local Government Code on the creation of tribal barangays.

Sec. 19. Role of Peoples Organizations.- The State shall recognize and respect the role of independent ICCs/IPs organizations to enable the ICCs/IPs to pursue and protect their legitimate and collective interests and aspirations through peaceful and lawful means.

Sec. 20. Means for Development /Empowerment of ICCs/IPs.- The Government shall establish the means for the full development/empowerment of the ICCs/IPs own institutions and initiatives and, where necessary, provide the resources needed therefor.

CHAPTER V SOCIAL JUSTICE AND HUMAN RIGHTS

Sec. 21. Equal Protection and Non-discrimination of ICCs/IPs.- Consistent with the equal protection clause of the Constitution of the Republic of the Philippines, the Charter of the United Nations, the Universal Declaration of Human Rights including the Convention on the Elimination of Discrimination Against Women and International Human Rights Law, the State shall, with due recognition of their distinct characteristics and identity, accord to the members of the ICCs/IPs the rights, protections and privileges enjoyed by the rest of the citizenry. It shall extend to them the same employment rights, opportunities, basic services, educational and other rights and privileges available to every member of the society. Accordingly, the State shall likewise ensure that the employment of any form of force of coercion against ICCs/IPs shall be dealt with by law.

The State shall ensure that the fundamental human rights and freedoms as enshrined in the Constitution and relevant international instruments are guaranteed also to indigenous women. Towards this end, no provision in this Act shall be interpreted so as to result in the diminution of rights and privileges already recognized and accorded to women under existing laws of general application.

Sec. 22. Rights during Armed Conflict.- ICCs/IPs have the right to special protection and security in periods of armed conflict. The State shall observe international standards, in particular, the Fourth Geneva Convention of 1949, for the protection of civilian populations in circumstances of emergency and armed conflict, and shall not recruit members of the ICCs/IPs against their will into armed forces, and in particular, for the use against other ICCs/IPs; not recruit children of ICCs/IPs into the armed forces under any circumstance; nor force indigenous individuals to abandon their lands, territories and means of subsistence, or relocate them in special centers for military purposes under any discriminatory condition.

Sec. 23. Freedom from Discrimination and Right to Equal Opportunity and Treatment.- It shall be the right of the ICCs/IPs to be free from any form of discrimination, with respect to recruitment and conditions of employment, such that they may enjoy equal opportunities as other occupationally-related benefits, informed of their rights under existing labor legislation and of means available to them for redress, not subject to any coercive recruitment systems, including bonded labor and other forms of debt servitude; and equal treatment in employment for men and women, including the protection from sexual harassment.

Towards this end, the State shall within the framework of national laws and regulations, and in cooperation with the ICCs/IPs concerned, adopt special measures to ensure the effective protection with regard to the recruitment and conditions of employment of persons belonging to these communities, to the extent that they are not effectively protected by the laws applicable to workers in general.

ICCs/IPs shall have the right to association and freedom for all trade union activities and the right to conclude collective bargaining agreements with employers' conditions. They shall likewise have the right not to be subject to working conditions hazardous to their health, particularly through exposure to pesticides and other toxic substances.

Sec. 24. Unlawful Acts Pertaining to Employment.- It shall be unlawful for any person:

a. To discriminate against any ICC/IP with respect to the terms and conditions of employment on account of their descent. Equal remuneration shall be paid to ICC/IP and non-ICC/IP for work of equal value; and

b. To deny any ICC/IP employee any right or benefit herein provided for or to discharge them for the purpose of preventing them from enjoying any of the rights or benefits provided under this Act.

Sec. 25. Basic Services.- The ICC/IP have the right to special measures for the immediate, effective and continuing improvement of their economic and social conditions, including in the areas of employment, vocational training and retraining, housing, sanitation, health and social security. Particular attention shall be paid to the rights and special needs of indigenous women, elderly, youth, children and differently-abled persons. Accordingly, the State shall guarantee the right of ICCs/IPs to government 's basic services which shall include, but not limited to water and electrical facilities, education, health and infrastructure.

Sec. 26. Women.- ICC/IP women shall enjoy equal rights and opportunities with men, as regards the social, economic, political and cultural spheres of life. The participation of indigenous women in the decision-making process in all levels, as well as in the development of society, shall be given due respect and recognition.

The State shall provide full access to education, maternal and child care, health and nutrition, and housing services to indigenous women. Vocational, technical, professional and other forms of training shall be provided to enable these women to fully participate in all aspects of social life. As far as possible, the State shall ensure that indigenous women have access to all services in their own languages.

Sec. 27. Children and Youth.- The State shall recognize the vital role of the children and youth of ICCs/IPs in nation-building and shall promote and protect their physical, moral, spiritual, moral, spiritual, intellectual and social well-being. Towards this end, the State shall support all government programs intended for the development and rearing of the children and youth of ICCs/IPs for civic efficiency and establish such mechanisms as may be necessary for the protection of the rights of the indigenous children and youth.

Sec. 28. Integrated System of Education.- The State shall, through the NCIP, provide a complete, adequate and integrated system of education, relevant to the needs of the children and Young people of ICCs/IPs.

CHAPTER VI CULTURAL INTEGRITY

Sec. 29. Protection of Indigenous Culture, traditions and institutions.- The state shall respect, recognize and protect the right of the ICCs/IPs to preserve and protect their culture, traditions and institutions. It shall consider these rights in the formulation of national plans and policies.

Sec. 30. Educational Systems.- The State shall provide equal access to various cultural opportunities to the ICCs/IPs through the educational system, public or cultural entities, scholarships, grants and other incentives without prejudice to their right to establish and control their educational systems and institutions by providing education in their own language, in a manner appropriate to their cultural methods of teaching and learning. Indigenous children/youth shall have the right to all levels and forms of education of the State.

Sec. 31. Recognition of Cultural Diversity.- The State shall endeavor to have the dignity and diversity of the cultures, traditions, histories and aspirations of the ICCs/IPs appropriately reflected in all

forms of education, public information and cultural-educational exchange. Consequently, the State shall take effective measures, in consultation with ICCs/IPs concerned, to eliminate prejudice and discrimination and to promote tolerance, understanding and good relations among ICCs/IPs and all segments of society. Furthermore, the Government shall take effective measures to ensure that State-owned media duly reflect indigenous cultural diversity. The State shall likewise ensure the participation of appropriate indigenous leaders in schools, communities and international cooperative undertakings like festivals, conferences, seminars and workshops to promote and enhance their distinctive heritage and values.

Sec. 32. Community Intellectual Rights.- ICCs/IPs have the right to practice and revitalize their own cultural traditions and customs. The State shall preserve, protect and develop the past, present and future manifestations of their cultures as well as the right to the restitution of cultural, intellectual, religious, and spiritual property taken without their free and prior informed consent or in violation of their laws, traditions and customs.

Sec. 33. Rights to Religious, Cultural Sites and Ceremonies.- ICCs/IPs shall have the right to manifest, practice, develop teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect and have access to their religious and cultural sites; the right to use and control of ceremonial object; and the right to the repatriation of human remains. Accordingly, the State shall take effective measures, in cooperation with the burial sites, be preserved, respected and protected. To achieve this purpose, it shall be unlawful to:

a. Explore, excavate or make diggings on archeological sites of the ICCs/IPs for the purpose of obtaining materials of cultural values without the free and prior informed consent of the community concerned; and

b. Deface, remove or otherwise destroy artifacts which are of great importance to the ICCs/IPs for the preservation of their cultural heritage.

Sec. 34. Right to Indigenous Knowledge Systems and Practices and to Develop own Sciences and Technologies.- ICCs/IPs are entitled to the recognition of the full ownership and control and protection of their cultural and intellectual rights. They shall have the right to special measures to control, develop and protect their sciences, technologies and cultural manifestations, including human and other genetic resources, seeds, including derivatives of these resources, traditional medicines and health practices, vital medicinal plants, animals and minerals, indigenous knowledge systems and practices, knowledge of the properties of fauna and flora, oral traditions, literature, designs, and visual and performing arts.

Sec. 35. Access to Biological and Genetic Resources.- Access to biological and genetic resources and to indigenous knowledge related to the conservation, utilization and enhancement of these resources, shall be allowed within ancestral lands and domains of the ICCs/IPs only with a free and prior informed consent of such communities, obtained in accordance with customary laws of the concerned community.

Sec. 36. Sustainable Agro-Technical Development. - The State shall recognize the right of ICCs/IPs to a sustainable agro-technological development and shall formulate and implement programs of action for its effective implementation. The State shall likewise promote the bio-genetic and resource management systems among the ICCs/IPs and shall encourage cooperation among government agencies to ensure the successful sustainable development of ICCs/IPs.

Sec. 37. Funds for Archeological and Historical Sites. - The ICCs/IPs shall have the right to receive from the national government all funds especially earmarked or allocated for the management and preservation of their archeological and historical sites and artifacts with the financial and technical support of the national government agencies.

CHAPTER VII

NATIONAL COMMISSION ON INDIGENOUS PEOPLES (NCIP)

- Sec. 38. National Commission on Indigenous Cultural Communities /Indigenous Peoples (NCCP).**- to carry out the policies herein set forth, there shall be created the National Commission on ICCs/IPs (NCIP), which shall be the primary government agency responsible for the formulation and implementation of policies, plans and programs to promote and protect the rights and well-being of the ICCs/IPs and the recognition of their ancestral domains as well as their rights thereto.
- Sec. 39. Mandate.**- The NCIP shall protect and promote the interest and well-being of the ICCs/IPs with due regard to their beliefs, customs, traditions and institutions.
- Sec. 40. Composition.**- The NCIP shall be an independent agency under the Office of the President and shall be composed of seven (7) Commissioners belonging to ICCs/IPs, one (1) of whom shall be the Chairperson. The Commissioners shall be appointed by the President of the Philippines from a list of recommendees submitted by authentic ICCs/IPs: Provided, That the seven (7) Commissioners shall be appointed specifically from each of the following ethnographic areas: Region I and the Cordilleras; Region II; the rest of Luzon; Island Groups including Mindoro, Palawan, Romblon, Panay and the rest of the Visayas; Northern and Western Mindanao; Southern and Eastern Mindanao; and Central Mindanao: Provided, That at least two (2) of the seven (7) Commissioners shall be women.
- Sec. 41. Qualifications, Tenure, Compensation.**- The Chairperson and the six (6) Commissioners must be natural born Filipino citizens, bonafide members of ICCs/IPs as certified by his/her tribe, experienced in ethnic affairs and who have worked for at least ten (10) years with an ICC/IP community and/or any government agency involved in ICC/IP, at least 35 years of age at the time of appointment, and must be of proven honesty and integrity: Provided, That at least two (2) of the seven (7) Commissioners shall be the members of the Philippine Bar: Provided, further, That the members of the NCIP shall hold office for a period of three (3) years, and may be subject to re-appointment for another term: Provided, furthermore, That no person shall serve for more than two (2) terms. Appointment to any vacancy shall only be for the unexpired term of the predecessor and in no case shall a member be appointed or designated in a temporary or acting capacity: Provided, finally, That the Chairperson and the Commissioners shall be entitled to compensation in accordance with the Salary Standardization Law.
- Sec. 42. Removal from Office.**- Any member of the NCIP may be removed from office by the President, on his own initiative or upon recommendation by any indigenous community, before the expiration of his term for cause and after complying with due process requirement of law.
- Sec. 43. Appointment of Commissioners.**- The President shall appoint the seven (7) Commissioners of the NCIP within ninety (90) days from the effectivity of this Act.
- Sec. 44. Powers and Functions.**- To accomplish its mandate, the NCIP shall have the following powers, jurisdiction and function:
- a) To serve as the primary government agency through which ICCs/IPs can seek government assistance and as the medium, thorough which such assistance may be extended;
 - b) To review and assess the conditions of ICCs/IPs including existing laws and policies pertinent thereto and to propose relevant laws and policies to address their role in national development;

- c) To formulate and implement policies, plans, programs and projects for the economic, social and cultural development of the ICCs/IPs and to monitor the implementation thereof;
- d) To request and engage the services and support of experts from other agencies of government or employ private experts and consultants as may be required in the pursuit of its objectives;
- e) To issue certificate of ancestral land/domain title;
- f) Subject to existing laws, to enter into contracts, agreements, or arrangement, with government or private agencies or entities as may be necessary to attain the objectives of this Act, and subject to the approval of the President, to obtain loans from government lending institutions and other lending institutions to finance its programs;
- g) To negotiate for funds and to accept grants, donations, gifts and/or properties in whatever form and from whatever source, local and international, subject to the approval of the President of the Philippines, for the benefit of ICCs/IPs and administer the same in accordance with the terms thereof; or in the absence of any condition, in such manner consistent with the interest of ICCs/IPs as well as existing laws;
- h) To coordinate development programs and projects for the advancement of the ICCs/IPs and to oversee the proper implementation thereof;
- i) To convene periodic conventions or assemblies of IPs to review, assess as well as propose policies or plans;
- j) To advise the President of the Philippines on all matters relating to the ICCs/IPs and to submit within sixty (60) days after the close of each calendar year, a report of its operations and achievements;
- k) To submit to Congress appropriate legislative proposals intended to carry out the policies under this Act;
- l) To prepare and submit the appropriate budget to the Office of the President;
- m) To issue appropriate certification as a pre-condition to the grant of permit, lease, grant, or any other similar authority for the disposition, utilization, management and appropriation by any private individual, corporate entity or any government agency, corporation or subdivision thereof on any part or portion of the ancestral domain taking into consideration the consensus approval of the ICCs/IPs concerned;
- n) To decide all appeals from the decisions and acts of all the various offices within the Commission:
- o) To promulgate the necessary rules and regulations for the implementation of this Act;
- p) To exercise such other powers and functions as may be directed by the President of the Republic of the Philippines; and
- q) To represent the Philippine ICCs/IPs in all international conferences and conventions dealing with indigenous peoples and other related concerns.

Sec. 45. Accessibility and Transparency.- Subject to such limitations as may be provided by law or by rules and regulations promulgated pursuant thereto, all official records, documents and papers pertaining to official acts, transactions or decisions, as well as research data used as basis for policy development of the Commission shall be made accessible to the public.

Sec.46. Officers within the NCIP.- The NCIP shall have the following offices which shall be responsible for the implementation of the policies herein after provided:

a. Ancestral Domains Office - The Ancestral Domain Office shall be responsible for the identification, delineation and recognition of ancestral land/domains. It shall also be responsible for the management of ancestral lands/domains in accordance with the master plans as well as the implementation of the ancestral domain rights of the ICCs/IPs as provided in Chapter III of this Act. It shall also issue, upon the free and prior informed consent of the ICCs/IPs concerned, certification prior to the grant of any license, lease or permit for the exploitation of natural resources affecting the interests of ICCs/IPs in protecting the territorial integrity of all ancestral domains. It shall likewise perform such other functions as the Commission may deem appropriate and necessary;

b. Office on Policy, Planning and Research - The Office on Policy, Planning and Research shall be responsible for the formulation of appropriate policies and programs for ICCs/IPs such as, but not limited to, the development of a Five-Year Master Plan for the ICCs/IPs. Such plan shall undergo a process such that every five years, the Commission shall endeavor to assess the plan and make ramifications in accordance with the changing situations. The Office shall also undertake the documentation of customary law and shall establish and maintain a Research Center that would serve as a depository of ethnographic information for monitoring, evaluation and policy formulation. It shall assist the legislative branch of the national government in the formulation of appropriate legislation benefiting ICCs/IPs.

c. Office of Education, Culture and Health - The Office on Culture, Education and Health shall be responsible for the effective implementation of the education, cultural and related rights as provided in this Act. It shall assist, promote and support community schools, both formal and non-formal, for the benefit of the local indigenous community, especially in areas where existing educational facilities are not accessible to members of the indigenous group. It shall administer all scholarship programs and other educational rights intended for ICC/IP beneficiaries in coordination with the Department of Education, Culture and Sports and the Commission on Higher Education. It shall undertake, within the limits of available appropriation, a special program which includes language and vocational training, public health and family assistance program and related subjects.

It shall also identify ICCs/IPs with potential training in the health profession and encourage and assist them to enroll in schools of medicine, nursing, physical therapy and other allied courses pertaining to the health profession.

Towards this end, the NCIP shall deploy a representative in each of the said offices who shall personally perform the foregoing task and who shall receive complaints from the ICCs/IPs and compel action from appropriate agency. It shall also monitor the activities of the National Museum and other similar government agencies generally intended to manage and preserve historical and archeological artifacts of the ICCs /IPs and shall be responsible for the implementation of such other functions as the NCIP may deem appropriate and necessary;

d. Office on Socio-Economic Services and Special Concerns - The Office on Socio-Economic Services and Special Concerns shall serve as the Office through which the NCIP shall coordinate with pertinent government agencies specially charged with the implementation of various basic socio-economic services, policies, plans and programs affecting the ICCs/IPs to ensure that the same are properly and directly enjoyed by them. It shall also be responsible for such other functions as the NCIP may deem appropriate and necessary;

e. Office of Empowerment and Human Rights - The Office of Empowerment and Human Rights shall ensure that indigenous socio- political, cultural and economic rights are respected and recognized. It shall ensure that capacity building mechanisms are instituted and ICCs/IPs are afforded every opportunity, if they so choose, to participate in all level decision-making. It

shall likewise ensure that the basic human rights, and such other rights as the NCIP may determine, subject to existing laws, rules and regulations are protected and promoted;

f. Administrative Office - The Administrative Office shall provide the NCIP with economical, efficient and effective services pertaining to personnel, finance, records, equipment, security, supplies, and related services. It shall also administer the Ancestral Domains Fund; and

g. Legal Affairs Office - There shall be a Legal Affairs Office which shall advise the NCIP on all legal matters concerning ICCs/IPs and which shall be responsible for providing ICCs/IPs with legal assistance in litigation involving community interest. It shall conduct preliminary investigation on the basis of complaints filed by the ICCs/IPs against a natural or juridical person believed to have violated ICCs/IPs rights. On the basis of its findings, it shall initiate the filing of appropriate legal or administrative action to the NCIP.

Sec. 47. Other Offices.- The NCIP shall have the power to create additional offices as it may deem necessary subject to existing rules and regulations.

Sec. 48. Regional and Field Offices.- Existing regional and field offices shall remain to function under the strengthened organizational structure of the NCIP. Other field office shall be created wherever appropriate and the staffing pattern thereof shall be determined by the NCIP: Provided, That in provinces where there are ICCs/IPs but without field offices, the NCIP shall establish field offices in said provinces.

Sec. 49. Office of the Executive Director.- The NCIP shall create the Office of the Executive Director which shall serve as its secretariat. The office shall be headed by an Executive Director who shall be appointed by the President of the Republic of the Philippines upon the recommendation of the NCIP on a permanent basis. The staffing pattern of the office shall be determined by the NCIP subject to existing rules and regulations.

Sec. 50. Consultative Body.- A body consisting of the traditional leaders, elders and representatives from the women and youth sectors of the different ICCs/IPs shall be constituted by the NCIP from the time to time to advise it on matters relating to the problems, aspirations and interests of the ICCs/IPs.

CHAPTER VIII

DELINEATION AND RECOGNITION OF ANCESTRAL DOMAINS

Sec. 51. Delineation and Recognition of Ancestral Domains.- Self-delineation shall be guiding principle in the identification and delineation of ancestral domains. As such, the ICCs/IPs concerned shall have a decisive role in all the activities pertinent thereto. The Sworn Statement of the Elders as to the Scope of the territories and agreements/pacts made with neighboring ICCs/IPs, if any, will be essential to the determination of these traditional territories. The Government shall take the necessary steps to identify lands which the ICCs/IPs concerned traditionally occupy and guarantee effective protection of their rights of ownership and possession thereto. Measures shall be taken in appropriate cases to safeguard the rights of the ICCs/IPs concerned to land which may no longer be exclusively occupied by them, but to which they have traditionally had access for their subsistence and traditional activities, particularly of ICCs/IPs who are still nomadic and/or shifting cultivators.

Sec. 52. Delineation Process.- The identification and delineation of ancestral domains shall be done in accordance with the following procedures:

a. Ancestral Domains Delineated Prior to this Act - The provisions hereunder shall not apply to ancestral domains/lands already delineated according to DENR Administrative Order No. 2,

series of 1993, nor to ancestral lands and domains delineated under any other community/ancestral domain program prior to the enactment of his law. ICCs/IPs enactment of this law shall have the right to apply for the issuance of a Certificate of Ancestral Domain Title (CADT) over the area without going through the process outlined hereunder;

b. Petition for Delineation - The process of delineating a specific perimeter may be initiated by the NCIP with the consent of the ICC/IP concerned, or through a Petition for Delineation filed with the NCIP, by a majority of the members of the ICCs/IPs;

c. Delineation Paper - The official delineation of ancestral domain boundaries including census of all community members therein, shall be immediately undertaken by the Ancestral Domains Office upon filing of the application by the ICCs/IPs concerned. Delineation will be done in coordination with the community concerned and shall at all times include genuine involvement and participation by the members of the communities concerned;

d. Proof required - Proof of Ancestral Domain Claims shall include the testimony of elders or community under oath, and other documents directly or indirectly attesting to the possession or occupation of the area since time immemorial by such ICCs/IPs in the concept of owners which shall be any one (1) of the following authentic documents:

1. Written accounts of the ICCs/IPs customs and traditions;
2. Written accounts of the ICCs/IPs political structure and institution;
3. Pictures showing long term occupation such as those of old improvements, burial grounds, sacred places and old villages;
4. Historical accounts, including pacts and agreements concerning boundaries entered into by the ICCs/IPs concerned with other ICCs/IPs;
5. Survey plans and sketch maps;
6. Anthropological data;
7. Genealogical surveys;
8. Pictures and descriptive histories of traditional communal forests and hunting grounds;
9. Pictures and descriptive histories of traditional landmarks such as mountains, rivers, creeks, ridges, hills, terraces and the like; and
10. Write-ups of names and places derived from the native dialect of the community.

e. Preparation of Maps - On the basis of such investigation and the findings of fact based thereon, the Ancestral Domains Office of the NCIP shall prepare a perimeter map, complete with technical descriptions, and a description of the natural features and landmarks embraced therein;

f. Report of Investigation and Other Documents - A complete copy of the preliminary census and a report of investigation, shall be prepared by the Ancestral Domains Office of the NCIP;

g. Notice and Publication - A copy of each document, including a translation in the native language of the ICCs/IPs concerned shall be posted in a prominent place therein for at least fifteen (15) days. A copy of the document shall also be posted at the local, provincial and regional offices of the NCIP, and shall be published in a newspaper of general circulation once a week for two (2) consecutive weeks to allow other claimants to file opposition thereto within fifteen (15) days from the date of such publication: Provided, That in areas where no such newspaper exists, broadcasting in a radio station will be a valid substitute: Provided, further, That mere posting shall be deemed sufficient if both newspaper and radio station are not available;

h. Endorsement to NCIP - Within fifteen (15) days from publication, and of the inspection process, the Ancestral Domains Office shall prepare a report to the NCIP endorsing a favorable action upon a claim that is deemed to have sufficient proof. However, if the proof is deemed

insufficient, the Ancestral Domains Office shall require the submission of additional evidence: Provided, That the Ancestral Domains Office shall reject any claim that is deemed patently false or fraudulent after inspection and verification: Provided, further, That in case of rejection, the Ancestral Domains Office shall give the applicant due notice, copy furnished all concerned, containing the grounds for denial. The denial shall be appealable to the NCIP: Provided, furthermore, That in cases where there are conflicting claims, the Ancestral Domains Office shall cause the contending parties to meet and assist them in coming up with a preliminary resolution of the conflict, without prejudice to its full adjudication according to the selection below.

i. Turnover of Areas Within Ancestral Domains Managed by Other Government Agencies

- The Chairperson of the NCIP shall certify that the area covered is an ancestral domain. The secretaries of the Department of Agrarian Reform, Department of Environment and Natural Resources, Department of the Interior and Local Government, and Department of Justice, the Commissioner of the National Development Corporation, and any other government agency claiming jurisdiction over the area shall be notified thereof. Such notification shall terminate any legal basis for the jurisdiction previously claimed;

j. Issuance of CADT - ICCs/IPs whose ancestral domains have been officially delineated and determined by the NCIP shall be issued a CADT in the name of the community concerned, containing a list of all those identified in the census; and

k. Registration of CADTs - The NCIP shall register issued certificates of ancestral domain titles and certificates of ancestral lands titles before the Register of Deeds in the place where the property is situated.

Sec. 53. Identification, Delineation and Certification of Ancestral Lands.-

a. The allocation of lands within any ancestral domain to individual or indigenous corporate (family or clan) claimants shall be left to the ICCs/IPs concerned to decide in accordance with customs and traditions;

b. Individual and indigenous corporate claimants of ancestral lands which are not within ancestral domains, may have their claims officially established by filing applications for the identification and delineation of their claims with the Ancestral Domains Office. An individual or recognized head of a family or clan may file such application in his behalf or in behalf of his family or clan, respectively;

c. Proofs of such claims shall accompany the application form which shall include the testimony under oath of elders of the community and other documents directly or indirectly attesting to the possession or occupation of the areas since time immemorial by the individual or corporate claimants in the concept of owners which shall be any of the authentic documents enumerated under Sec. 52 (d) of this act, including tax declarations and proofs of payment of taxes;

d. The Ancestral Domains Office may require from each ancestral claimant the submission of such other documents, Sworn Statements and the like, which in its opinion, may shed light on the veracity of the contents of the application/claim;

e. Upon receipt of the applications for delineation and recognition of ancestral land claims, the Ancestral Domains Office shall cause the publication of the application and a copy of each document submitted including a translation in the native language of the ICCs/IPs concerned in a prominent place therein for at least fifteen (15) days. A copy of the document shall also be posted at the local, provincial, and regional offices of the NCIP and shall be published in a newspaper of general circulation once a week for two (2) consecutive weeks to allow other claimants to file opposition thereto within fifteen (15) days from the date of such publication:

Provided, That in areas where no such newspaper exists, broadcasting in a radio station will be a valid substitute: Provided, further, That mere posting shall be deemed sufficient if both newspapers and radio station are not available

f. Fifteen (15) days after such publication, the Ancestral Domains Office shall investigate and inspect each application, and if found to be meritorious, shall cause a parcellary survey of the area being claimed. The Ancestral Domains office shall reject any claim that is deemed patently false or fraudulent after inspection and verification. In case of rejection, the Ancestral Domains office shall give the applicant due notice, copy furnished all concerned, containing the grounds for denial. The denial shall be appealable to the NCIP. In case of conflicting claims among individual or indigenous corporate claimants, the Ancestral domains Office shall cause the contending parties to meet and assist them in coming up with a preliminary resolution of the conflict, without prejudice to its full adjudication according to Sec. 62 of this Act. In all proceedings for the identification or delineation of the ancestral domains as herein provided, the Director of Lands shall represent the interest of the Republic of the Philippines; and

g. The Ancestral Domains Office shall prepare and submit a report on each and every application surveyed and delineated to the NCIP, which shall, in turn, evaluate or incorporate (family or clan) claimant over ancestral lands.

Sec. 54. Fraudulent Claims.- The Ancestral Domains Office may, upon written request from the ICCs/ IPs, review existing claims which have been fraudulently acquired by any person or community. Any claim found to be fraudulently acquired by, and issued to, any person or community may be cancelled by the NCIP after due notice and hearing of all parties concerned.

Sec. 55. Communal Rights.- Subject to Section 56 hereof, areas within the ancestral domains, whether delineated or not, shall be presumed to be communally held: Provide, That communal rights under this Act shall not be construed as co-ownership as provided in Republic Act. No. 386, otherwise known as the New Civil Code.

Sec. 56. Existing Property Rights Regimes.- Property rights within the ancestral domains already existing and/or vested upon effectivity of this Act, shall be recognized and respected.

Sec. 57. Natural Resources within Ancestral Domains.- The ICCs/IPs shall have the priority rights in the harvesting, extraction, development or exploitation of any natural resources within the ancestral domains. A non-member of the ICCs/IPs concerned may be allowed to take part in the development and utilization of the natural resources for a period of not exceeding twenty-five (25) years renewable for not more than twenty-five (25) years: Provided, That a formal and written agreement is entered into with the ICCs/IPs concerned or that the community, pursuant to its own decision making process, has agreed to allow such operation: Provided, finally, That the all extractions shall be used to facilitate the development and improvement of the ancestral domains.

Sec. 58. Environmental Consideration.- Ancestral domains or portion thereof, which are found necessary for critical watersheds, mangroves wildlife sanctuaries, wilderness, protected areas, forest cover, or reforestation as determined by the appropriate agencies with the full participation of the ICCs/IPs concerned shall be maintained, managed and developed for such purposes. The ICCs/IPs concerned shall be given the responsibility to maintain, develop, protect and conserve such areas with the full and effective assistance of the government agencies. Should the ICCs/IPs decide to transfer the responsibility over the areas, said decision must be made in writing. The consent of the ICCs/IPs should be arrived at in accordance with its customary laws without prejudice to the basic requirement of the existing laws on free and prior informed consent: Provided, That the transfer shall be temporary and will ultimately revert to the ICCs/IPs in accordance with a program for

technology transfer: Provided, further, That no ICCs/IPs shall be displaced or relocated for the purpose enumerated under this section without the written consent of the specific persons authorized to give consent.

Sec. 59. Certification Precondition.- all department and other governmental agencies shall henceforth be strictly enjoined from issuing, renewing, or granting any concession, license or lease, or entering into any production-sharing agreement, without prior certification from the NCIP that the area affected does not overlap with any ancestral domain. Such certificate shall only be issued after a field-based investigation is conducted by the Ancestral Domain Office of the area concerned: Provided, That no certificate shall be issued by the NCIP without the free and prior informed and written consent of the ICCs/IPs concerned: Provided, further, That no department, government agency or government-owned or -controlled corporation may issue new concession, license, lease, or production sharing agreement while there is pending application CADT: Provided, finally, That the ICCs/IPs shall have the right to stop or suspend, in accordance with this Act, any project that has not satisfied the requirement of this consultation process.

Sec.60. Exemption from Taxes.- All lands certified to be ancestral domains shall be exempt from real property taxes, specially levies, and other forms of exaction except such portion of the ancestral domains as are actually used for large-scale agriculture, commercial forest plantation and residential purposes and upon titling by other by private person: Provided, that all exactions shall be used to facilitate the development and improvement of the ancestral domains.

Sec. 61. Temporary Requisition Powers.- Prior to the establishment of an institutional surveying capacity whereby it can effectively fulfill its mandate, but in no case beyond three (3) years after its creation, the NCIP is hereby authorized to request the Department of Environment and Natural Resources (DENR) survey teams as well as other equally capable private survey teams, through a Memorandum of Agreement (MOA), to delineate ancestral domain perimeters. The DENR Secretary shall accommodate any such request within one (1) month of its issuance: Provided, That the Memorandum of Agreement shall stipulate, among others, a provision for technology transfer to the NCIP.

Sec. 62. Resolution of Conflicts.- In cases of conflicting interest, where there are adverse claims within the ancestral domains as delineated in the survey plan, and which cannot be resolved, the NCIP shall hear and decide, after notice to the proper parties, the disputes arising from the delineation of such ancestral domains: Provided, That if the dispute is between and/or among ICCs/IPs regarding the traditional boundaries of their respective ancestral domains, customary process shall be followed. The NCIP shall promulgate the necessary rules and regulations to carry out its adjudicatory functions: Provided, further, That in any decision, order, award or ruling of the NCIP on any ancestral domain dispute or on any matter pertaining to the application, implementation, enforcement and interpretation of this Act may be brought for Petition for Review to the Court of Appeals within fifteen (15) days from receipt of a copy thereof.

Sec. 63. Applicable Laws.- Customary laws, traditions and practices of the ICCs/IPs of the land where the conflict arises shall be applied first with respect to property rights, claims and ownerships, hereditary succession and settlement of land disputes. Any doubt or ambiguity in the application of laws shall be resolved in favor of the ICCs/IPs.

Sec. 64. Remedial Measures.- Expropriation may be resorted to in the resolution of conflicts of interest following the principle of the "common good". The NCIP shall take appropriate legal action for the cancellation of officially documented titles which were acquired illegally: Provided, That such procedure shall ensure that the rights of possessors in good faith shall be respected: Provided, further, That the action for cancellation shall be initiated within two (2) years from the

effectivity of this Act: Provided, finally, That the action for reconveyance shall be a period of ten (10) years in accordance with existing laws.

CHAPTER IX

JURISDICTION AND PROCEDURES FOR ENFORCEMENT OF RIGHTS

Sec. 65. Primary of Customary Laws and Practices.- When disputes involve ICCs/IPs, customary laws and practices shall be used to resolve the dispute.

Sec. 66. Jurisdiction of the NCIP.- The NCIP, through its regional offices, shall have jurisdiction over all claims and disputes involving rights of ICCs/IPs; Provided, however, That no such dispute shall be brought to the NCIP unless the parties have exhausted all remedies provided under their customary laws. For this purpose, a certification shall be issued by the Council of Elders/Leaders who participated in the attempt to settle the dispute that the same has not been resolved, which certification shall be a condition precedent to the filing of a petition with the NCIP.

Sec. 67. Appeals to the Court of Appeals.- Decisions of the NCIP shall be appealable to the Court of Appeals by way of a petition for review.

Sec. 68. Execution of Decisions, Awards, Orders.- Upon expiration of the period here provided and no appeal is perfected by any of the contending parties, the Hearing Officer of the NCIP, on its own initiative or upon motion by the prevailing party, shall issue a writ of execution requiring the sheriff or the proper officer to execute final decisions, orders or awards of the Regional Hearing Officer of the NCIP.

Sec. 69. Quasi-Judicial Powers of the NCIP.- The NCIP shall have the power and authority:

- a. To promulgate rules and regulations governing the hearing and disposition of cases filed before it as well as those pertaining to its internal functions and such rules and regulations as may be necessary to carry out the purposes of this Act;
- b. To administer oaths, summon the parties to a controversy, issue subpoenas requiring the attendance and testimony of witnesses or the production of such books, papers, contracts, records, agreements and other document of similar nature as may be material to a just determination of the matter under investigation or hearing conducted in pursuance of this Act;
- c. To hold any person in contempt, directly or indirectly, and impose appropriate penalties therefor; and
- d. To enjoin any or all acts involving or arising from any case pending therefore it which, if not restrained forthwith, may cause grave or irreparable damage to any of the parties to the case or seriously affect social or economic activity

Sec. 70. No restraining Order or Preliminary Injunction - No inferior court of the Philippines shall have the jurisdiction to issue any restraining order or writ of preliminary injunction against the NCIP or any of its duly authorized or designated offices in any case, dispute or controversy to, or interpretation of this Act and other pertinent laws relating to ICCs/IPs and ancestral domains.

CHAPTER IX

ANCESTRAL DOMAINS FUND

Sec. 71. Ancestral Domains Fund.- There is hereby created a special fund, to be known as the

Ancestral Domains Fund, an initial amount of the One Hundred thirty million pesos (P130,000,000) to cover compensation for expropriated lands, delineation and development of ancestral domains. An amount of Fifty million pesos (P50,000,000) shall be sourced from the gross income of the Philippine Charity Sweepstakes Office (PCSO) from its lotto operation, Ten millions pesos (P10,000,000) from the gross receipts of the travel tax of the preceding year, the fund of the Social Reform Council intended for survey and delineation of ancestral lands/domains, and such other source as the government may be deem appropriate. Thereafter such amount shall be included in the annual General Appropriations Act. Foreign as well as local funds which are made available for the ICCs/IPs through the government of the Philippines shall be coursed through the NCIP. The NCIP may also solicit and receive donations, endowments shall be exempted from income or gift taxes and all other taxes, charges or fees imposed by the government or any political subdivision or instrumentality thereof.

CHAPTER XI PENALTIES

Sec. 72. Punishable Acts and Applicable Penalties.- Any person who commits violation of any of the provisions of this Act, such as, but not limited to, authorized and/or unlawful intrusion upon any ancestral lands or domains as stated in Sec. 10, Chapter III, or shall commit any of the prohibited acts mentioned in Sections 21 and 24, Chapter V, Section 33, Chapter VI hereof, shall be punished in accordance with the customary laws of the ICCs/IPs concerned: Provided, That no such penalty shall be cruel, degrading or inhuman punishment: Provided, further, That neither shall the death penalty or excessive fines be imposed. This provision shall be without prejudice to the right of any ICCs/IPs to avail of the protection of existing laws. In which case, any person who violates any provision of this Act shall, upon conviction, be punished by imprisonment of not less than nine (9) months but not more than twelve (12) years or a fine not less than One hundred thousand pesos (P100,000) nor more than Five hundred thousand pesos (P500,000) or both such fine and imprisonment upon the discretion of the court. In addition, he shall be obliged to pay to the ICCs/IPs concerned whatever damage may have been suffered by the latter as a consequence of the unlawful act.

Sec. 73. Persons Subject to Punishment.- If the offender is a juridical person, all officers such as, but not limited to, its president, manager, or head of office responsible for their unlawful act shall be criminally liable therefor, in addition to the cancellation of certificates of their registration and/or license: Provided, That if the offender is a public official, the penalty shall include perpetual disqualification to hold public office.

CHAPTER XII

MERGER OF THE OFFICE FOR NORTHERN CULTURAL COMMUNITIES (ONCC) AND THE OFFICE FOR SOUTHERN CULTURAL COMMUNITIES (OSCC)

Sec. 74. Merger of ONCC/OSCC.- The Office for Northern Cultural Communities (ONCC) and the Office of Southern Cultural Communities (OSCC), created under Executive Order Nos. 122-B and 122-C respectively, are hereby merged as organic offices of the NCIP and shall continue to function under a revitalized and strengthened structures to achieve the objectives of the NCIP: Provided, That the positions of Regional Directors and below, are hereby phased-out upon the effectivity of this Act: Provided, further, That officials and employees of the phased-out offices who may be qualified may apply for reappointment with the NCIP and may be given prior rights in the filing up of the newly created positions of NCIP, subject to the qualifications set by the Placement Committee: Provided, furthermore, That in the case where an indigenous person and a non-indigenous person with similar qualifications apply for the same position, priority shall be given to the former. Officers and employees who are to be phased-out as a result of the merger of their offices shall be entitled to gratuity a rate equivalent to one and a half (1 1/2) months salary for every year of continuous and satisfactory service rendered or the equivalent

nearest fraction thereof favorable to them on the basis of the highest salary received. If they are already entitled to retirement benefits or the gratuity herein provided. Officers and employees who may be reinstated shall refund such retirement benefits or gratuity received: Provided, finally That absorbed personnel must still meet the qualifications and standards set by the Civil Service and the Placement Committee herein created.

Sec. 75. Transition Period.- The ONCC/OSCC shall have a period of six (6) months from the effectivity of this Act within which to wind up its affairs and to conduct audit of its finances.

Sec. 76. Transfer of Assets/Properties.- All real and personal properties which are vested in, or belonging to, the merged offices as aforesaid shall be transferred to the NCIP without further need of conveyance, transfer or assignment and shall be held for the same purpose as they were held by the former offices: Provided, That all contracts, records and documents shall be transferred to the NCIP. All agreements and contracts entered into by the merged offices shall remain in full force and effect unless otherwise terminated, modified or amended by the NCIP.

Sec. 77. Placement Committee.- Subject to rules on government reorganization, a Placement Committee shall be created by the NCIP, in coordination with the Civil Service Commission, which shall assist in the judicious selection and placement of personnel in order that the best qualified and most deserving persons shall be appointed in the reorganized agency. The placement Committee shall be composed of seven (7) commissioners and an ICCs/IPs representative from each of the first and second level employees association in the Offices for Northern and Southern Cultural Communities (ONCC/OSCC), nongovernment organizations (NGOs) who have served the community for at least five (5) years and peoples organizations (POs) with at least five (5) years of existence. They shall be guided by the criteria of retention and appointment to be prepared by the consultative body and by the pertinent provisions of the civil service law.

CHAPTER XIII

FINAL PROVISIONS

Sec. 78. Special Provision.- The City of Baguio shall remain to be governed by its Chapter and all lands proclaimed as part of its townsite reservation shall remain as such until otherwise reclassified by appropriate legislation: Provided, That prior land rights and titles recognized and/or required through any judicial, administrative or other processes before the effectivity of this Act shall remain valid: Provided, further, That this provision shall not apply to any territory which becomes part of the City of Baguio after the effectivity of this Act.

Sec. 79. Appropriations.- The amount necessary to finance the initial implementation of this Act shall be charged against the current year's appropriation of the ONCC and the OSCC. Thereafter, such sums as may be necessary for its continued implementation shall be included in the annual General Appropriations Act.

Sec. 80. Implementing Rules and Regulations.- Within sixty (60) days immediately after appointment, the NCIP shall issue the necessary rules and regulations, in consultation with the Committees on National Cultural Communities of the House of Representatives and the Senate, for the effective implementation of this Act.

Sec. 81. Saving Clause.- This Act will not in any manner adversely affect the rights and benefits of the ICCs/IPs under other conventions, recommendations, international treaties, national laws, awards, customs and agreements.

Sec. 82. Separability Clause.- In case any provision of this Act or any portion thereof is declared unconstitutional by a competent court, other provisions shall not be affected thereby.

Sec. 83. Repealing Clause.- Presidential Decree NO. 410, Executive Order Nos. 122-B and 122-C, and all other laws, decrees, orders, rules and regulations or parts thereof inconsistent with this Act are hereby repealed or modified accordingly.

Sec. 84. Effectivity.- This Act shall take effect fifteen days (15) days upon its publication in the Official Gazette or in any two (2) newspapers of general circulation.

Approved: 29 October 1997.

REPUBLIC ACT NO. 8435
AGRICULTURE AND FISHERIES MODERNIZATION ACT OF 1997

An Act Prescribing Urgent Related Measures to Modernize the Agriculture and Fisheries Sectors of the Country in Order to Enhance Their Profitability, and Prepare Said Sectors for the Challenges of the Globalization Through an Adequate, Focused and Rational Delivery of Necessary Support Services, Appropriating Funds Therefore and For Other Purposes.

Section 1. Short Title. - This act shall be known as the "Agriculture and Fisheries Modernization Act of 1997."

Sec. 2. Declaration of Policy. - The goals of the national economy are more equitable distribution of opportunities, income and wealth; a sustained increase in the amount of goods and services produced by the nation for the benefit of the people; and an expanding productivity as the key to raising the quality of life for all, especially the underprivileged.

The State shall promote industrialization and full employment based on sound agricultural development and agrarian reform, through industries that make full and efficient use of human and natural resources, and which are competitive in both domestic and foreign markets. In pursuit of these goals, all sectors of the economy and all regions of the country shall be given optimum opportunity to develop. Private enterprises, including corporations, cooperatives, and similar collective organizations, shall be encouraged to broaden the base of their ownership.

Thus, it is hereby declared the policy of the State to enable those who belong to the agriculture and fisheries sectors to participate and share in the fruits of development and growth in a manner that utilizes the nations resources in the most efficient and sustainable way possible by establishing a more equitable access to assets, income, basic and support services and infrastructure.

The State shall promote food security, including sufficiency in our staple food, namely rice and white corn. The production of rice and white corn shall be optimized to meet our local consumption and shall be given adequate support by the State.

The State shall adopt the market approach in assisting the agriculture and fisheries sectors while recognizing the contribution of the said sector to food security, environmental protection, and balanced urban and rural development, without neglecting the welfare of the consumers, especially the lower income groups. The state shall promote market-oriented policies in agricultural production to encourage farmers to shift to more profitable crops.

The state shall empower the agricultural and fisheries sector to develop and sustain themselves. Toward this end, the State shall insure the development of the agriculture and fisheries sectors in accordance with the following principles:

a) Poverty Alleviation and Social Equity. - The State shall ensure that the poorer sectors of society have equitable access to resources, income opportunities, basic and support services and infrastructure especially in areas where productivity is low as a means of improving their quality of life compared with other sectors of society;

b) Food Security. - The State shall assure the availability, adequacy, accessibility of food supplies to all at all times;

c) Rational Use of Resources. - The State shall adopt a rational approach in the allocation of public investments in agriculture and fisheries in order to assure efficiency and effectiveness in the use of scarce resources and thus obtain optimal returns on its investments;

d) Global Competitiveness. - The State shall enhance the competitiveness of the agriculture and fisheries sectors in both domestic and foreign markets;

e) Sustainable Development. - The State shall promote development that is compatible with the preservation of the ecosystem in areas where agriculture and fisheries activities are carried out. The State should exert care and judicious use of the country's natural resources in order to attain long-term sustainability;

f) People Empowerment. - The State shall promote people empowerment by enabling all citizens through direct participation or through their duly elected, chosen or designated representatives the opportunity to participate in policy formulation and decision-making by establishing the appropriate mechanisms and by giving them access to information; and

g) Protection from Unfair Competition. - The State shall protect small farmers and fisher folk from unfair competition such as monopolistic and oligopolistic practices by promoting a policy environment that provides them priority access to credit and strengthened cooperative-based marketing system.

Sec. 3. Statement of Objectives. - This Act shall have the following objectives:

a) To modernize the agriculture and fisheries sectors by transforming these sectors from a resource-based to a technology-based industry;

b) To enhance profits and incomes in the agriculture and fisheries sectors, particularly the small farmers and fisherfolk, by ensuring equitable access to assets, resources and services, and promoting higher-value crops, value-added processing, agribusiness activities, and agro-industrialization;

c) To ensure the accessibility, availability and stable supply of food to all at all times;

d) To encourage horizontal and vertical integration, consolidation and expansion of agriculture and fisheries activities, group functions and other services through the organization of cooperatives, farmers' and fisherfolk's associations, corporations, nucleus estates, and consolidated farms and to enable these entities to benefit from economies of scale, afford them a stronger negotiating position, pursue more focused, efficient and appropriate research and development efforts and enable them to hire professional managers;

e) To promote people empowerment by strengthening people's organizations, cooperatives and NGO's and by establishing and improving mechanisms and resources for their participation in government decision-making and implementation;

f) To pursue a market-driven approach to enhance the comparative advantage of our agriculture and fisheries sectors in the world market;

g) To induce the agriculture and fisheries sectors to ascend continuously the value-added ladder by subjecting their traditional or new products to further processing in order to minimize the marketing of raw, unfinished or unprocessed products;

h) To adopt policies that will promote industry dispersal and rural industrialization by providing incentives to local and foreign investors to establish industries that have backward linkages to the country's agriculture and fisheries resource base;

- i) To provide social and economic adjustment measures that increase productivity and improve market efficiency while ensuring the protection and preservation of the environment and equity for small farmers and fisherfolk; and
- j) To improve the quality of life of all sectors.

Sec. 4. Definition of Terms. –

"Agrarian Reform Community" is a barangay at the minimum or a cluster of contiguous barangays where there is a critical mass of farmers or farm workers and which features the main thrust of agrarian development land tenure improvement and effective delivery of support services.

"Agricultural Lands" refers to lands devoted to or suitable for the cultivation of the soil, planting of crops, growing of trees, raising of livestock, poultry, fish or aquiculture production, including the harvesting of such farm products, and other farm activities and practices performed in conjunction with such farming operations by persons whether natural or juridical and not classified by the law as mineral land, forest land, residential land, commercial land, or industrial land.

"Agricultural Land Use Conversion" refers to the process of changing the use of agricultural land to non-agricultural uses.

"Agricultural Sector" is the sector engaged in the cultivation of the soil, planting of crops, growing of fruit trees, raising of livestock, poultry, or fish, including the harvesting and marketing off such farm products, and other farm activities and practices.

"Agricultural Mechanization" is the development, adoption, manufacture and application of appropriate location-specific, and cost-effective agricultural technology using human, animal, mechanical, electrical and other non-conventional sources of energy for agricultural production and post-harvest operations consistent with agronomic conditions and for efficient and economic farm management.

"Agriculture and Fisheries Modernization" is the process of transforming the agriculture and fisheries sectors into one that is dynamic, technologically advanced and competitive yet centered on human development guided by the sound practices of sustainability and the principles of social justice.

"Agro-Processing Activities" refers to the processing of raw agricultural and fishery products into semi-processed or finished products which include materials for the manufacture for food and/or non-food products, pharmaceuticals and other industrial products.

"Banks", collective used, means government banks and private banks, rural banks and cooperative banks.

"Basic Needs Approach to Development" involves the identification, production and marketing of wage goods and services for consumption of rural communities.

"Communal Irrigation System (CIS)" is an irrigation system that is managed by a bona fide Irrigators Association.

"Competitive Advantage" refers to competitive edge in terms of product quality and/or price. It likewise refer to the ability to produce a product with the greatest relative efficiency in the use of resources.

"Cooperatives" refers to duly registered associations of persons with a common bond of interest who have voluntarily joined together to achieve a lawful common social and economic end, making equitable contributions to the capital required and accepting a fair share of the risks and benefits of the undertaking in accordance with universally accepted cooperatives principles.

"Department" refers to the Department of Agriculture.

"Economic Scale " refers to the minimum quantity of volume of goods required to be efficient.

"Economies of Scale" refers to the decrease in unit cost as more units are produced due to the spreading out of fixed costs over a greater number of units produced.

"Empowerment" involves providing authority, responsibility and information to people directly engaged in agriculture and fishery production, primarily at the level of the farmers, fisher folk and those engaged in food and non-food production and processing, in order to give them wider choices and enable them to take advantage of the benefits of the agriculture and fishery industries.

"Extension Services" refers to the provision of training, information, and support services by the government and non-government organizations to the agriculture and fisheries sectors to improve the technical, business, and social capabilities of farmers and fisher folk.

"Farmer's and Fisherfolk's Organizations or Associations" refer to farmers and fisherfolks cooperatives, associations or corporations duly registered with appropriate government agencies and which are composed primarily of small agricultural producers, farmers, farm workers, agrarian reform beneficiaries, fisher folk who voluntarily join together to form business enterprises or non-business organizations which they themselves own, control and patronize.

"Farm-to-Market Roads" refer to roads linking the agriculture and fisheries production sites, coastal landing points and post-harvest facilities to the market and arterial roads and highways.

"Fisheries" refers to all systems or networks of interrelated activities which include the production, growing, harvesting, processing, marketing, developing, conserving, and managing of all aquatic resources and fisheries areas.

"Fisheries Sector" is the sector engaged in the production, growing, harvesting, processing, marketing, developing, conserving, and managing of aquatic resources and fisheries areas.

"Fishing" refers to the application of techniques using various gear in catching fish and other fisheries products.

"Fishing Grounds" refers to areas in any body of water where fish and other aquatic resources congregate and become target of capture.

"Food Security" refers to the policy objective, plan and strategy of meeting the food requirements of the present and future generations of Filipinos in substantial quantity, ensuring the availability and affordability of food to all, either through local production or importation, of both, based on the country's existing and potential resource endowment and related production advantages, and consistent with the over all national development objectives and policies. However, sufficiency in rice and white corn should be pursued.

"Fresh Agricultural And Fishery Products" refers to agricultural and fisheries products newly taken or captured directly from its natural state or habitat, or those newly harvested or gathered from agricultural areas or bodies of water used for aquaculture.

"Global Competitiveness" refers to the ability to compete in terms of price, quality and value of agriculture and fishery products relative to those of other countries.

"Gross Value-Added" refers to the total value, excluding the value of non-agricultural of fishery intermediate inputs, of goods and services contributed by the agricultural and fisheries sectors.

"Head works" refers to the composite parts of the irrigation system that divert water from natural bodies of water such as river, streams, and lakes.

"Industrial Dispersal" refers to the encouragement given to manufacturing enterprises to establish their plants in rural areas. Such firms normally use agricultural raw materials either in their primary or intermediate state.

"Irrigable Lands" refers to lands which display marked characteristics justifying the operation of an irrigation system.

"Irrigated Lands" refers to lands services by natural irrigation or irrigation facilities. These include lands where water is not readily available as existing irrigation facilities need rehabilitation or upgrading or where irrigation water is not available year-round.

"Irrigation System" refers to a system of irrigation facilities covering contiguous areas.

"Irrigators' Association (IA)" refers to an association of farmers within a contiguous area served by a National Irrigation System or Communal Irrigation System.

"Land Use" refers to the manner of utilizing the land, including its allocation, development and management.

"Land Use Plan" refers to a document embodying a set of policies accompanied by maps and similar illustrations which represent the community-deserved pattern of population distribution and a proposal for the future allocation of land to the various land-using activities, in accordance with the social and economic objectives of the people. It identifies the location, character and extent of the area's land resources to be used for different purposes and includes the process and the criteria employed in the determination of the land use.

"Land Use Planning" refers to the act of defining the allocation, utilization, development and management of all lands within a given territory or jurisdiction according to the inherent qualities of the land itself and supportive of sustainable, economic, demographic, socio-cultural and environmental objectives as an aid to decision-making and legislation.

"Main Canal" refers to the channel where diverted water from a source flows to the intended area to be irrigated.

"Market Infrastructure" refers to facilities including, but not limited to, market buildings, slaughterhouses, holding pens, warehouses, market information centers, connecting roads, transport and communication and cold storage used by the farmers and fisher folk in marketing their produce.

"National Information Network (NIN)" refers to an information network which links all offices and levels of the Department with various research institutions and local end-users, providing easy access to information and marketing services related to agriculture and fisheries.

"National Irrigation System (NIS)" refers to a major irrigation system managed by the National Irrigation Administration.

"Network of Protected Areas for Agricultural and Agro-industrial Development (NPAAD)"

refers to agricultural areas identified by the Department through the Bureau of Soils and Water Management in coordination with the National Mapping and Resources Information Authority in order to ensure the efficient utilization of land for agriculture and Agro-industrial development and promote sustainable growth . The NPAAD covers all irrigated areas, all irrigable lands already covered by irrigation projects with firm funding commitments; all alluvial plain land highly suitable for agriculture whether irrigated or not; Agro-industrial crop lands or lands presently planted to industrial crops that support the viability of existing agricultural infrastructure and agro-based enterprises, highlands, areas located at an elevation of five hundred (500) meters or above and have the potential for growing semi temperate and high-value crops; all agricultural lands that are ecological fragile, the conversion of which will result in serious environmental degradation, and mangrove areas and fish sanctuaries.

"On-Farm Irrigation Facilities" refers to composite facilities that permit entry of water to paddy areas and consist of farm ditches and turnouts.

"Primary Processing" refers to the physical alteration of raw agricultural or fishery products with or without the use of mechanical facilities.

"Post-Harvest Facilities" includes, but is not limited to , threshing, drying, milling, grading , storing, and handling of produce and such other activities as stripping, winnowing, chipping and washing.

"Post -Harvest Facilities" includes, but it is not limited to, threshers, moisture meters, dryers, weighing scales, milling equipment, fish ports, fish landings, ice plants and cold storage facilities, processing plants, warehouses, buying stations, market infrastructure and transportation.

" Premature Conversion of Agricultural Land" refers to the undertaking of any development activity, the results of which modify or alter the physical characteristics of the agricultural lands to render them suitable for non-agricultural purposes, without an approved order of conversion from the DAR.

" Resource Accounting" refers to a tracking changes in the environment and natural resources biophysically and economically (in monetary terms)

"Resource-based" refers to the utilization of natural resources.

"Rural Industrialization" refers to the process by which the economy is transformed from one that is predominantly agricultural to one that is dominantly industrial and service-oriented. Agriculture provides the impetus and push for industry and services through the market that it creates, the labor that it absorbs, and the income that it generates which is channeled to industry and services. As development continues, with agriculture still an important sector, industry and services begin to generate income and markets and concomitantly increase their share of total income.

"Strategic Agriculture and Fisheries Development Zones (SAFDZ)" refers to the areas within the NAPAAD identified for production, Agro-Processing and marketing activities to help develop and modernize, either the support of government, the agriculture and fisheries sectors in an environmentally and socio-cultural sound manner.

"Secondary Canal" refers to the channel connected to the main canal which distributes irrigation to specific areas.

"Secondary Processing" refers to the physical transformation of semi-processed agricultural or fishery products.

"Shallow Tube Well (STW)" refers to a tube or shaft vertically set into the ground for the purpose of bringing ground water to the soil surface from a depth of less than 20 meters by suction lifting.

"Small Farmers and Fisherfolk" refers to natural person dependent on small-scale subsistence farming and fishing activities as their primary source of income.

"Small and Medium Enterprise (SME)" refers to any business activity or enterprise engaged in industry, agribusiness and/or services, whether single proprietorship, cooperative, partnership or corporation whose total assets, inclusive of those arising from loans but exclusive of the land on which the particular business entity's office, plan and equipment are situated, must have value falling under the following categories:

Micro - not more than P 1,500,000

Small - P 1,500,001 to P 15,000,000

Medium - P15,000,001 to P 60,000,000

The Department, in consultation with the Congressional Oversight Committee on Agricultural and Fisheries Modernization, may adjust the above values as deemed necessary.

"Socio-culturally Sound" means the consideration of the social structure of the community such as leadership pattern, distribution of roles across gender and age groups, the diversity of religion and other spiritual beliefs, ethnicity and cultural diversity of the population.

"Technology-based" refers to utilization of technology.

"Zoning Ordinance" refers to a local legislation approving the development land use plan and providing for the regulations and other conditions on the uses of land including the limitation of the infrastructure that may be placed within the territorial jurisdiction of a city or municipality.

TITLE I

PRODUCTION AND MARKETING SUPPORT SERVICES

Chapter 1

Strategic Agricultural and Fisheries Development Zones

Sec. 5. Declaration of Policy. - It is the policy of the State to ensure that all sectors of the economy and all regions of the country shall be given optimum opportunity to develop through the rational and sustainable use of resources peculiar to each area in order to maximize agricultural productivity, promote efficiency and equity and accelerate the modernization of the agriculture and fisheries sectors of the country.

Sec. 6. Network of Areas for Agricultural and Agro-Industrial Development. -The Department shall, within six (6) months after the approval of this Act, and in consultation with the local government units, appropriate government agencies, concerned non-government organizations (NGOs) and organized farmers' and fisherfolk's groups, identify the strategic Agriculture and Fisheries Development Zones (SAFDZ) within the network of protected areas for agricultural and agro-industrial development to ensure that lands are efficiently and sustainably utilized for food and non-food production and agro-industrialization. The SAFDZ which shall serve as centers where development in the agriculture and fisheries sectors are catalyzed in an environmentally and socio-cultural sound manner, shall be identified on the basis of the following criteria

- a. Agro-climatic and environmental conditions giving the area as competitive advantage in the cultivation, culture, production and processing of particular crops, animals and aquatic products;
- b. Strategic location of the area for the establishment of agriculture or fisheries infrastructure, industrial complexness, production and processing zones;
- c. Strategic location and of the area for market development and market networking both at the local and international levels; and
- d. Dominant presence of agrarian reform communities (ARCs) and/or small owner-cultivators and amortizing owners/agrarian reform beneficiaries and other small farmers and fisher folk in the area.

The SAFDZ shall have an integrated development plan consisting of production, processing, investment, marketing, human resources and environmental protection components.

Sec. 7. Modern Farms. - The Department in coordination with the local government units (LGUs) and appropriate government agencies, may designate agrarian reform communities (ARCs) and other areas within the SAFDZ suitable for economic scale production which will serve as model farms.

Farmer-landowners whose lands are located within these designated areas shall be given the option to enter into a management agreement with corporate entities with proven competence in farm operations and management, high-end quality production and productivity through the use of up-to-date technology and collateral resources such as skilled manpower, adequate capital and credit, and access to markets, consistent with the existing laws.

Sec. 8. Mapping. - The Department, through the Bureau of Soils and Water Management (BSWM), in coordination with the National Mapping and Resource Information Authority (NAMRIA) and the Housing and Land Use Regulatory Board (HLURB) shall undertake the mapping of network of areas for agricultural and agro-industrial development for all municipalities, cities and an appropriate scale. The BSWM may call on other agencies to provide technical and other logistical support in this undertaking .

Sec. 9. Delineation of Strategic Agriculture and Fisheries Development Zones. - The Department, in consultation with the Department of Agrarian Reform, the Department of Trade and Industry, the Department of Environment and Natural Resources, Department of Science and Technology, the concerned LGU's, the organized farmers and fisher folk groups, the private sector and communities shall, without prejudice to the development of identified economic zones and free ports, establish and delineate based on sound resource accounting, the SAFDZ within one (1) year from the effectivity of this Act.

All irrigated lands, irrigable lands already covered by irrigation a projects with firm funding commitments, and lands with existing or having the potential for growing high-value crops so delineated and included within the SAFDZ shall not be converted for a period of five (5) years from the effectivity for this Act: Provided, however, That not more than five percent (5%) of the said lands located within the SAFDZ may be converted upon compliance with existing laws, rules, regulations, executive order and issuances, and administrative orders relating to land use conversion: Provided, further, That thereafter 1) a review of the SAFDZ, specifically of the productivity of the areas, improvement of the quality of life of farmers and fisher folk, and efficiency and defectiveness of the support services shall be conducted by the Department and the Department of Agrarian Reform, in coordination with the Congressional Oversight Committee on Agricultural Committee and Fisheries Modernization; 2) conversion may be allowed, if at all, on a case-to-case basis subject to existing laws, rules, regulations, executive orders and issuances, and administrative orders governing land use conversion; 3) in case of

conversion, the land owners will pay the Department the amount equivalent to the government's investment cost including inflation.

Sec. 10. Preparation of Land Use and Zoning Ordinance. - Within one (1) year from the finalization of the SAFDZ, in every city and municipality, all cities and municipalities shall have prepared their respective land use and zoning ordinance incorporating the SAFDZ, where applicable. Thereafter, all land use plans and zoning ordinances shall be updated every four (4) years or as often as may be deemed necessary upon the recommendation of the Housing and Land Use Regulatory Board and must be completed within the first year of the term of office of the mayor. If the cities/municipalities fail to comply with the preparation of zoning and land use plans, the DILG shall impose the penalty as provided for under Republic Act No.7160

Sec. 11. Penalty for Agricultural Inactivity and Premature Conversion. - Any person or juridical entity who knowingly or deliberately causes any irrigated agricultural lands seven (7) hectares or larger, whether contiguous or not, within the protected areas for agricultural development, as specified under Section 6 in relation to Section 9 of this Act, to lie idle and unproductive for a period exceeding one (1) year, unless due to force majeure, shall be subject to an idle land tax of Three Thousand Pesos (P3,000.00) per hectare per year. In addition, the violator, shall be required to put back such lands to productive agricultural use. Should the continued agricultural inactivity, unless due to force majeure, exceed a period of two (2) years, the land shall be subject to escheat proceedings.

Any person found guilty of premature or illegal conversion shall be penalized with imprisonment of two (2) to six (6) years, or a fine equivalent to one hundred percent (100%) of the government's investment cost, or both, at the discretion of the court, and an accessory penalty of forfeiture of the land and any improvement thereon.

In addition, the DAR may impose the following penalties, after determining, in an administrative proceedings, that violation of this law has been committed:

- a. Consolation or withdrawal of the authorization for land use conversion; and
- b. Backlisting, or automatic disapproval of pending and subsequent conversion applications that they may file with the DAR.

Sec. 12. Protection of Watershed Areas. - All watersheds that are sources of water for existing And potential irrigable areas and recharge areas of major aquifers identified by the Department of Agriculture and the Department of Environment and Natural resources shall be preserves as such at all times.

Chapter 2

Agriculture and Fisheries Modernization Plan

Sec. 13. Agriculture and Fisheries Modernization Plan (AFMP). - The Department, in consultation with the farmers and fisher folk, the private sector, NGOs, people's organizations and the appropriate government agencies and offices, shall formulate and implement a medium- and long-term comprehensive Agriculture and Fisheries Modernization Plan.

The Agriculture and Fisheries Modernization Plan shall focus on five (5) major concerns:

- a. Food security;
- b. Poverty alleviation and social equity;
- c. Income enhancement and profitability, especially for farmers and fisher folk;
- d. Global competitiveness; and
- e. Sustainability.

Sec. 14. Food Security , Poverty Alleviation, Social Equity and Income Enhancement. - The Department, in coordination with other concerned departments or agencies, shall formulate medium-and long-term plans addressing food security, poverty alleviation, social equity and

income enhancement concerns based on, but not limited to, the following goals and indicators for development:

- a. Increased income and profit of small farmers and fisherfolk;
- b. Availability of rice and other staple foods at affordable process;
- c. Reduction of rural poverty and income inequality;
- d. Reduction of the incidence of malnutrition;
- e. Reduction of rural unemployment and underemployment; and
- f. Improvement in land tenure of small farmers.

Sec. 15. Global Competitiveness and Sustainability. - The Department shall formulate medium-and-long-term plans aimed at enhancing the global competitiveness and sustainability of the country in agriculture and fisheries based on, but not limited to, the following goals and indicators for development:

- a. Increase in the volume, quality and value of agriculture and fisheries production for domestic consumption and for exports;
- b. Reduction in post-harvest losses;
- c. Increase in the number/types and quality of processed agricultural and fishery products;
- d. Increase in the number of international trading partners in agriculture and fishery products;
- e. Increase in the number of sustainable agriculture and fisheries firms engaged in domestic production, processing, marketing and export activities;
- f. Increase in and wider level of entrepreneurship among farmers and fisher folk in the area;
- g. Increase in the number of farms engaged in diversified farming; and
- h. Reduced use of agro-chemicals that are harmful to health and the environment.

Sec. 16. Global Climate Change. - The Department, in coordination with the Philippine Atmospheric, Geophysical and Astronomical Service Administration (P. A. G. A. S. A.) and such other appropriate government agencies, shall devise a method of regularly monitoring and considering the effect of global climate changes, weather disturbances, and annual productivity cycles for the purpose of forecasting and formulating agriculture and fisheries production programs.

Sec. 17. Special Concerns. - The Department shall consider the following areas of concerns, among other in formulating the AFMP:

- a. Strategies and programs aimed to achieve growth and profitability targets in the context of the constraints and challenges of the World Trade Organization (WTO);
- b. Programs arising from the implementation of the Agrarian Reform Program;
- c. Identification of SAFDZ;
- d. Infrastructure and market support for the SAFDZ;
- e. Infrastructure support to make agriculture and fisheries production inputs, information and technology readily available to farmers, fisherfolk, cooperatives and entrepreneurs;
- f. Credit programs for small farmers and fisher folk, and agricultural graduates;
- g. Comprehensive and integrated agriculture and fisheries research, development and extension services;
- h. Preservation of biodiversity, genetic materials and the environment;
- i. Adequate and timely response against environmental threats to agriculture and fisheries;
- j. Rural non-farm employment;

- k. Access to aquatic resources by fisher folk;
- l. Basic needs program for the impoverished sectors of society who will be affected by liberalization;
- m. Indigenous peoples;
- n. Rural youth;
- o. Women;
- p. Handicapped persons; and
- q. Senior citizens.

Sec. 18. Monitoring and Evaluation. - The Department shall develop the capability of monitoring the AFMP through a Program Benefit Monitoring and Evaluation System (PBMES). In addition, it can secure the services of independent consultants and external evaluators in order to assess its over-all impact. The Department shall make periodic reports to the Congressional Oversight Committee on Agriculture and Fisheries Modernization.

Sec. 19. Role of Other Agencies. - All units and agencies of the government shall support the Department in the implementation of the AFMP.

In particular, the Department of Public Works and Highways shall coordinate with the Department with respect to the infrastructure support aspect of the plan order to accomplish networking of related infrastructure facilities.

The Department of Interior and Local Government shall provide assistance to the Department in mobilizing resources under the control of local government units.

The Department of Trade and Industry, Agrarian Reform, Science and Technology, and Environment and Natural Resources shall coordinate their investment programs and activities to complement the Department's implementation of the AFMP.

The Department of Education, Culture and Sports, the Technical Educational and Skills Development Authority, the Department of Health with the Department of Social Services and Development shall coordinate with the Department to determine the financial requirements of small farmers and fisherfolk to adjust to the effects of modernization as envisioned in the Agriculture and Fisheries Modernization Plan.

The departments referred above shall be required to identify in their budget proposals the allocation intended for the improvement of the environmental and other conditions affecting agriculture and fisheries.

Congressional initiatives shall also be coordinated by the Committees on Agriculture on both Houses to complement and enhance the programs and activities of the Department in the implementation of the AFMP.

Chapter 3

Credit

Sec.20. Declaration of Policy. - It is hereby declared the policy of the State to alleviate poverty and promote vigorous growth in the countryside through access to credit by small farmers, fisher folk, particularly the women involved in the production, processing and trading of agriculture and fisheries products and the small and medium scale enterprises (SMEs) and industries engaged in agriculture and fisheries.

Interest rates shall be determined by market forces, provided that existing credit arrangements with agrarian reform beneficiaries are not affected. Emphasis of the program shall be on proper management and utilization.

In this regard, the State enjoins the active participation of the banking sector and government financial institutions in the rural financial system.

Sec. 21. Phase-out of the Directed Credit Programs (DCPs) and Provision for the Agro-Industry Modernization Credit and Financing Program (AMCPP). - The Department shall implement existing DCPs; however, the Department shall, within a period of four (4) years from the

effectivity of this Act, phase-out all DCPs and deposit all its loanable funds including those under the Comprehensive Agricultural Loan Fund (CALF) including new funds provided by this Act for the AMCFP and transfer the management thereof to cooperative banks , rural banks, government financial institutions and viable NGOs for the Agro-Industry Modernization Credit Financing Program (AMCFP). Interest earnings of the said deposited loan funds shall be reverted to the AMCFP.

Sec.22. Coverage. - An agriculture, fisheries and agrarian reform credit and financing system shall be designed for the use and benefit of farmers, fisher folk those engaged in food and non-food production, processing and trading, cooperatives, farmers'/fisherfolk's organization, and SMEs engaged in agriculture hereinafter referred to in this chapter as the "beneficiaries"

Sec. 24. Review of the mandates of Land Bank of the Philippines Crop Insurance Corporation, Guarantee Fund For Small and Medium Enterprises, Quedan and Rural Credit Guarantee Corporation, Agricultural Credit Policy Council. - The Department of Finance shall commission and independent review of the charters and the respective programs of the Land Bank of the Philippines (LBP), Philippine Crop Insurance Corporation (PCIC), Guarantee Fund for Small and Medium Enterprises (GFSME), Quedan and Rural Credit Guarantee Corporation (Quendancor), and Agricultural Credit Policy Council (ACPC), and recommend policy changes and other measures to induce the private sectors participation in lending to agriculture and to improve credit access by farmers and fisherfolk: Provided, That agriculture and fisheries projects with long gestation period shall be entitled to a longer grace period in repaying the loan based on the economic life of the project.

The Land Bank of the Philippines, shall, in accordance with its original mandate, focus primarily on plans and programs in relation to the financing of agrarian reform and the delivery of credit services to the agriculture and fisheries sectors, especially to small farmers and fisherfolk.

The review shall start six (6) months after the enactment of this Act. Thereafter, the review shall make recommendations to the appropriate Congressional Committees for possible legislative actions and to the Executive Branch for policy and program changes within six (6) months after submission.

Sec. 25. Rationalization of Credit Guarantee Schemes and Funds. - All existing credit guarantee schemes and funds applicable to the agriculture and fishery sectors shall be rationalized and consolidated into an Agriculture and Fisheries Credit Guarantee Fund. The rationalization shall cover the credit guarantee schemes and funds operated by the Quendancor, the GFSME and the Comprehensive Agricultural Loan Fund. The Agriculture and Fisheries Credit Guarantee Fund shall be managed and implemented by the Quendancor Provided, That representation to the Quendancor Board shall be granted to cooperatives, local government units and rural financial institutions; Provided, further, That credit guarantee shall be given only to small-scale agriculture and fisheries activities and to countryside micro-small, and medium enterprises. It may also cover loan guarantees for purchase orders and sales contracts.

The Agriculture and Fisheries Credit Guarantee Fund shall be funded by at least ten percent (10%) of the funding allocation for the AMCFP.

Chapter 4

Irrigation

Sec. 26. Declaration of Policy. - It is the policy of the State to use its natural resources rationally and equitably. The state shall prevent the further destruction of watersheds, rehabilitate existing irrigation systems and promote the development of irrigation systems that are effective, affordable, appropriate, and efficient.

In the choice of location-specific irrigation projects, the economic principle of comparative advantage shall always be adhered to.

Sec. 27. Research and Development. - Irrigation Research and Development (R&D) shall be pursued and priority shall be given to the development of effective, appropriate, and efficient irrigation and water management technologies.

The Department shall coordinate with the Department of Environment and Natural Resources concerning the preservation and rehabilitation of watersheds to support the irrigation systems.

Sec. 28. Criteria for Selection of Irrigation Development Scheme. - The Selection of appropriate scheme of irrigation development shall be location-specific and based on the following criteria:

- a. Technical feasibility;
- b. Cost-effectiveness;
- c. Affordability, low investment cost per unit area;
- d. Sustainability and simplicity of operation;
- e. Recovery of operation and maintenance cost;
- f. Efficiency in water use;
- g. Length of gestation period; and
- h. Potential for increasing unit area productivity.

All irrigation projects shall, in addition to the criteria enumerated above, be subjected to a social cost-benefit analysis.

Sec. 29. Simplified Public Bidding. - The construction, repair, rehabilitation, improvement, or maintenance of irrigation projects and facilities shall follow the Commission on Audit (COA) rules on simplified public bidding.

Irrigation projects undertaken by farmers, farmer's organizations and other private entities whose funding is partly or wholly acquired by way of loan from government financial institutions shall not be subject to the bidding requirements of the government.

Sec. 30. National Irrigation Systems (NIS). - The National Irrigation Administration (NIA) shall continue to plan, design, develop, rehabilitate, and improve the NISs. It shall continue to maintain and operate the major irrigation structures including the head works and main canals. In addition, the NIA is mandated to gradually turn over operation and maintenance of the National Irrigation System's secondary canals and on-farm facilities to Irrigators' Associations

Sec. 31. Communal Irrigation Systems (CIS). - The Department shall, within five (5) years from the effectivity of this Act, devolve the planning, design and management of CISs, including the transfer of NIA's assets and resources in relation to the CIS, to the LGUs. The budget for the development, construction, operation and maintenance of the CIS and other types of irrigation systems shall be prepared by and coursed through the LGUs. The NIA shall continue to provide technical assistance to the LGUs even after complete devolution of the Irrigation Systems to the LGUs, as may be deemed necessary.

Sec. 32. Minor Irrigation Schemes. - The Department shall formulate and develop a plan for the promotion of a private sector-led development of minor irrigation systems, such as Shallow Tube Wells (STWs), Low-Lift pumps (LLPs) and other inundation systems. the plan shall be included in the Short-term Agriculture and fisheries Modernization Plan.

Sec. 33. Other Irrigation Construction Schemes. - The Government shall also encourage the construction of irrigation facilities through other viable schemes for the construction of irrigation such as build-operate-transfer, build-transfer and other schemes that will fast-track the development of irrigation systems.

Sec. 34. Guarantee of the National Government. - To make build-operate-transfer (BOT) projects for irrigation attractive to proponents, the national government shall issue the need payment guarantee for BOT projects which shall answer for default of the National Irrigation Administration. Such amounts needed to answer for the payment guarantee is hereby to be appropriated.

Sec. 35. Irrigation Service Fees (ISF). - Upon effectivity of this Act, the NIA shall immediately review the ISF rates and recommend to the Department reasonable rates within six (6) months from the effectivity of this Act.

Sec. 36. Monitoring and Evaluation. - The Department shall monitor the implementation of R&D programs and irrigation projects. The Department shall review all existing irrigation systems every four (4) years, to determine their viability or ineffectiveness. The Department shall employ the services of independent evaluators to assess the overall impact of the country's irrigation development .

Sec. 37. Exemption from Election Ban. - The repair, maintenance and rehabilitation of irrigation facilities as well as BOT irrigation projects shall be exempted from the scope of the election ban on public works.

Chapter 5

Information and Marketing Support Service

Sec. 38. Declaration of Policy. - It is hereby declared the policy of the State to empower Filipino farmers and fisherfolk, particularly the women, involved in agriculture and fisheries through the provision of timely, accurate and responsive business information and efficient trading services which will link them to profitable markets for their products. They shall likewise be given innovative support toward the generation of maximum income through assistance in marketing.

Sec. 39. Coverage. - A market information system shall be installed for the use and benefit of, but not limited to, the farmers and fisher folk, cooperatives, traders, processors, the LGUs and the Department.

Sec. 40. The Marketing Assistance System. - The Department shall establish a National Marketing Assistance Program that will immediately lead to the creation of a national marketing umbrella in order to ensure the generation of the highest possible income for the farmers and fisher folk or groups of farmers and fisher folk, matching supply and demand in both domestic and foreign markets.

Sec. 41. National Information Network. - A National Information Network (NIN) shall be set up from the Department level down to the regional, provincial and municipal offices within one (1) year from the approval of this Act taking into account existing information networks and seems. The NIN shall likewise link the various research institutions for easy access to data on agriculture and fisheries research and technology. All departments, agencies, bureaus, research institutions, and local government units shall consolidate and continuously update all relevant information and data on a periodic basis and make such data available on the Internet.

Sec. 42. Information and Marketing Service. - The NIN shall provide information and marketing services related to agriculture and fisheries which shall include the following:

- a. Supply data;
- b. Demand data
- c. Price and Price trends;
- d. Product standards for both fresh and processed agricultural and fisheries projects;
- e. Directory of, but not limited to cooperatives, traders, key market centers, processors and business institutions concerned with agriculture and fisheries at the provincial and municipal levels;
- f. Research information and technology generated from research institutions involved in agriculture and fisheries;

- g. International, regional and local market forecasts; and
- h. Resource accounting data.

Sec. 43. Initial Set-up. - The Department shall provide technical assistance in setting -up the NIN at the local level through the cooperatives and the LGUs Provided , That , at the local level, a system that will make marketing information and services related to agriculture and fisheries will be readily available in the city/municipal public market for the benefit of the producers, traders and consumers.

Sec. 44. Role of Government Agencies. - The Bureau of Agricultural Statistics will serve as the central information server and will provide technical assistance to end-users in accessing and analyzing product and market information and technology.

The Department of Transportation and Communications shall provide technical and infrastructure assistance to the Department in setting up the NIN.

LGUs shall coordinate with the Department for technical assistance in order to accelerate the establishment and training of information end-users in their respective jurisdictions.

The Cooperative Development Authority shall coordinate with the Department for technical assistance in order to provide training assistance to cooperatives in the use of market information and technology.

Sec. 45. Role of Private Sector- The NIN shall likewise be accessible to the private sector engaged in agriculture and fisheries enterprises. The Department shall formulate guidelines and determine fees for private sector entities that use the NIN.

Chapter 6

Other Infrastructure

Sec. 46. Agriculture and Fisheries Infrastructure Support Services. - The Department of Public Works and Highways , the Department of Transportation and Communications, the Department of Trade and Industry and the LGUs shall coordinate with the Department to address the infrastructure requirements in accordance with this Act Provided, that The Department and the LGU shall also strengthen its agricultural engineering support in carrying out the smooth and expeditious implementation of agricultural infrastructure projects.

Sec. 47. Criteria for Prioritization. - The prioritization of government resources for rural infrastructure shall be based on the following criteria:

- a. Agro-industrial potential of the area;
- b. Socio-economic contributions of the investments in the area;
- c. Absence of public investments in the area; and
- d. Presence of agrarian reform beneficiaries and other small farmers and fisher folk in the area.

Sec. 48. Public Infrastructure Facilities. - Public Infrastructure investments shall give preference to the kind , type and model of infrastructure facilities that are cost-effective and will be useful for the production, conservation, and distribution of most commodities and should benefit the most number of agriculture and fisheries producers and processors.

Sec. 49. Private Infrastructure Facilities. - For infrastructure facilities primarily benefiting private investors, the State shall facilitate the purchase and use of such utilities and shall keep to the minimum the bureaucratic requirements for these types of investments. Private investors include cooperatives or corporations of agriculture and fisheries producers and processors.

- Sec. 50. Public Works Act.** - The Department of Public Works and Highways shall coordinate with the Department for the purpose of determining the order of priorities for public works funded under the Public Works Act directly or indirectly affect agriculture and fisheries.
- Sec. 51. Fishports, Seaports and Airports.** - The Department of Transportation and Communications, Philippine Ports Authority and Philippine Fisheries Development Authority shall coordinate with the Department for the purpose of determining priority fishports, seaports and airports and facilitating the installation of bulk-handling and storage facilities , and other post-harvest facilities needed to enhance the marketing of agriculture and fisheries products Provided, that fishports , seaports an airports are also equipped with quarantine , sanitary and phytosanitary centers. The Department of Transportation and Communications (DOTC) shall have the mandate to cancel arrastre and cargo handling franchises among operators whom it deems inefficient and/or ineffective owing, but not limited to, a past history of under-capitalization, lack of equipment and lack of professional expertise. The DOTC shall recommend to the Philippine Ports Authority and consult with ship-owners and ship-operators in assessing the cargo-handling capabilities of cargo operators prior to extending new franchises or awards.
- Sec. 52. Farm-to-Market Roads.** - The Department shall coordinate with the LGUs and the resident-farmers and fisher folk in order to identify priority locations of farm-to -market roads that take into account the number of farmer and fisher folk and their families who shall benefit therefrom and the amount , kind and importance of agricultural and fisheries products produced in the area.
Construction of farm-to-market roads shall be a priority investment of the LGUs which shall provide a counterpart of not less than ten percent (10%) of the project cost subject to their IRA in the area.
- Sec. 53. Rural Energy.** - The Department shall coordinate with the Department of Energy (DOE), the Department of Public Works and Highways (DPWH), the National Electrification Administration (NEA) and the National Power Corporation (NAPOCOR) for the identification and installation of appropriate types of energy sources particularly in the use of non-conventional energy sources for the locality in order to enhance agriculture and fisheries development in the area.
- Sec. 54. Communications Infrastructure.** - The Department shall coordinate with the DOTC to facilitate the installation of telecommunication facilities in priority areas, in order to enhance agriculture and fisheries development .
- Sec. 55. Water Supply System.** - the Department shall coordinate with the DPWH and the LGUs for the identification and installation of water supply system in the locality for agro-industrial uses to enhance agriculture and fisheries development in the area.
- Sec. 56. Research and Technology Infrastructure.** - The Department in coordination with other government agencies shall give priority and facilitate the funding of infrastructure necessary for research ventures such as farm laboratories and demonstration farms with state colleges and universities that derive their core funds from the Department .
- Sec. 57. Post-Harvest Facilities.** - The Department shall coordinate with the Bureau of Post-Harvest for Research and Extension and the Post-harvest Horticulture, Training and Research Center of the University of the Philippines, Los Baños, to identify appropriate post-harvest facilities and technology needed to enhance agriculture and fisheries development in the area.
- Sec. 58. Public Market and Abattoirs.** - The Department shall encourage the LGUs to turn over the management and supervision of public markets and abattoirs to market vendors' cooperatives and for that purpose, the appropriation for post-harvest facilities shall include the support for market vendor' facilities.

The Department shall coordinate with the LGUs in the establishment of standardized market systems and use of sanitary market , facilities , and abattoirs, intended to ensure the food safety and quality.

All markets shall have a sanitation unit, proper and adequate drainage and sewerage system, ample water supply, public toilets with lavatories, garbage receptacles, ice plants and cold storage, adequate lighting and ventilation and supply of electricity to ensure cleanliness and sanitation. Price monitoring bulletin boards for selected commodities and weighing scales accessible to the public shall also be established.

Proper protection and preservation of agriculture and fisheries products being sold in the market shall also be observed. All foods which require no further cooking shall be wrapped , covered , or enclosed in containers to preserve the freshness and prevent contamination. Selling of products on market floors shall be prohibited.

Sec. 59. Agricultural Machinery. - The Department shall give priority to the development and promotion of appropriate agricultural machinery and other agricultural mechanization technologies to enhance agricultural mechanization in the countryside.

Chapter 7

Products Standardization and Consumer Safety

Sec. 60. Declaration of Policy. - It is the policy of the State that all sectors involved in the production, processing, distribution and marketing of food and non-food agricultural and fisheries products shall adhere to, and implement the use of product standards in order to ensure consumer safety and promote the competitiveness of agriculture and fisheries products.

Sec. 61. Bureau of Agriculture and Fisheries Product Standards. - The Department, within six (6) months after the approval of this act, and in consultation with the Department of Trade and Industry and the Bureau of Food and Drug, shall establish the Bureau of Agriculture and Fisheries Product Standards (BAFPS).

Sec. 62. Coverage. - The BAFPS shall set and implement standards for fresh, primary-and -secondary-processed agricultural and fishery products.

Sec. 63. Powers and Functions. - The BAFPS shall have the following powers and functions:

a. Formulate and enforce standards of quality in the processing, preservation, packaging, labeling, importation, exportation, distribution, and advertising of agricultural and fisheries products;

b. Conduct research on product standardization, alignment of the local standards with the international standards; and

c. Conduct regular inspection of processing plants, storage facilities, abattoirs, as well as public and private markets in order to ensure freshness, safety and quality of products.

Sec. 64. Pool of Experts and Advisers. - The BAFPS may coordinate, seek the services of, and consult with both private and governmental agencies, research institute, educational establishments and such other individuals and entities with expertise in the field of product standards and consumer safety.

The Department of Trade and Industry, the Food and Nutrition Research Institute, and the Bureau of Food and Drug Administration shall provide technical advice and form part of the pool of experts/advisers of the BAFPS.

TITLE 2

HUMAN RESOURCE DEVELOPMENT

Sec. 65. Declaration of Policy. - It is hereby declared the policy of the State to give priority to education and training on science and technology in order to accelerate social progress and promote total human liberation and development.
The State shall promote industrialization and full employment, based on sound agriculture and fisheries development and agrarian reform, through industries that make full and efficient use of human and natural resources.

Sec. 66. National Agriculture and Fisheries Education System (NAFES). - The Commission on Higher Education (CHED), in coordination with the Department and appropriate government agencies, shall establish a National Agriculture and Fisheries Education System (NAFES) which shall have the following objectives:

- a. To establish, maintain and support a complete and integrated system of agriculture and fisheries education relevant to the needs of the economy, the community and society.
- b. To modernize and rationalize agriculture and fisheries education from the elementary to the tertiary levels;
- c. To unify, coordinate and improve the system of implementation of academic programs that are geared toward achieving agriculture and fisheries development in the country; and
- d. To upgrade the quality, ensure sustainability and promote the global competitiveness, at all levels, of agriculture and fisheries education.

Sec. 67. Education Program for Elementary and Secondary Levels. - There is hereby established an Agriculture and Fisheries Education Program, under the NAFES specially designed for elementary and secondary levels. The program shall be formulated, organized and implemented by the DECS with the following objectives:

- a. to develop appropriate values that form the foundation for sustained growth in agriculture and fisheries modernization.
- b. to increase the attractiveness of agriculture and fisheries education, so that more young and talented person will look at agriculture and fisheries as an acceptable option for career and livelihood;
- c. to promote appreciation of science in agriculture and fisheries development;
- d. to develop among students, positive attitudes towards entrepreneurship and global competition in the agriculture and fisheries business;
- e. to improve the present curriculum in the elementary and secondary levels by emphasizing the core values necessary for agriculture and fisheries modernization; and
- f. to develop an outreach program where students, parents and schools become instruments in effecting positive changes in the pupil's home and community.

Sec. 68. Post-Secondary Education Program. - There is hereby established a Post-Secondary Education Program for Agriculture and Fisheries under the NAFES, which shall be formulated and developed by TESDA in coordination with the appropriate government agencies and the private sector. The program shall include, among others, the following:

- a. a mechanism for a flexible process of curriculum development;

- b. integration of the dual training system in the various agricultural curricula and training programs;
- c. integration of entrepreneurship and global competitiveness in the agro-fisheries curricula;
- d. institutionalizing agriculture and fisheries skills standards and technical testing and certification;
- e. regular upgrading of learning/training facilities, school buildings , laboratory equipment; and
- f. development of a system for the strict enforcement of school regulations regarding standards and requirements.

Sec. 69. Network of National Centers of Excellence for Territory Education. - There is hereby established a Network of National Centers of Excellence in Agriculture and Fisheries Education, composed of qualified public and private colleges and universities, duly accredited as National Centers of Excellence (NCE) in the field of agriculture and fisheries.

For this purpose, the CHED shall formulate and implement a system of accreditation Provided, That not more than one provincial institute in every province and no more than one national university in each field in every region shall be accredited as such and Provided, further, That the system shall be based on the following criteria:

- a. institutional accessibility, population, economic contribution of agriculture and fisheries in the community, and the needs or unique requirements of the area
- b. quantity and quality of research studies conducted;
- c. degree of utilization of research results;
- d. quantity and quality of faculty members;
- e. type of facilities;
- f. linkage with international organizations; and
- g. potential contribution to agriculture and fisheries development in the target area.

Sec. 70. Rationalization Plan. - For the purpose of upgrading and maintaining a high degree of academic excellence in the fields of agriculture and fisheries, all existing public and private colleges and universities that are not hereinafter designated and accredited as centers of excellence shall be given adequate time to redirect its program to non-agriculture and/or non-fisheries areas needed by the province or region and/or merge their program with accredited NCEs in accordance with the Rationalization Plan to be jointly formulated by CHED and the Philippine Association of State Universities and Colleges (PASUC) upon consultation with the institution concerned.

The Rationalization Plan shall include a policy for the effective utilization of affected personnel and facilities, and shall not be construed as to result in the decrease of the budget allocation for the state universities and colleges concerned.

Sec. 71. Counterpart Funding from LGUs. - The LGUs shall, within two, (2) years from the effectivity of this Act, provide at least ten percent (10%) of the Maintenance and Other Operating Expenses (MOOE) budget for the operation of the provincial institutes within their area of responsibility.

In consultation with the LGUs, the CHED shall develop a provincial-national partnership scheme for a reasonable sharing of financial support taking into account social equity factors for poor provinces.

Sec. 72. National Integrated Human Resource Development Plan in Agriculture and Fisheries. -

The CHED, in coordination with the Department and appropriate government agencies, shall formulate, develop and implement an integrated human resource development plan in agriculture and fisheries which shall serve as an instrument that will provide over-all direction in setting priorities in curricular programs, enrollment, performance targets, and investment programs.

Sec. 73. Output-Oriented Performance Standards. - In order to ensure the institutional accountability, efficiency, and quality, there shall be formulated and developed an Output-Oriented Performance Standards which shall serve as the primary instrument for institutional evaluation.

For this purpose, all public and private universities and colleges, that are designated as centers of excellence, shall cause to be installed a computerized monitoring and evaluation system that periodically collects and regularly measures variables indicating institutional performance based on the Output-Oriented Performance Standards.

Sec. 74. Evaluation System. - Not later than one (1) year from the effectivity of this Act, the CHED shall establish a baseline information using the Output-Oriented Performance Standards referred to in Section 73 of this Title. Once every five (5) years thereafter, all designated NCEs in agriculture and fisheries shall be subject to a third party evaluation.

The evaluation shall include, among others, management and educational experts of national stature and representatives of key sectors of the agriculture and fisheries industries, as well as representatives of the Department, the Department of Environment and Natural Resources, the Department of Science and Technology, and the National Economic and Development Authority.

Sec. 75. Agriculture and Fisheries Board. - There shall be created an Agriculture and Fisheries Board in the Professional Regulation Commission to upgrade the Agriculture and Fisheries profession.

Those who have not passed the Civil Service Examination for Fisheries and Agriculture but have served the industry in either private or public capacity for not less than five (5) years shall be automatically granted eligibility by the Board of Examiners.

The first board of examination for B.S. Fisheries and/or Agriculture Graduates shall be conducted within one (1) year from the approval of this Act.

Sec. 76. Continuing Agriculture and Fisheries Education Program. - The Commission on Higher Education, the Department of Education, Culture and Sports and Technical Education and Skills Development Authority, in coordination with the Department and the public and private universities and colleges, shall formulate and develop a National and Integrated Continuing Agriculture and Fisheries Education Program, which shall address the current education and training requirements of teachers, professors and educators in agriculture and fisheries.

For this purpose, pre-service and in-service training of teachers in Home Economics Livelihood Education (HELE) for the primary level and Technology and Home Economics (THE) for the Secondary level, shall be upgraded.

Sec. 77. Scholarship Program. - The CHED in coordination with the public and private universities and colleges, TESDA and the DBM, shall develop a national scholarship program that provides opportunities for deserving academic staff to pursue advanced degrees in agriculture and fisheries. Where appropriate, such scholarship program shall also provide opportunities for graduate work in foreign universities.

Sec. 78. Merit System. - To promote the development of scientific excellence and academic scholarship, the public and private universities and colleges, in cooperation with the CHED and the DBM, shall institute an output-oriented unified system of promotion for the academic personnel.

Sec. 79. Budgetary Allocation Scheme. - The Budgetary Allocation Scheme for NAFES shall be as follows:

a. The current appropriation or budgets of state universities and colleges, that are herein designate as NCEs, shall continue and shall be modified and adjusted in succeeding years in order to meet the standards of the rationalized programs of the institutions as approved by Congress and shall be included in the annual General Appropriations Act;

b. NCEs that are created under this Act shall likewise be provided with budgetary support based on their programs and a new staffing pattern as approved by DBM and shall be included in the annual General Appropriations Act.

TITLE 3

RESEARCH DEVELOPMENT AND EXTENSION

Chapter 1

Research and Development

Sec. 80. Declaration of Policy. - It is hereby declared the policy of the State to promote science and technology as essential for national development and progress.

The State shall likewise give priority to research and development, invention, innovation, and their utilization and to science and technology education, training, and services. In addition to appropriate and relevant technology, the state shall support indigenous and self-reliant scientific and technological capabilities, and their application to the country's productive system and national life.

Sec. 81. The National Research and Development System in Agriculture and Fisheries. - The Department, in coordination with the Department of Science and Technology and other appropriate agencies and research institutions shall enhance, support and consolidate the existing National Research and Development System in Agriculture and Fisheries within six (6) months from the approval of this Act. Provided, That fisheries research and development shall be pursued separately, from but in close coordination with that of agriculture.

Sec. 82. Special Concerns in Agriculture and Fisheries Research Services. - Agriculture and Fisheries Research and Development activities shall be multidisciplinary and shall involve farmers, fisherfolk and their organizations, and those engaged in food and non-food production and processing including the private and public sectors.

Research institutions and centers shall enjoy autonomy and academic freedom. The Department, in collaboration with the Department of Science and Technology and other appropriate agencies, shall harmonize its merit and output-oriented promotion system governing the scientific community in order to promote increased research excellence and productivity and provide the government research system a competitive edge in retaining its scientific personnel.

Appropriate technology shall be used to protect the environment, reduce cost of production, improve product quality and increase value added for global competitiveness.

Sec. 83. Funds for Research and Development. - Considering the nature of research, development and extension activities, funding shall be based on the following guidelines:

- a. Allocation of multi-year budgets which shall be treated as research and development grants.
- b. The budget for agriculture and fisheries research and development shall be at least one percent (1%) of the gross value added (GVA) by year 2001 allocating at least one percent (1%) of the total amount by 1999. The Department of Finance (DOF) in consultation with the Department shall formulate revenue enhancement measures to fund this facility.
- c. At least twenty percent (20%) shall be spent in support of basic research and not more than eighty percent (80%) shall be used for applied research and technology packaging and transfer activities.

d. A science fund shall be established from which the scientific community in agriculture and fisheries shall draw its financial resource for sustained career development, Provide, That only the interest earnings of the funds shall be used.

The Department and other research agencies, in the national interest, are encouraged to go into co-financing agreements with the private sector in the conduct of research and development provided that the terms and conditions of the agreement are beneficial to the country.

Sec. 84. Excellence and Accountability in Research and Development. - The Department, in collaboration with the Department of Science and Technology and other appropriate government agencies, shall formulate the national guidelines in evaluating research and development activities and institutions, which shall involve an independent and interdisciplinary team of collegial reviewer and evaluators.

Sec. 85. Communication of Research Results and Research-Extension Linkage. - Research information and technology shall be communicated through the National Information Network (NIN)

All government agencies including the state colleges and universities and private educational institutions selected as NCEs shall be computerized , networked , provided with regular updated information and shall likewise provide, through the NIN results of research and development activities and current available technology relating agriculture and fisheries.

Chapter 2

Extension Services

Sec. 86. Declaration of Policy. - It is hereby declared the policy of the State to promote science and technology as essential for national development and progress. The State shall give priority for the utilization of research results through formal and non-formal education, extension, and training services. It shall support the development of a national extension system that will help accelerate the transformation of Philippine agriculture and fisheries from a resource -based to a technology-based industry.

Sec. 87. Extension Services. - Agriculture and Fisheries extension services shall cover the following major services to the farming and fishing community:

- a. Training services;
- b. Farm or business advisory services;
- c. Demonstration services; and
- d. Information and communication support services through trimedia.

Sec. 88. Special Concerns in the Delivery of Extension services. - The delivery of agriculture and Fisheries Extension Services shall be multidisciplinary and shall involve the farmers, fisherfolk, and their organizations and those engaged in food and non-food production and processing, including the private and public sectors.

There shall be a national merit and promotion system governing all extension personnel, regardless of source of funding, to promote professionalism and achieve excellence and productivity in the provision of the government extension services.

Sec. 89. The National Extension System for Agriculture and Fisheries (NESAF). - The Department in coordination with the appropriate government agencies, shall formulate a National Extension System for Agriculture and Fisheries.

The National Extension System for Agriculture and Fisheries shall be composed of three (3) subsystems:

- a. the national government subsystem which directly complements;
- b. The local government subsystems; and
- c. the private sector subsystem.

Sec. 90. The Role of Local Government Units. - The LGUs shall be responsible for delivering direct agriculture and fisheries extension services.

The provincial governments shall integrate the operations for the agriculture extension services and shall undertake an annual evaluation of all municipal extension programs.

The extension program of state colleges and universities shall primarily focus on the improvement of the capability of the LGU extension service by providing:

- a) Degree and non-degree training programs;
- b) Technical assistance;
- c) Extension cum research activities;
- d) Monitoring and evaluation of LGU extension projects; and
- e) Information support services through the tri-media and electronics.

Sec. 91. Role of the Private Sector in Extension. - The department shall encourage the participation of farmers and fisherfolk cooperatives and associations and others in the private sector in the training and other complementary extension services especially in community organizing, use of participatory approaches, popularization of training materials, regenerative agricultural technologies, agri-business and management skills.

The Department is hereby authorized to commission and provide funding for such training and extension services undertaken by the private sector.

Sec. 92. The Role of Government Agencies. - The Department, together with state colleges and universities shall assist in the LGU's extension system by improving their effectiveness and efficiency through capability-building and complementary extension activities such as:

- a) technical assistance;
- b) training of LGU extension personnel;
- c) improvement of physical facilities;
- d) extension cum research; and
- e) information support services;

Sec. 93. Funding for Extension Activities. - Extension activities shall be supported by the following measures:

- a) allocation of multi-year budgets that shall be treated as grants;
- b) allow transfer of funds from the Department to the local government units as extension grants, and
- c) the budget for agriculture and fisheries extension services shall be at least one percent (1%) of the gross value added (GVA) by year 2001

Sec.94. Excellence and Accountability in Extension. - The Department shall formulate the guidelines in evaluating extension, activities, and institutions, which shall involve an independent and interdisciplinary team of the collegial reviewers and evaluators.

Sec.95. Extension Communication Support for LGU's. - The Department in coordination with the public and private universities and colleges, shall develop an integrated multimedia support for national and LGU extension programs. The Department shall assist the LGU's in the computerization of communication support services to clients and linkages to the NIN.

TITLE 4

RURAL NON-FARM EMPLOYMENT

Chapter 1

Sec. 96. Declaration of policy. - It is hereby declared the policy of the State to promote full employment. Economic history, however, shows that as an economy modernizes the number of

workers employed in its agricultural sector declines. It is therefore necessary to formulate policies and implement programs that will employ workers efficiently in rural areas in order to improve their standard of living, and reduce their propensity to migrate to urban areas.

Sec. 97. Objectives. - Rural non-farm employment aims to:

- a) promote a basic needs approach to rural development;
- b) make rural workers more adaptable and flexible through education and training;
- c) promote rural industrialization and the establishment of agro- processing enterprises in rural communities; and
- d) increase the income of rural workers.

Chapter 2

The Basic Needs Program

Sec. 98. Principles. - The Department, in coordination with the appropriate government agencies, shall formulate the Basic Needs Program to create employment and cushion the effect of liberalization based on the following principles:

- a) No credit subsidies shall be granted. The normal rules of banking shall apply to all enterprises involved, provided that existing credit arrangements with ARBs shall not be affected.
- b) Enterprises can use training, information, advisory and related services of the Government free of charge.
- c) The participation of the private sector shall be voluntary.

Teams composed of specialists from government agencies and the private sectors shall develop pilot programs in selected locales to establish the planning, implementation and evaluation procedures.

Sec. 99. Participation of Government Agencies. - The replication of the program shall be the responsibility of the local government units concerned in collaboration with the appropriate government agencies, and the private sector. The local government units shall bear the costs of promoting and monitoring the basic needs program for which their IRA shall be increased accordingly as recommended by the Secretary of the Department Provided, That the appropriate national government agencies shall continue to provide the necessary technical as well as financial assistance to the LGUs in the replication of the program. The Cooperatives Development Authority shall encourage the establishment and growth of associations and cooperatives as vehicles for the stable expansion of basic needs enterprises. The Department of Education, Culture and Sports, Department of Health, and the Technical Education and Skills Development Authority shall coordinate with the Department and Congress in the review, rationalization and reallocation of their regular budgets as well as their budgets under the GATT- related measures fund to finance education, training, health and other welfare services for farmers and fisherfolk.

Chapter 3

Rural Industrialization

Industry Dispersal Program

Sec. 100. Principles. - Rural industrialization and industry dispersal programs shall be based on the interplay of market forces. The Board of Investments (BOI) is hereby required to give the highest priority to the grant of incentives to business and industries with linkages to agriculture.

Sec. 101. Role of Government Agencies. - The appropriate government agencies, under the leadership of the LGUs concerned, shall provide integrated services and information to prospective enterprises under the one-stop-shop concept.

Local government units are authorized to undertake investment and marketing missions provided that the costs of such missions are borne by the LGUs concerned. In making their land use plans, the LGUs, in consultation with the appropriate government agencies concerned, shall identify areas for industrial parks.

The Department shall coordinate with the Department of Trade and Industry , in particular, the Board of Investments, in the formulation of investments priorities for rural areas.

The Regional Wage Boards shall consult participating enterprises in this program before they issue wage orders.

Sec. 102. Participating Enterprises. - Participating enterprises may request any government agency for training, technical and advisory services free of cost.

A set of incentives shall be given to enterprises that subcontract part of their production to farmers, fisherfolk and landless workers during periods when they are not engaged in agricultural activities.

Sec. 103. Financing. - Except for basic infrastructure and other goods that benefit all citizens, the facilities of this program should be undertaken and financed by the private sector.

Chapter 4

Training of Workers

Sec. 104. Role of TESDA. - TESDA shall organize local committees that will advise on the scope, nature and duration of training for the above-mentioned programs.

TESDA is authorized to request the additional budgetary resources for these programs: Provided, That after a reasonable period, the task of coordinating the training is transferred to the LGUs concerned.

Sec. 105. Role of the DENR. - The Department and the DENR shall organize the training of workers in coastal resources management and sustainable fishing techniques.

Sec. 106. Role of the Technology and Livelihood Resource Center (TLRC). - The TLRC shall undertake field training in entrepreneurship and management of workers involved in the basic needs program.

Sec. 107. Special Training Projects for Women. - The Department, in collaboration with the appropriate government agencies concerned shall plan and implement special training projects for women for absorption in the basic needs and rural industrialization programs.

TITLE 5

TRADE AND FISCAL INCENTIVES

Sec.108. Taxation policies must not deter the growth of value-adding activities in the rural areas.

Sec. 109. All enterprises engaged in agriculture and fisheries as duly certified by the Department in consultation with the Department of Finance and the board of Investment, shall, for five (5) years after the effectivity of this Act, be exempted from the payment of tariff and duties for the importation of all types of agriculture and fisheries inputs, equipment and machinery such as, but not limited to, fertilizer, insecticide, pesticide, tractor, trailers, trucks, farm implements and machinery, harvesters, threshers, hybrid seeds, genetic materials, sprayers, packaging machinery and materials, bulk-handling facilities such as conveyors and mini loaders, weighing

scales, harvesting equipment, spare parts of all agricultural equipment, fishing equipment and parts thereof, refrigeration equipment, and renewable energy systems such as solar panels Provided, however, That the imported agricultural and fishery inputs, equipment and machinery shall be for the exclusive use of the importing enterprise.

The Department, in consultation with the Department of Finance and the Board of Investment, shall, within ninety (90) days from the effectivity of this Act, formulate the implementing rules and regulations governing the importation of agriculture and fishery inputs, equipment and machinery.

- Sec. 110.** Any person, partnership, corporation, association and other juridical entity found circumventing the provisions of Section 109 of this Act shall suffer the penalty of imprisonment for a period of not less than six (6) months but not more than one (1) year, or a fine equivalent to two hundred percent (200%) of the value of the imported materials, or both, at the discretion of the court, and the accessory penalties of confiscation of the imported goods in favor of the government and revocation of the privileges given under this title.
- In cases where the violator is a juridical entity, the officers responsible in the violation of Section 109 shall suffer the penalty of imprisonment prescribed in this Section.
- The importation of goods equivalent to or exceeding the declared assets of the enterprise, partnership, or the authorized capital stock in case of corporations, and/or the resale of the imported goods shall be a prima facie evidence of the violation of the provisions of Section 109 of this Act.

GENERAL PROVISIONS

- Sec. 111. Initial Appropriation.** - For the first year of implementation of this Act, the amount of Twenty Billion pesos (P20,000,000,000.00) is hereby appropriated. The Department is hereby authorized to re-align its appropriations in the current year of the date of effectivity of this Act to conform with the requirements of this Act Provided, That the amount shall be allocated and disbursed as follows:

1. Thirty percent (30%) for irrigation;
2. Ten percent (10%) for post-harvest facilities Provided, That the Secretary of Agriculture may invest up to fifty percent (50%) of the said amount to fund post-harvest facilities of cooperatives, especially market vendors' cooperatives, where said cooperatives exist and are operational Provided, further, That if no cooperatives are operational, said amount shall fund the post-harvest facilities of the market -assistance system;
3. Ten percent (10%) for other infrastructure including fishports, seaports, and airports, farm-and -coast-to-market roads, rural energy, communications infrastructure, watershed rehabilitation, water supply system, research and technology infrastructure, public markets and abattoirs;
4. Ten percent (10%) for the Agro-industry Modernization Credit and Financing Program (AMCFP) to be deposited by the Department in participating rural-based public and private financial institutions provided that no less than fifty percent (50%) of said funds shall be deposited in rural banks in cooperative banks;
5. Eight percent (8%) for the implementation of the Farmer-Fisherfolk Marketing Assistance System and support of market vendors' cooperatives;
6. Ten percent (10%) for research and development, four percent (4%) of which shall be used to support the Biotechnology Program;
7. Five percent (5%) for capability-building of farmers and fisherfolk organizations and LGUs for the effective implementation of the agriculture and fisheries programs at the local level;
8. Six percent (6%) for salary supplement of Extension Workers under the LGUs;

9. Five percent (5%) for NAFES , for the upgrading of the facilities of State Universities and Colleges that will be chosen as national center of excellence in agriculture and fisheries education;
10. Four percent (4%) for the National Information Network (NIN) consisting of both the national and local levels;
11. One-and-three-fourth percent (1.75%) for SUC- and TESDA-administered Rural Non-Farm Employment Training; and
12. One-fourth percent (0.25%) for the identification of the SAFDZs.

Sec. 112. Continuing Appropriation. - The Department of Budget and Management (DBM) is hereby mandated to include annually in the next six (6) years, in the President's Program of expenditures for submission to Congress, and release, an amount not less than Seventeen billion pesos (P17,000,000,000.00) for the implementation of this Act.

Additional funds over and above the regular yearly budget of the Department shall be sourced from twenty percent (20%) of the proceeds of the securitization of government assets, including the Subic, Clark, and other special economic zones.

Other sources of funds shall be from the following:

- a. Fifty Percent (50%) of the net earnings of the Public Estates Authority;
- b. Loans, grants, bequest, or donations, whether from local or foreign sources;
- c. Forty percent (40%) of the TESDA Skills Development Fund;
- d. Net proceeds from the privatization of the Food Terminal Inc. (FTI), the Bureau of Animal Industry (BAI), the Bureau of Plant Industry (BPI), and other assets of the Department that will be identified by the DA Secretary and recommended to the President for privatization;
- e. Proceeds from the Minimum Access Volume (MAV) in accordance with the provisions of Republic Act No. 8178;
- f. Poverty alleviation Fund; and
- g. Fifty Percent (50%) of the Support Facilities and Services Fund under Republic Act No. 6657.

Sec. 113. Implementing Rules and Regulations. - The Secretary within ninety (90) working days after the effectivity of this act, together with the Department of Agrarian Reform (DAR), Department of Environment and Natural Resources (DENR), Department of Finance (DOF), Department of Science and Technology (DOST), Department of Trade and Industry (DTI), Commission on Higher Education (CHED), Technical Education and Skills Development Authority (TESDA), Department of Education , Culture and sports (DECS), Department of Social services and Development (DSSD), National Economic and Development Authority (NEDA), Department of Budget and Management (DBM), Department of Labor and Employment (DOLE), Commission on Audit (COA), Civil Service Commission (CSC), in consultation with other agencies concerned, farmers, fisherfolk and agribusiness organizations, and in coordination with the Congressional Oversight committee on Agriculture and Fisheries Modernization, shall promulgate the rules and regulations for the effective implementation of this act.

The Secretary shall submit to the Committee on Agriculture of both houses of congress copies of the implementing rules and regulations within thirty (30) days after their promulgation.

Any violation of this section shall render the official/s concerned liable under Republic Act. No. 6713 otherwise known as the "Code of Conduct and Ethical Standards for Public Officials and Employees" and other existing administrative and/or criminal laws.

Sec. 114. Congressional Oversight Committee on Agricultural and Fisheries Modernization. - A congressional Committee on Agricultural and Fisheries Modernization is hereby created to be composed of the Chairs of the Committee on Agriculture of both Houses, six (6) members of the House of Representatives and six (6) members of the Senate, to be designated respectively by the Speaker of the House and the President of the Senate, who shall endeavor to have the various sectors and regions of the country represented.

The Chairs of the Committees on Agriculture in the Senate and House of Representatives, shall be respectively, the Chair and Co-Chair of the Oversight Committee. The other members shall receive no compensation: however, traveling and other necessary expenses shall be allowed. The Committee shall oversee and monitor the implementation of the Congressional Commission on Agricultural Modernization (AGRICOM) recommendations as well as all programs, projects and activities related to agriculture and fisheries, and its allied concerns in both public and private sectors, with a view to providing all legislative support and assistance within the powers of Congress to ensure their inclusion, wherever feasible, in the national, regional, provincial, municipal, and sectoral development plans to recommend the disposal of assets no longer needed by the Department to fund the modernization program, and to see them through their successful implementation.

Sec. 115. Powers and Functions of the Committee. - The Congressional Oversight on Agriculture and Fisheries Modernization shall have the following powers and functions:

- a. Prescribe and adopt guidelines that will govern its work;
- b. Hold hearings, receive testimonies and reports pertinent to its specified concerns;
- c. Secure from any department, bureau, office or instrumentality of the Government such assistance as may be needed, including technical information, preparation, and production of reports and submission of recommendations or plans as it may require;
- d. Summon by subpoena any public or private citizen to testify before it, or require by subpoena duces tecum to produce before it such records, reports or other documents as may be necessary in the performance of its functions;
- e. Use resource persons from the public and private sectors as may be needed;
- f. Carry on the winding-up work of AGRICOM, such as editing and printing all technical reports and studies as well as bibliographic cataloguing of its collection of source materials, continue its information and advocacy work;
- g. Cause to be transferred to the Committee all works, outputs, source materials, and assets, funds, supplies and equipment of AGRICOM;
- h. Approve the budget for the work of the Committee and all disbursements therefrom , including compensation of all personnel;
- i. Organize its staff and hire and appoint such employees and personnel whether temporary , contractual or on consultancy, subject to applicable rules; and
- j. Generally to exercise all the powers necessary to attain the purposes for which its created.

Sec. 116. Periodic Reports. - The Committee shall submit periodic reports on its findings and make recommendations on actions to be taken by Congress and the appropriate department, and in order to carry out the objectives of this Act, an initial amount of Twenty million pesos (P20,000,000.00) is hereby appropriated for the Oversight Committee for the first year of its operation.

Sec. 117. Automatic Review. - Every five (5) years after the effectivity of this Act, an independent review panel composed of experts to be appointed by the President shall review the policies and programs in the Agriculture and Fisheries Modernization Act and shall make recommendations, based on its findings, to the President and to both Houses of Congress.

Sec. 118. Repealing Clause. - All laws, decrees, executive issuance, rules and regulations inconsistent with this Act are hereby repealed or modified accordingly.

Sec. 119. Separability Clause. - The provisions of this Act are hereby declared to be separable, and in the event one or more of such provisions are held unconstitutional, the validity of the other provisions shall not be affected thereby.

Sec. 120. Effectivity. - This Act shall take effect thirty (30) days from the date of its publication in the Official Gazette or in at least two (2) newspapers general circulation. **Approved: 22 December 1997.**

EXECUTIVE ORDER No. 263 July 19, 1995
ADOPTING COMMUNITY-BASED FOREST MANAGEMENT AS
THE NATIONAL STRATEGY

EXECUTIVE ORDER NO. 263 July 19, 1995
ADOPTING COMMUNITY-BASED FOREST MANAGEMENT AS THE
NATIONAL STRATEGY TO ENSURE THE SUSTAINABLE DEVELOPMENT
OF THE COUNTRY'S FORESTLANDS RESOURCES AND PROVIDING
MECHANISMS FOR ITS IMPLEMENTATION

WHEREAS, Article II, Section 16 of the 1987 Constitution provides for the protection and advancement of the right of the Filipino people, both men and women, to a healthful and balanced ecology;

WHEREAS, Article II, Section 10 provides for the promotion of social justice to all citizens in all phases of national development;

WHEREAS, Article XIV, Section 17 mandates the State to recognize and respect the rights of the indigenous peoples to their ancestral domains and consider their customs, traditions and beliefs in the formulation of laws and policies;

WHEREAS, Executive Order No. 192, series of 1987, mandates the Department of Environment and Natural Resources (DENR) as the primary government agency responsible for the sustainable management and development of the country's natural resources;

WHEREAS, the Philippines 2000 and the government's Social Reform Agenda support people empowerment and the full, meaningful and indispensable participation of communities as immediate stakeholders of the forestland resources in the protection and management of the forest ecosystem;

WHEREAS, the 25-year Master Plan for Forestry Development also recognizes the indispensable role of local communities in forest protection, rehabilitation, development and management, and targets the protection, rehabilitation, management, and utilization of at least 4 million hectares of forestlands, through the community-based forest management strategy;

WHEREAS, entrusting the responsibility for forest rehabilitation, protection, and conservation to the community of stakeholders and affording them equitable access to the forest and coastal resources are viable forestland management strategies as borne by the experience of the DENR and various supporting agencies;

NOW, THEREFORE, I FIDEL V. RAMOS, President of the Philippines, by virtue of the powers vested in me by law, do hereby order that:

Sec. 1. Community-based forest management (herein referred to as CBFM) shall be the national strategy to achieve sustainable forestry and social justice.

Sec. 2. The DENR, through its Community and Provincial Environment and Natural Resource Offices, in coordination with the local government units and the Department of Interior and Local Government (DILG) shall, at all times, take into account the needs and aspirations of local communities whose livelihood depends on the forestlands.

Sec. 3. Participating organized communities may be granted access to the forestland resources under long term tenurial agreements, provided they employ environment-friendly, ecologically-sustainable, and labor-intensive harvesting methods. Such harvesting methods shall be mentioned under a site-specific management plan of each recipient community and duly

approved by the DENR.

- Sec. 4. The indigenous peoples may participate in the implementation of CBFM activities in recognition of their rights to their ancestral domains and land rights and claims.
- Sec. 5. A CBFM Steering Committee shall be created immediately and headed by the DENR with members from the Departments of Agriculture, Trade and Industry, Agrarian Reform, Finance, Science and Technology, Labor and Employment, Interior and Local Government, Budget and Management, National Defense and Justice; National Economic Development and Authority; Philippine Commission on Countrywide Development under the Office of the President, Committee on Flagship Programs and Projects of the Office of the President; Presidential Management Staff under the Office of the President; Cooperative Development Authority, and Offices of Northern and Southern Cultural Communities. The Committee may invite representatives from the Philippine Chamber of Commerce, Philippine Wood Products Association, NGO coalition groups, and other public and private organizations to become members of the Steering Committee. The Committee shall formulate and develop policy guidelines that will create incentives and conditions necessary to effectively carry out community-based forest management strategy. Accordingly, members of the CBFM Steering Committee should, at least, be represented by concerned Assistant Secretaries or heads of bureaus and agencies.
- Sec. 6. The DENR shall work with local governments, people's organizations (POs), non-government organizations (NGOs), religious groups, business and industry, and other concerned organizations to ensure that communities are empowered to initiate and achieve the objectives of this Order.
- Sec. 7. In its budget preparation, the DENR shall allot adequate funds to effectively accomplish CBFM targets and shall seek supplementary funding from local and foreign supporting agencies and organizations. DENR shall ensure the inclusion of budgetary allocation for CBFM in the annual General Appropriations Act, pending the passage of the revised Forestry Code.
- Sec. 8. The DENR shall establish a Community-based Forest Management Special Account (CBFMSA) to support the implementation of the strategy and provide financial and professional incentive system for deserving communities and government personnel.
- Sec. 9. The DENR may source local and international grants and donations for the establishment of the CBFM Special Account. Other sources of fund may later be determined by the CBFM Steering Committee subject to existing government regulations.
- Sec. 10. The DENR shall support and set up jointly with relevant colleges and universities, private and public organizations, arrangements for a community forestry training program for members of participating units, such as people's organizations, non-government organizations, local government units, and other government personnel.
- Sec. 11. Within six months after the signing of this Order, the DENR, in consultation with government financial institutions, such as the Development Bank of the Philippines (DBP), the Land Bank of the Philippines (LBP), GSIS and the SSS, shall effect the creation of favorable financing mechanisms for access by communities and organizations in the pursuit of the CBFM strategy and its sub-strategies such as community training and empowerment, enterprise development, agroforestry development, tree plantations, and other non-forest-based alternative livelihood systems.
- Sec. 12. The DENR Secretary shall issue new rules, regulations, procedures, and guidelines necessary to implement this Order and repeal or modify existing ones consistent with the policies set forth by the CBFM Steering Committee.

Sec. 13. The DENR Secretary shall, within six months from the signing of this Order, submit to the Office of the President, a National Comprehensive Community Forestry Action Plan, which embodies the Department's short, medium and long-term plans. The action plan shall be discussed and approved by the CBFM Steering Committee prior to its submission to the President.

Sec. 14. All previous executive and administrative issuances which are inconsistent herewith are repealed or amended accordingly.

DONE in the City of Manila, this 19th day of July in the year of Our Lord, Nineteen Hundred and Ninety-Five.

MALACAÑANG
Manila
BY THE PRESIDENT OF THE PHILIPPINES
EXECUTIVE ORDER NO. 481
PROMPTION AND EVELOPMENT OF ORGANIC AGRICULTURE
IN THE PHILIPPINES

WHEREAS, it is a declared policy of the State to promote agriculture development, conserve environmental resources and promote social equity and product access to foreign and domestic markets of agriculture and fishery commodities;

WHEREAS, the development of Organic Agriculture nationwide as a farming scheme enhances global competitiveness, environmental integrity, food security and safety, and increases productivity and alleviate poverty;

WHEREAS, the State recognizes the potential of Organic Agriculture in increasing value-added in agricultural export and local consumption products;

WHEREAS, the stakeholders have recognized the potential of certified organic farming as a way to lower input costs, utilization of local raw material inputs, conserve non-renewable resources, mainstream into high-value markets and improve farm income;

WHEREAS, the stakeholders of Organic Agriculture have manifested their strong interest to aggressively promote organic agriculture with support from the government on the research, development and extension activities.

NOW, THEREFORE, I, GLORIA MACAPAGAL-ARROYO, President of the Republic of the Philippines, by the virtue of the powers vested in me by the Constitution and existing laws, do hereby order:

Section 1. Declaration of Objectives – This Executive Order shall have the following objectives:

- (a) promote organic agriculture as a farming scheme especially in rural farming communities;
- (b) forge effective networking and collaboration with the stakeholders involved in the production, handling, processing and marketing of organic agriculture products;
- (c) guarantee food and environmental safety by means of an ecological approach to farming;
- and
- (d) ensure the integrity of organic products through the approved organic certification procedures and organic production, handling and processing standards.

Section 2. The National Organic Agriculture Program (NOAP). – The Department of Agriculture National Organic Agriculture Program shall focus on , but not limited to:

- (a) Regulations and Guidelines
- (b) Certification and Accreditation
- (c) Market Promotion and Networking
- (d) Organic Information for Producers, Handlers and Processors
- (e) Research, Development and Extension

Section 3. The National Organic Agriculture Board (NOAB). – There is hereby constituted the National Organic Agriculture Board, hereinafter referred to as the NOAB. The NOAB shall be composed of the following:

- (a) The Secretary of the Department of Agriculture as Chairperson;
- (b) The Secretary of the Department of Trade and Industry as Vice-Chair;

- (c) The Secretary of the Department of Health as Vice-Chair;
- (d) The Secretary of the Department of Interior and Local Government;
- (e) The Secretary of the Department of Environment and Natural Resources; and
- (f) The Secretary of the Department of Science and Technology.

There shall be appointed to the NAOB seven (7) representatives engaged in the practice of organic agriculture. Such representatives may be taken from, but not limited to the recommended sectors listed below:

- (a) Three from the private sector who operate an organic farm; organic handling and processing; and establishment with significant trade in organic products;
- (b) Two from the NGO/PO who represents public interest or consumer interest;
- (c) One from organic certifying body as identified under Section 6 of this E.O.;
- (d) One from the academe with expertise in areas of environmental protection and resource conservation, toxicology and biochemistry.

A member of the Board shall serve for a term of 3 years. A member cannot serve consecutive terms unless such member served an original term that was less than 3 years.

A National Technical Committee (NTC) shall be created as an implementing arm of the policies, programs and projects identified and approved by the Board. It shall be drawn from the Department of Agriculture, Department of Environment and Natural Resources, Department of Land Reform, representative from the private sector and civil society.

The Bureau of Agriculture and Fisheries Product Standards (BAFPS) of the Department of Agriculture shall serve as the Technical and Administrative Secretariat of the Board and the NTC with the member agencies providing additional staff support as the need arises.

Section 4. Functions, Duties and Responsibilities of the NOAB and the NTC – The NOAB shall have the following function, duties and responsibilities:

- (a) Formulate policies, plans, programs and projects to promote and develop Organic Agriculture;
- (b) Oversee the successful implementation of the Organic Agriculture programs and projects;
- (c) Call upon any government agency to carry out and implement programs and projects identified by the Board;
- (d) Call upon private sectors, people's organizations (Pos) and non-government organizations. (NGOs), and the academe to provide advise on matters pertaining to organic agriculture;
- (e) Identify sources of financing to expand organic agriculture; and
- (f) Submit annual and other periodic reports to the Office of the President.

The National Technical Committee shall:

- (a) Implement Organic Agriculture programs and projects approved by the Board;
- (b) Update the Board on the status of the programs, projects and activities undertaken for the promotion and development of organic agriculture;
- (c) Forge effective networking with the various stakeholders involved in organic production; and
- (d) Perform such other functions, duties and responsibilities as may be necessary to implement this Executive Order.

Section 5. Compliance Requirements for Organic Standards. – Adoption of the Philippine National Standard for Organic Agriculture (PNS/BAFPS) 07:2003 ICS.65.020) specifically listed in ANNEX "A" shall be mandatory throughout the country for the sectors involved in the production and marketing organic agriculture products.

Section 6. Organic Accreditation. – The Department of Agriculture through Administrative Order 13 Series of 2003 listed in ANNEX “B”, otherwise known as the “Guidelines in the Accreditation of Certifying Bodies for Standards on Organic Agriculture” shall accredit certifying bodies as prescribed in the guidelines.

Section 7. Labeling of Organic Produced Products. – In addition to the requirements for labeling of organic products, commodities, goods and merchandise pursuant to PNS/BAFPS 07:2003 ICS.65.020 listed in ANNEX “A”, the products, commodities, goods and merchandise must contain contents prescribed in this Executive Order.

Section 8. Research, Development and Extension. – The DA, DOST, SCUs and other appropriate agencies such as but not limited to scientific/professional organizations and research institutions shall develop, enhance, support and consolidate activities and related technologies to protect the environment and improve organic matter depleted agricultural soils, reduce cost of production, improve product quality and increase value-added for global competitiveness of Organic Produce.

Section 9. Appropriations. – The Department of Agriculture shall allocate from its present budget such amount not less than Five Million Pesos (P5,000,000.00) may be taken from the Presidential Social Fund for the initial year of implementation of the program. Thereafter, the Department of Agriculture shall include and appropriate amount in the General Appropriations Act following its enactment and every year thereafter.

Section 10. Implementing Guidelines. – The Board, within ninety (90) working days in consultation with other agencies and stakeholders concerned shall formulate the implementing rules and regulations to carry out the provisions of this Executive Order.

Section 11 Separability Clause.- If any of the provisions of the Executive Order is declared invalid, the remainder shall remain operative.

Section 12. Effectivity. – This Executive Order shall take effect immediately after publication in a newspaper or general circulation.

DONE, in the City of Manila, on this 27th day of December, in the year of our Lord twenty hundred and five.

By the President: Gloria M. Arroyo

EDUARDO R. EMITA Executive Secretary

Definition of Terms

For the purposes of this Executive Order, the following definitions of terms shall apply:

Agricultural inputs – all substances or materials used in the production or handling of organic agricultural products

Agricultural products – any agricultural commodity or product, whether raw or processed, including any commodity or product derived from livestock for human or livestock consumption

Certified operation – a crop or livestock production, wild-crop harvesting or handling operation, or portion of such operation that is certified by an accredited certifying agent such as utilizing a system of organic production.

Conventional agriculture – farming systems dependent on the input of artificial fertilizers and/or pesticides or failing to conform to the Philippine National Standards in any other way.

Farm unit – an agricultural area or production managed organically, which a farmer or a-group owns or in any other way is responsible for

Label – a display or written, printed, or graphic material on the immediate container of an agricultural product or any such material affixed to a bulk container containing an agricultural product, except for package liners or a display of written, printed, or graphic material which contains only information about the weight of the product.

Labeling – any written, printed, or graphic presentation that is present on the label of a product accompanies the product or displayed near the product.

Livestock – any cattle, sheep, goat, swine, poultry, or equine animals used for food or in the production of food, fiber, feed, or other agricultural-based consumer products; wild or domesticated game; or other non-plant life, except such term shall not include aquatic animals for the production of food, fiber, feed, or other agricultural-based consumer products.

Organic – in this text the word refers to the particular farming and processing systems described in these standards and not in the classical Chemical sense (The latter shall be clearly marked with a + for ease of identification). The term Organic is nearly synonymous in other languages to “Biological” or “ecological”.
“Organic” is also a labeling term that denotes products according to organic standards.

Organic Agriculture – “includes all agricultural systems that promote the environmentally, socially and economically sound production of food and fibers. These systems take local soil fertility as a key to successful production. By respecting the natural capacity of plants, animals and the landscape it aims to optimize quality in all aspects of agriculture and the environment. Organic agriculture dramatically reduces external inputs by refraining from the use of chemo-synthetic fertilizers, pesticides and pharmaceuticals. Instead it allows the powerful laws of nature to increase both agricultural yields and disease resistance. “ Definition of IFOAM (International Federation of Agricultural Movements).

Standards – are norms, sets of guidelines, requirements and principles that are used as in organic agricultural and processing. The term “standards”, as used here refers to Philippine National Standards relevant to local agroecosystems production.

Restricted inputs – inputs for which there are conditions for the use imposed by the certification program.

PRESIDENTIAL DECREE NO.705

REVISING PRESIDENTIAL DECREE NO. 389, OTHERWISE KNOWN AS THE FORESTRY REFORM CODE OF THE PHILIPPINES

WHEREAS, proper classification, management and utilization of the lands of the public domain to maximize their productivity to meet the demands of our increasing population is urgently needed;

WHEREAS, to achieve the above purpose, it is necessary to reassess the multiple uses of forest lands and resources before allowing any utilization thereof to optimize the benefits that can be derived therefrom;

WHEREAS, it is also imperative to place emphasis not only on the utilization thereof but more so on the protection, rehabilitation and development of forest lands, in order to ensure the continuity of their productive condition;

WHEREAS, the present laws and regulations governing forest lands are not responsive enough to support re-oriented government programs, projects and efforts on the proper classification and delimitation of the lands of the public domain, and the management, utilization, protection, rehabilitation, and development of forest lands;

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers in me vested by the Constitution, do hereby revise Presidential Decree No. 389 to read as follows:

SECTION 1. Title of this Code. — This decree shall be known as the "Revised Forestry Code of the Philippines."

SECTION 2. Policies. — The State hereby adopts the following policies:

- a) The multiple uses of forest lands shall be oriented to the development and progress requirements of the country, the advancement of science and technology, and the public welfare;
- b) Land classification and survey shall be systematized and hastened;
- c) The establishment of wood-processing plants shall be encouraged and rationalized; and
- d) The protection, development and rehabilitation of forest lands shall be emphasized so as to ensure their continuity in productive condition.

SECTION 3. Definitions. —

- a) Public forest is the mass of lands of the public domain which has not been the subject of the present system of classification for the determination of which lands are needed for forest purposes and which are not.
- b) Permanent forest or forest reserves refer to those lands of the public domain which have been the subject of the present system of classification and determined to be needed for forest purposes.
- c) Alienable and disposable lands refer to those lands of the public domain which have been the subject of the present system of classification and declared as not needed for forest purposes.
- d) Forest lands include the public forest, the permanent forest or forest reserves, and forest reservations.

- e) Grazing land refers to that portion of the public domain which has been set aside, in view of the suitability of its topography and vegetation, for the raising of livestock.
- f) Mineral lands refer to those lands of the public domain which have been classified as such by the Secretary of Natural Resources in accordance with prescribed and approved criteria, guidelines and procedure.
- g) Forest reservations refer to forest lands which have been reserved by the President of the Philippines for any specific purpose or purposes.
- h) National park refers to a forest land reservation essentially of primitive or wilderness character which has been withdrawn from settlement or occupancy and set aside as such exclusively to preserve the scenery, the natural and historic objects and the wild animals or plants therein, and to provide enjoyment of these features in such a manner as will leave them unimpaired for future generations.
- i) Game refuge or bird sanctuary refers to a forest land designated for the protection of game animals, birds and fish and closed to hunting and fishing in order that the excess population may flow and restock surrounding areas.
- j) Marine parks refers to any off-shore area inhabited by rare and unique species of marine flora and fauna.
- k) Seashore park refers to any public shore area delimited for outdoor recreation, sports fishing, water skiing and related healthful activities.
- l) Watershed reservation is a forest land reservation established to protect or improve the conditions of the water yield thereof or reduce sedimentation.
- m) Watershed is a land area drained by a stream or fixed body of water and its tributaries having a common outlet for surface run-off.
- n) Critical watershed is a drainage area of a river system supporting existing and proposed hydro-electric power and irrigation works needing immediate rehabilitation as it is being subjected to a fast denudation causing accelerated erosion and destructive floods. It is closed from logging until it is fully rehabilitated.
- o) Mangrove is a term applied to the type of forest occurring on tidal flat along the sea coast, extending along streams where the water is brackish.
- p) Kaingin is a portion of the forest land, whether occupied or not, which is subjected to shifting and/or permanent slash-and-burn cultivation having little or no provision to prevent soil erosion.
- q) Forest product means timber, pulpwood, firewood, bark, tree top, resin, gum, wood, oil, honey, beeswax, nipa, rattan, or other forest growth such as grass, shrub, and flowering plant, the associated water, fish, game, scenic, historical, recreational and geologic resources in forest lands.
- r) Dipterocarp forest is a forest dominated by trees of the dipterocarp species, such as red lauan, tengile, tiaong, white lauan, almon, bagtikan and mayapis of the Philippine mahogany group, apitong and the yakals.
- s) Pine forest is a forest composed of the Benguet Pine in the Mountain Provinces or the Mindoro pine in Mindoro and Zambales provinces.

t) Industrial tree plantation is any tract of forest land purposely and extensively planted to timber crops primarily to supply the raw material requirements of existing or proposed processing plants and related industries.

u) Tree farm refers to any tract of forest land purposely and extensively planted to trees of economic value for their fruits, flowers, leaves, barks, or extractives, but not for the wood thereof.

v) Multiple-use is the harmonized utilization of the numerous beneficial uses of the land, soil, water, wildlife, recreation value, grass and timber of forest lands.

w) Selective logging means the systematic removal of the mature, over-mature and defective trees in such manner as to leave adequate number and volume of healthy residual trees of the desired species necessary to assure a future crop of timber, and forest cover for the protection and conservation of soil and water.

x) Seed tree system is partial clearcutting with seed trees left to regenerate the area.

y) Healthy residual is a sound or slightly injured tree of the commercial species left after logging.

z) Sustained-yield management implies continuous or periodic production of forest products in a working unit with the aid of achieving at the earliest practicable time an approximate balance between growth and harvest or use. This is generally applied to the commercial timber resources and is also applicable to the water, grass, wildlife, and other renewable resources of the forest.

aa) Processing plant is any mechanical set-up, machine or combination of machine used for the processing of logs and other forest raw materials into lumber, veneer, plywood, wallboard, block-board, paper board, pulp, paper or other finished wood products.

bb) Lease is a privilege granted by the State to a person to occupy and possess, in consideration of a specified rental, any forest land of the public domain in order to undertake any authorized activity therein.

cc) License is a privilege granted by the State to a person to utilize forest resources as in any forest land, without any right of occupation and possession over the same, to the exclusion of others, or establish and operate a wood-processing plant, or conduct any activity involving the utilization of any forest resources.

dd) License agreement is a privilege granted by the State to a person to utilize forest resources within any forest land with the right of possession and occupation thereof to the exclusion of others, except the government, but with the corresponding obligation to develop, protect and rehabilitate the same in accordance with the terms and conditions set forth in said agreement.

ee) Permit is a short-term privilege or authority granted by the State to a person to utilize any limited forest resources or undertake a limited activity with any forest land without any right of occupation and possession therein.

ff) Annual allowable cut is the volume of materials, whether of wood or other forest products, that is authorized to be cut regularly from the forest.

gg) Cutting cycle is the number of years between major harvests in the same working unit and/or region, within a rotation.

hh) Ecosystem means the ecological community considered together with non-living factors and its environment as a unit.

ii) Silviculture is the establishment, development reproduction and care of forest trees.

jj) Rationalization is the organization of a business or industry using scientific business management principles and simplified procedures to obtain greater efficiency of operation.

kk) Forest officer means any official or employee of the Bureau who, by the nature of his appointment or the function of the position to which he is appointed, is delegated by law or by competent authority to execute, implement or enforce the provisions of this Code, other related laws, as well as their implementing regulations.

ll) Primitive tribe is a group of endemic tribe living primitively as a distinct portion of a people from a common ancestor.

mm) Private right means or refers to titled rights of ownership under existing laws, and in the case of primitive tribes, to rights of possession existing at the time a license is granted under this Code, which possession may include places of abode and worship, burial grounds, and old clearings, but excludes production forest inclusive of logged-over areas, commercial forests and established plantations of forest trees and trees of economic value.

nn) Person includes natural as well as juridical person.

CHAPTER I — ORGANIZATION AND JURISDICTION OF THE BUREAU

SECTION 4. Creation of, and merger of all forestry agencies into, the Bureau of Forest Development. — For the purpose of implementing the provisions of this Code, the Bureau of Forestry, the Reforestation Administration, the Southern Cebu Reforestation Development Project, and the Parks and Wildlife Office, including applicable appropriations, records, equipment, property and such personnel as may be necessary, are hereby merged into a single agency to be known as the Bureau of Forest Development, hereinafter referred to as the Bureau.

SECTION 5. Jurisdiction of Bureau. — The Bureau shall have jurisdiction and authority over all forest land, grazing lands, and all forest reservations including watershed reservations presently administered by other government agencies or instrumentalities.

It shall be responsible for the protection, development, management, regeneration, and reforestation of forest lands; the regulation and supervision of the operation of licensees, lessees and permittees for the taking or use of forest products therefrom or the occupancy or use thereof; the implementation of multiple use and sustained yield management in forest lands; the protection, development and preservation of national parks, marine parks, game refuges and wildlife; the implementation of measures and programs to prevent kaingin and managed occupancy of forest and grazing lands; in collaboration with other bureaus, the effective, efficient and economic classification of lands of the public domain; and the enforcement of forestry, reforestation, parks, game and wildlife laws, rules, and regulations.

The Bureau shall regulate the establishment and operation of sawmills, veneer and plywood mills and other wood processing plants and conduct studies of domestic and world markets of forest products.

SECTION 6. Director and Assistant Director and their qualifications. — The Bureau shall be headed by a Director, who shall be assisted by one or more Assistant Directors. The Director and Assistant Directors shall be appointed by the President.

No person shall be appointed Director or Assistant Director of the Bureau unless he is a natural born citizen of the Philippines, at least 30 years of age, a holder of at least a Bachelor's Degree in Forestry or its equivalent, and a registered forester.

SECTION 7. Supervision and Control. — The Bureau shall be directly under the control and supervision

of the Secretary of the Department of Natural Resources, hereinafter referred to as the Department Head.

SECTION 8. Review. — All actions and decisions of the Director are subject to review, motu proprio or upon appeal of any person aggrieved thereby, by the Department Head whose decision shall be final and executory after the lapse of thirty (30) days from receipt by the aggrieved party of said decision, unless appealed to the President in accordance with the Executive Order No. 19, series of 1966. The Decision of the Department Head may not be reviewed by the courts except through a special civil action for certiorari or prohibition.

SECTION 9. Rules and Regulations. — The Department Head, upon the recommendation of the Director of Forest Development, shall promulgate the rules and regulations necessary to implement effectively the provisions of this Code.

SECTION 10. Creation of Functional Divisions, and Regional and District Offices. — All positions in the merged agencies are considered vacant. Present occupants may be appointed in accordance with a staffing pattern or plan of organization to be prepared by the Director and approved by the Department Head. Any appointee who fails to report for duty in accordance with the approved plan within thirty (30) days upon receipt of notification shall be deemed to have declined the appointment, in which case the position may be filed by any other qualified applicant.

For the efficient and effective implementation of the program of the Bureau, the following divisions and sections are hereby created, to wit:

Divisions	Sections
Planning and Evaluation	Program Planning; Performance Evaluation; Forest Economics; Management Analysis Data & Information.
Administrative Division	Personnel; Budget; Accounting; Information; General Services.
Legal Division	
Reforestation and Afforestation Division	Cooperative Planting; Planting Stock Production; Plantation Management.
Timber Management Division	Forest Surveys, Data & Mapping;

	Silviculture;
	Timber Inventory & Photo-Interpretation;
	Timber Management Plans;
	Land Classification.
Utilization Division	Timber Operations;
	Land Uses;
	Utilization.
	Forest Protection and
	Infrastructure Forest Occupancy
	Management;
	Watershed Management;
	Infrastructure.
Parks, Wildlife Division	Parks Management;
	Recreation Management;
	Wildlife Management;
	Range Management.
Security and Intelligence Division	
Forest Development	Technical Training;
Training Center	Non-Technical Training.

The Department Head may, upon recommendation of the Director, reorganize or create such other divisions, sections or units as may be deemed necessary and to appoint the personnel there: Provided, That an employee appointed or designated as officer-in-charge of a newly created division, section or unit, or to an existing vacant position with a higher salary, shall receive, from the date of such appointment or designation until he is replaced or reverted to his original position, the salary corresponding to the position temporarily held by him.

There shall be created at least eleven regional offices. In each region, there shall be as many forest districts as may be necessary, in accordance with the extent of forest area, established work loads, need for forest protection, fire prevention and other factors, the provisions of any law to the contrary notwithstanding: Provided, That the boundaries of such districts shall follow, whenever possible, natural boundaries of watersheds under the river-basin concept of management.

SECTION 11. Manpower Development. — The Bureau shall establish and operate an in-service training center for the purpose of upgrading and training its personnel and new employees.

The Bureau shall also set aside adequate funds to enable personnel to obtain special education and training in local or foreign colleges or institutions.

SECTION 12. Performance Evaluation. — The Bureau shall devise a system, to be approved by the Department Head, to evaluate the performance of its employees. The system shall measure accomplishment in quantity and quality of performance as related to the funded program of work assigned to each organizational unit. There shall be included a system of periodic inspection of district offices by the regional offices and the regional and district offices by the Central Office in both functional fields and in the overall assessment of how each administrative unit has implemented the laws, regulations, policies, programs, and practices relevant to such unit. The evaluation system shall provide the information necessary for annual progress reports and determination of employee training civil service awards and transfer or disciplinary action.

CHAPTER II — CLASSIFICATION AND SURVEY

SECTION 13. System of Land Classification. — The Department Head shall study, devise, determine and prescribe the criteria, guidelines and methods for the proper and accurate classification and survey of all lands of the public domain into agricultural, industrial or commercial, residential, resettlement, mineral, timber or forest, and grazing lands, and into such other classes as now or may hereafter be provided by law, rules and regulations. In the meantime, the Department Head shall simplify through inter-bureau action the present system of determining which of the unclassified lands of the public domain are needed for forest purposes and declare them as permanent forest to form part of the forest reserves. He shall decree those classified and determined not to be needed for forest purposes as alienable and disposable lands, the administrative jurisdiction and management of which shall be transferred to the Bureau of Lands: Provided, That mangrove and other swamps not needed for shore protection and suitable for fishpond purposes shall be released to, and be placed under the administrative jurisdiction and management of, the Bureau of Fisheries and Aquatic Resources. Those still to be classified under the Present system shall continue to remain as part of the public forest.

SECTION 14. Existing Pasture Leases and Permits in Forest Lands. — Forest lands which have been the subject of pasture leases and permits shall remain classified as forest lands until classified as grazing lands under the criteria, guidelines and methods of classification to be prescribed by the Department Head: Provided, That the administration, management and disposition of grazing lands shall remain under the Bureau.

SECTION 15. Topography. — No land of the public domain eighteen per cent (18%) in slope or over shall be classified as alienable and disposable, nor any forest land fifty per cent (50%) in slope or over, as grazing land. Lands eighteen per cent (18%) in slope or over which have already been declared as alienable and disposable shall be reverted to the classification of forest lands by the Department Head, to form part of the forest reserves, unless they are already covered by existing titles or approved public land application, or actually occupied openly, continuously, adversely and publicly for a period of not less than thirty (30) years as of the effectivity of this Code, where the occupant is qualified for a free patent under the Public Land Act: Provided, That said lands, which are not yet part of a well-established communities, shall be kept in a vegetative condition sufficient to prevent erosion and adverse effects on the lowlands and streams: Provided, further, That when public interest so requires, steps shall be taken to expropriate, cancel defective titles, reject public land application, or eject occupants thereof.

SECTION 16. Areas needed for forest purposes. — The following lands, even if they are below eighteen per cent (18%) in slope, are needed for forest purposes, and may not, therefore, be classified as alienable and disposable land, to wit:

- 1) Areas less than 250 hectares which are far from, or are not contiguous with, any certified alienable and disposable land;
 - 2) Isolated patches of forest of at least five (5) hectares with rocky terrain, or which protect a spring for communal use;
 - 3) Areas which have already been reforested;
 - 4) Areas within forest concessions which are timbered or have good residual stocking to support an existing, or approved to be established, wood processing plant;
 - 5) Ridge tops and plateaus regardless of size found within, or surrounded wholly or partly by, forest lands where headwaters emanate;
 - 6) Appropriately located road-rights-or-way;
 - 7) Twenty-meter strips of land along the edge of the normal high waterline of rivers and streams with channels of at least five (5) meters wide;
 - 8) Strips of mangrove or swamplands at least twenty (20) meters wide, along shorelines facing oceans, lakes, and other bodies of water, and strips of land at least twenty (20) meters wide facing lakes;
 - 9) Areas needed for other purposes, such as national parks, national historical sites, game refuges and wildlife sanctuaries, forest station sites, and others of public interest; and
 - 10) Areas previously proclaimed by the President as forest reserves, national parks, game refuge, bird sanctuaries, national shrines, national historic sites:
- Provided, That in case an area falling under any of the foregoing categories shall have been titled in favor of any person, steps shall be taken, if public interest so requires, to have said title cancelled or amended, or the titled area expropriated.

SECTION 17. Establishment of boundaries of forest lands. — All boundaries between permanent forests and alienable and disposable lands shall be clearly marked and maintained on the ground, with infrastructure or roads, or concrete monuments at intervals of not more than five hundred (500) meters in accordance with established procedures and standards, or any other visible and practicable signs to insure protection of the forest.

SECTION 18. Reservations in forest lands and off-shore areas. — The President of the Philippines may establish within any lands of the public domain, forest reserve and forest reservation for the national park system, for preservation as critical watersheds, or for any other purpose, and modify boundaries of existing ones. The Department Head may reserve and establish any portion of the public forest or forest reserve as site or experimental forest for use of the Forest Research Institute.

When public interest so requires, any off-shore area needed for the preservation and protection of its educational, scientific, historical, ecological and recreational values including the marine life found therein, shall be established as marine parks.

CHAPTER III — UTILIZATION AND MANAGEMENT

SECTION 19. Multiple use. — The numerous beneficial uses of the timber, land, soil, water, wildlife, recreation value and grass of forest lands shall be evaluated and weighted before allowing the utilization, exploitation, occupation or possession thereof, or the conduct of any activity therein.

Only the utilization, exploitation, occupation or possession of any forest land, or any activity

therein, involving one or more of its resources, which will produce the optimum benefits to the development and progress of the country and the public welfare, without impairment or with the least injury to its other resources, shall be allowed.

All forest reservations may be open to uses not inconsistent with the principal objectives of the reservation: Provided, That critical watersheds and national parks shall not be subject to logging operations.

SECTION 20. License agreement, license, lease or permit. — No person may utilize, exploit, occupy, possess or conduct any activity within any forest land, or establish and operate any wood-processing plant, unless he has been authorized to do so under a license agreement, lease, license, or permit.

SECTION 21. Sustained yield. — All measures shall be taken to achieve an approximate balance between growth and harvest or use of forest products in forest lands.

A. TIMBER

SECTION 22. Silvicultural and harvesting systems. — In any logging operations in production forests within forest lands, the proper silvicultural and harvesting systems that will promote optimum sustained yield shall be practised.

a) For dipterocarp forest, selective logging shall be practised.

b) For pine forest, the seed tree system with planting when necessary shall be practised.

c) For other types of forest, the silvicultural and harvesting system that will be found suitable by research shall be applied. Meanwhile, a system based on observation and practices abroad may be adopted initially.

Any practised system are subject to modification or changes based on research findings.

SECTION 23. Timber inventory. — The Bureau shall conduct a program of progressive inventories of the harvestable timber and young trees in all forest lands, whether covered by any license agreement, license, lease or permit, or not, until a one hundred per cent (100%) timber inventory thereon has been achieved.

SECTION 24. Required inventory prior to timber utilization in forest lands. — No harvest of timber in any forest land shall be allowed unless it has been the subject of at least a five per cent (5%) timber inventory, or any statistically sound timber estimate, made not earlier than five (5) years prior to the issuance of a license agreement or license allowing such utilization.

SECTION 25. Cutting cycle. — The Bureau shall apply scientific cutting cycle and rotation in all forest lands, giving particular consideration to the age, volume and kind of healthy residual trees which may be left undisturbed and undamaged for future harvest and forest cover in dipterocarp area, and seed trees and reproduction in pine area.

SECTION 26. Annual allowable cut. — The annual allowable cut of any particular forest land shall be determined on the basis of the established rotation and cutting cycle thereof, and the volume and kind of harvestable timber and healthy residuals, seed trees and reproduction found therein.

SECTION 27. Duration of license agreement or license to harvest timber in forest lands. — The duration of the privilege to harvest timber in any particular forest land under a license agreement or license shall be fixed and determined in accordance with the annual allowable cut therein, the established cutting cycle thereof, the yield capacity of harvestable timber, and the capacity of healthy residuals for a second growth.

The privilege shall automatically terminate, even before the expiration of the license agreement of license, the moment the harvestable timber have been utilized without leaving any logged-over area capable of commercial utilization.

The maximum period of any privilege to harvest timber is twenty-five (25) years, renewable for a period, not exceeding twenty-five (25) years, necessary to utilize all the remaining commercial quantity or harvestable timber either from the unlogged or logged-over area.

It shall be a condition for the continued privilege to harvest timber under any license or license agreement that the licensee shall reforest all the areas which shall be determined by the Bureau.

SECTION 28. Size of forest concessions. — Forest lands shall not be held in perpetuity.

The size of the forest lands which may be the subject of timber utilization shall be limited to that which a person may effectively utilize and develop for a period of fifty (50) years, considering the cutting cycle, the past performance of the applicant and his capacity not only to utilize but, more importantly, to protect and manage the whole area, and the requirements of processing plants existing or to be installed in the region. cdt

Forest concessions which had been the subject of consolidations shall be reviewed and re-evaluated for the effective implementation of protection, reforestation and management thereof under the multiple use and sustained yield concepts, and for the processing locally of the timber resources therefrom.

B. WOOD-PROCESSING

SECTION 29. Incentives to the wood industry. — The Department Head, in collaboration with other government agencies and the wood industry associations and other private entities in the country, shall evolve incentives for the establishment of an integrated wood industry in designated wood industry centers and/or economic area.

The President of the Philippines, upon the recommendations of the National Economic Development Authority and the Department Head, may establish wood industry import-export centers in selected locations: Provided, That logs imported for such centers shall be subject to such precaution as may be imposed by the Bureau, in collaboration with proper government agencies, to prevent the introduction of pests, insects and/or diseases detrimental to the forests.

SECTION 30. Rationalization of the wood industry. — While establishment of wood-processing plants shall be encouraged, their locations and operations shall be regulated in order to rationalize the industry. No new processing plant shall be established unless adequate raw material is available on a sustained-yield basis in the area where the raw materials will come from.

The Department Head may cancel, suspend, or phase-out all uneconomical wood-processing plants which are not responsive to the rationalization program of the government.

SECTION 31. Wood wastes, weed trees and residues. — Timber licensees shall be encouraged and assisted to gather and save the wood wastes and weed trees in their concessions, and those with processing plants, the wood residues thereof, for utilization and conversion into wood by-products and derivatives.

SECTION 32. Log production and processing. — Unless otherwise decreed by the President, upon recommendation of the National Economic Development Authority, the entire production of logs by all licensees shall, beginning January 1, 1976, be processed locally.

A licensee who has no processing plant may, subject to the approval of the Director, enter into a contract with a wood processor for the processing of his logs. Wood processors shall accept for

processing only logs cut by, or purchased from, licensees of good standing at the time of the cutting of logs.

C. REFORESTATION

SECTION 33. Forest lands to be reforested. — The following shall be reforested and covered with suitable and sufficient trees, to wit:

- a) Bare or grass-covered tracts of forest lands with at least fifty per cent (50%) slope;
- b) Bare or grass-covered tracts of forest lands with less than fifty per cent (50%) slope, but with soil so highly erodible as to make grass cover inadequate for soil erosion control;
- c) Brushlands or tracts of forest lands generally covered with brush, which need to be developed to increase their productivity;
- d) Open tracts of forest lands with slopes or gradients generally exceeding fifty per cent (50%), interspersed with patches of forest each of which is less than two hundred fifty (250) hectares in area;
- e) Denuded or inadequately-timbered areas proclaimed by the President as forest reserves and reservations as critical watersheds, national parks, game refuge, bird sanctuaries, national shrines, national historic sites;
- f) Inadequately-stocked forest lands within forest concessions;
- g) Portions of areas covered by pasture leases or permits having a slope of at least fifty per cent (50%); and
- h) River banks, easements, road rights-of-ways, deltas, swamps, former river beds, and beaches.

SECTION 34. Industrial Tree Plantations and Tree Farms. — A lease for a period of twenty-five (25) years, renewable for another period not exceeding twenty-five (25) years, for the establishment of an industrial tree plantation or a tree farm may be granted by the Department Head upon recommendation of the Director to any person qualified to develop and exploit natural resources, over timber or forest lands of the public domain categorized in Section 33 hereof, with a minimum area of One Thousand (1,000) hectares for industrial tree plantation and One Hundred (100) hectares for tree farm; Provided, That the size of the area that may be granted under each category shall in each case depend upon the capacity of the lessee to develop or convert the area into productive condition within the term of the lease; Provided, further, That no lease shall be granted within critical watersheds.

Scattered areas of less than One Hundred (100) hectares each may be leased for the establishment of tree farms to different qualified persons upon a showing that if developed as an integrated unit these areas can be economically exploited: Provided, That it shall be a condition of the lease that such persons organize themselves into a cooperative to ensure the orderly management thereof.

The lease may be granted under such terms and conditions as the Department Head may prescribe, taking into account, among others, the raw material needs of forest-based industries and the maintenance of a wholesome ecological balance.

Reforestation projects of the Government, or portions thereof which, upon field evaluation, are found to be more suitable for, or can be better developed as, industrial tree plantations or tree farms in terms of benefits to the Government and the general surrounding area, may be the subject of the lease under this section.

SECTION 35. Priority. — Over any suitable area covered by a timber license agreement, or a pasture lease agreement or permit, the priority to establish industrial forest plantation or tree farm shall be given to the holder thereof.

The priority herein granted must, however, be availed of within a reasonable period to be determined by the Department Head, otherwise, the area shall be declared open to any qualified person and consequently segregated from the holder's area.

SECTION 36. Incentives. — To encourage qualified persons to engage in industrial tree plantation and/or tree farming, the following incentives are granted:

- a) Payment of a nominal filing fee of fifty centavos (P0.50) per hectare;
- b) No rental shall be collected during the first five (5) years from the date of the lease; from the sixth year to the tenth year, the annual rental shall be fifty centavos (P0.50) per hectare; and thereafter, the annual rental shall be one peso (P1.00) per hectare: Provided, That lessees of areas long denuded as certified by the Director and approved by the Department Head, shall be exempted from the payment of rental for the full term of the lease which shall not exceed twenty-five (25) years; for the first five (5) years following the renewal of the lease, the annual rental shall be fifty centavos (P0.50) per hectare; and thereafter, the annual rental shall be one peso (P1.00) per hectare. cda
- c) The lessee shall pay forest charges on the timber and other forest products grown and cut or gathered in an industrial tree plantation or tree farm equivalent to six percent (6%) current market value thereof;
- d) Sale at cost of seedlings and free technical advice and assistance to persons who will develop their privately-owned lands into industrial tree plantation or tree farm;
- e) Exemption from the payment of the percentage tax levied in Title V of the National Internal Revenue Code when the timber and forest products are sold, bartered or exchanged by the lessee whether in their original state or not;
- f) The Board of Investments shall, notwithstanding its nationality requirement on projects involving natural resources, classify industrial tree plantations and tree farms as pioneer areas of investment under its annual priority plan, to be governed by the rules and regulations of said Board. A lessee of an industrial tree plantation or tree farm may either apply to the Board of Investments for the tax and other benefits thereunder, or avail of the following benefits:
 - 1) Amounts expended by a lessee in the development and operation of an industrial tree plantation or tree farm prior to the time when the production state is reached, may, at the option of said lessee, be regarded as ordinary and necessary business expenses or as capital expenditures; and
 - 2) Deduction from an investor's taxable income for the year, of an annual investment allowance equivalent to thirty-three and one-third per cent (33-1/3%) of his actual investment during the year in an enterprise engaged in industrial tree plantation or tree farm: Provided, That such investment shall not be withdrawn for a period of at least ten (10) years from the date of investment: Provided, further, That should the investment be withdrawn within such period, a tax equivalent to double the amount of the total income tax rebate resulting from the investment allowance shall be payable as a lump sum in addition to the income tax due from the taxpayer for the year the investment was withdrawn.

g) Except when public interest demands the alteration or modification, the boundaries of an area covered by an industrial tree plantation or tree farm lease, once established on the ground, shall not be altered or modified; and

h) A lessee shall not be subject to any obligation prescribed in, or arising out of, the provisions of the National Internal Revenue Code on withholding of tax at source upon interests paid on borrowings incurred for development and operation of the industrial tree plantation or tree farm. The Department Head may provide other incentives in addition to those hereinabove granted to promote industrial tree plantation and tree farms in special areas such as, but not limited to, those where there are no roads or where roads are inadequate, or areas with rough topography and remote areas far from processing plants.

All amounts collected under this section shall accrue to a special deposit of the Bureau to be used for reforestation of critical watersheds or degraded areas and other development activities, over and above the general appropriation of the said Bureau.

D. FOREST PROTECTION

SECTION 37. Protection of all resources. — All measures shall be taken to protect the forest resources from destruction, impairment and depletion.

SECTION 38. Control of concession area. — In order to achieve the effective protection of the forest lands and the resources thereof from illegal entry, unlawful occupation, kaingin, fire, insect infestation, theft, and other forms of forest destruction, the utilization of timber therein shall not be allowed except through license agreements under which the holders thereof shall have the exclusive privilege to cut all the allowable harvestable timber in their respective concessions, and the additional right of occupation, possession, and control over the same, to the exclusive of all others, except the government, but with the corresponding obligation to adopt all the protection and conservation measures to ensure the continuity of the productive condition of said areas, conformably with multiple use and sustained yield management.

If the holder of a license agreement over a forest area expressly or impliedly waives the privilege to utilize any softwood, hardwood or mangrove species therein, a license may be issued to another person for the harvest thereof without any right of possession or occupation over the areas where they are found, but he shall, likewise, adopt protection and conservation measures consistent with those adopted by the license agreement holder in the said areas.

SECTION 39. Regulation of timber utilization in all other classes of lands and of wood-processing plants. — The utilization of timber in alienable and disposable lands, private lands, civil reservations, and all lands containing standing or felled timber, including those under the jurisdiction of other government agencies, and the establishment and operation of saw-mills and other wood-processing plants, shall be regulated in order to prevent them from being used as shelters for excessive and unauthorized harvests in forest lands, and shall not therefore be allowed except through a license agreement, license, lease or permit.

SECTION 40. Timber inventory in other lands containing standing or felled timber. — The Bureau shall conduct a one hundred per cent (100%) timber inventory in alienable and disposable lands and civil reservations immediately upon classification or reservation thereof.

No harvest of standing or felled timber in alienable and disposable lands, private lands, civil reservation, and all other lands, including those under the jurisdiction of other government agencies, shall be allowed unless a one hundred per cent (100%) timber inventory has been conducted thereon.

SECTION 41. Sworn timber inventory reports. — All reports on timber inventories of forest lands,

alienable and disposable lands, private lands, civil reservations, and all lands containing standing or felled timber must be subscribed and sworn to by all the forest officers who conducted the same.

SECTION 42. Participation in the development of alienable and disposable lands and civil reservations. — The privilege to harvest timber in alienable and disposable lands and civil reservations shall be given to those who can best help in the delineation and development of such areas in accordance with the management plan of the appropriate government exercising jurisdiction over the same.

The extent of participation shall be based on the amount of timber which may be harvested therefrom.

SECTION 43. Swamplands and mangrove forests. — Strips of mangrove forest bordering numerous islands which protect the shoreline, the shoreline roads, and even coastal communities from the destructive force of the sea during high winds and typhoons, shall be maintained and shall not be alienated. Such strips must be kept from artificial obstruction so that flood water will flow unimpeded to the sea to avoid flooding or inundation of cultivated areas in the upstream.

All mangrove swamps set aside for coast-protection purposes shall not be subject to clear-cutting operation.

Mangrove and other swamps released to the Bureau of Fisheries and Aquatic Resources for fishpond purposes which are not utilized, or which have been abandoned for five (5) years from the date of such release shall revert to the category of forest land.

SECTION 44. Visitorial power. — The Department Head may, by himself or thru the Director or any qualified person duly designated by the Department Head, investigate, inspect and examine records, books and other documents relating to the operation of any holder of a license agreement, license, lease, or permit, and its subsidiary or affiliated companies, to determine compliance with the terms and conditions thereof, this Code and pertinent laws, policies, rules and regulations.

SECTION 45. Authority of forest officers. — When in the performance of their official duties, forest officers, or other government officials or employees duly authorized by the Department Head or Director, shall have free entry into areas covered by a license agreement, license, lease or permit.

Forest officers are authorized to administer oath and take acknowledgment in official matters connected with the functions of their office, and to take testimony in official investigations conducted under the authority of this Code and the implementing rules and regulations.

SECTION 46. Scaling stations. — In collaboration with appropriate government agencies, the Bureau shall establish control or scaling stations at suitably located outlets of timber and other forest products to insure that they were legally cut or harvested.

SECTION 47. Mining operations. — Mining operations in forest lands shall be regulated and conducted with due regard to protection, development and utilization of other surface resources.

Location, prospecting, exploration, utilization or exploitation of mineral resources in forest reservations shall be governed by Mining laws, rules and regulations. No location, prospecting, exploration, utilization, or exploitation of mineral resources inside forest concessions shall be allowed unless proper notice has been served upon the licensees thereof and the prior approval of the Director, secured.

Mine tailings and other pollutants affecting the health and safety of the people, water, fish, vegetation, animal life and other surface resources, shall be filtered in silt traps or other

filtration devices and only clean exhausts and liquids shall be released therefrom.

Surface-mined areas shall be restored to as near its former natural configuration or as approved by the Director prior to its abandonment by the mining concern.

SECTION 48. Mineral Reservations. — Mineral reservations which are not the subject of mining operations or where operations have been suspended for more than five (5) years shall be placed under forest management by the Bureau.

Mineral reservations where mining operations have been terminated due to the exhaustion of its minerals shall revert to the category of forest land, unless otherwise reserved for other purposes.

SECTION 49. Roads and other infrastructure. — Roads and other infrastructure in forest lands shall be constructed with the least impairment to the resource values thereof.

Government agencies undertaking the construction of roads, bridges, communications, and other infrastructure and installations inside forest lands, shall coordinate with the Bureau, especially if it will involve the utilization or destruction of timber and/or other forest resources, or watershed disturbance therein, in order to adopt measures to avoid or reduce damage or injury to the forest resource values.

They shall likewise extend assistance in the planning and establishment of roads, wharves, piers, port facilities, and other infrastructure in locations designated as wood-processing centers or for the convenience of wood-based industries.

In order to coincide and conform to government plans, programs, standards, and specifications, holders of license agreements, licenses, leases and permits shall not undertake road or infrastructure construction or installation in forest lands without the prior approval of the Director, or in alienable and disposable lands, civil reservations and other government lands, without the approval of the government agencies having administrative jurisdiction over the same.

All roads and infrastructure constructed by holders of license agreements, licenses, leases and permits belong to the State and the use and administration thereof shall be transferred to the government immediately upon the expiration or termination thereof. Prior thereto the Bureau may authorize the public use thereof, if it will not be detrimental to forest conservation measures.

Where roads are utilized by more than one commercial forest user, the Bureau shall prescribe the terms and conditions of joint use including the equitable sharing of construction and/or maintenance costs, and of the use of these roads by other parties and the collection of such fees as may be deemed necessary.

SECTION 50. Logging roads. — There shall be indiscriminate construction of logging roads.

Such roads shall be strategically located and their widths regulated so as to minimize clear-cutting, unnecessary damage or injury to healthy residuals, and erosion. Their construction must not only serve the transportation need of the logger but, most importantly, the requirement to save as many healthy residuals as possible during cutting and hauling operations.

SECTION 51. Management of occupancy in forest lands. — Forest occupancy shall henceforth be managed. The Bureau shall study, determine and define which lands may be the subject of occupancy and prescribed therein, an agro-forestry development program.

Occupants shall undertake measures to prevent and protect forest resources.

Any occupancy in forest land which will result in sedimentation, erosion, reduction in water yield and impairment of other resources to the detriment of community and public interest shall not be allowed.

In areas above 50% in slope, occupancy shall be conditioned upon the planting of desirable trees thereon and/or adoption of other conservation measures.

SECTION 52. Census of kaingineros, squatters, cultural minorities and other occupants and residents in forest lands. — Henceforth, no person shall enter into forest lands and cultivate the same without lease or permit.

A complete census of kaingineros, squatters, cultural minorities and other occupants and residents in forest lands with or without authority or permits from the government, showing the extent of their respective occupation and resulting damage, or impairment of forest resources, shall be conducted.

The Bureau may call upon other agencies of the government and holders of license agreement, license, lease and permits over forest lands to participate in the census.

SECTION 53. Criminal Prosecution. — Kaingineros, squatters, cultural minorities and other occupants who entered into forest lands before the effectivity of this Code, without permits or authority, shall not be prosecuted: Provided, That they do not increase their clearings: Provided, further, That they undertake, within two (2) months from the notice thereof, the activities which will be imposed upon them by the Bureau in accordance with a management plan calculated to conserve and protect forest resources.

E. SPECIAL USES

SECTION 54. Pasture in forest lands. — No forest land 50% in slope or over may be utilized for pasture purposes.

Forest lands which are being utilized for pasture shall be maintained with sufficient grass cover to protect soil, water and other forest resources.

If grass cover is insufficient, the same shall be supplemented with trees or such vegetative cover as may be deemed necessary.

The size of forest lands that may be allowed for pasture and other special uses shall be determined by rules and regulations, any provision of law to the contrary notwithstanding.

SECTION 55. Wildlife. — Wildlife may be destroyed, killed, consumed, eaten or otherwise disposed of, without the necessity of permit, for the protection of life, health, safety and property, and the convenience of the people.

However, the Director may regulate the killing and destruction of wildlife in forest lands in order to maintain an ecological balance of flora and fauna.

SECTION 56. Recreation. — The Bureau shall, in the preparation of multiple-use management plans, identify and provide for the protection of scenic areas in all forest lands which are potentially valuable for recreation and tourism, and plan for the development and protection of such areas to attract visitors thereto and meet increasing demands therefor.

The construction and operation of necessary facilities to accommodate outdoor recreation shall be done by the Bureau with the use of funds derived from rentals and fees for the operation and use of recreational facilities by private persons or operators, in addition to whatever funds may be appropriated for such purposes.

SECTION 57. Other special uses of forest lands. — Forest lands may be leased for a period not exceeding twenty-five (25) years, renewable upon the expiration thereof for a similar period, or held under permit, for the establishment of sawmills, lumber yards, timber depots, logging camps, rights-of-way, or for the construction of sanatoria, bathing establishments, camps, salt works, or other beneficial purposes which do not in any way impair the forest resources therein.

F. QUALIFICATIONS

SECTION 58. Diffusion of benefits. — The privilege to utilize, exploit, occupy, or possess forest lands, or to conduct any activity therein, or to establish and operate wood-processing plants, shall be diffused to as many qualified and deserving applicants as possible.

SECTION 59. Citizenship. — In the evaluation of applications of corporations, increased Filipino equity and participation beyond the 60% constitutional limitation shall be encouraged. All other factors being equal, the applicant with more Filipino equity and participation shall be preferred.

SECTION 60. Financial and technical capability. — No license agreement, license, lease or permit over forest lands shall be issued to an applicant unless he proves satisfactorily that he has the financial resources and technical capability not only to minimize utilization, but also to practice forest protection, conservation and development measures to insure the perpetuation of said forest in productive condition.

SECTION 61. Transfers. — Unless authorized by the Department Head, no licensee, lessee, or permittee may transfer, exchange, sell or convey his license agreement, license, lease or permit, or any of his rights or interests therein, or any of his assets used in connection therewith.

The licensee, lessee, or permittee shall be allowed to transfer or convey his license agreement, license, lease or permit only if he has not violated any forestry law, rule or regulation; has been faithfully complying with the terms and conditions of the license agreement, license, lease or permit; the transferee has all the qualifications and none of the disqualifications to hold a license agreement, license, lease or permit; there is no evidence that such transfer or conveyance is being made for purposes of speculation; and the transferee shall assume all the obligations of the transferor.

The transferor shall forever be barred from acquiring another license agreement, license, lease or permit.

SECTION 62. Service contracts. — The Department Head, may in the national interest, allow forest products licensees, lessees, or permittees to enter into service contracts for financial, technical, management, or other forms of assistance, in consideration of a fee, with any foreign person or entity for the exploration, development, exploitation or utilization of the forest resources, covered by their license agreements, licenses, leases or permits. Existing valid and binding service contracts for financial, technical, management or other forms of assistance are hereby recognized as such.

SECTION 63. Equity sharing. — Every corporation holding a license agreement, license, lease or permit to utilize, exploit, occupy or possess any forest land, or conduct any activity therein, or establish and operate a wood-processing plant, shall within one (1) year after the effectivity of this Code, formulate and submit to the Department Head for approval a plan for the sale of at least twenty percent (20%) of its subscribed capital stock in favor of its employees and laborers.

The plan shall be so implemented that the sale of the shares of stock shall be effected by the corporation not later than the sixth year of its operation, or the first year of the effectivity of this Code, if the corporation has been in operation for more than 5 years prior to such effectivity.

No corporation shall be issued any license agreement, license, lease or permit after the effectivity

of this Code, unless it submits such a plan and the same is approved for implementation within the sixth year of its operation.

The Department Head shall promulgate the necessary rules and regulations to carry out the provisions of this section, particularly on the determination of the manner of payment, factors affecting the selling price, establishment of priorities in the purchase of the shares of stock, and the capability of the deserving employees and laborers. The industries concerned shall extend all assistance in the promulgation of policies on the matter, such as the submission of all data and information relative to their operation, personnel management, and asset evaluation.

G. REGULATORY FEES

SECTION 64. Charges, fees and bonds. — The Department Head, upon recommendation of the Director, shall fix the amount of charges, rental, bonds and fees for the different kinds of utilization, exploitation, occupation, possession, or activity inside forest lands, the filing and processing of applications therefor, the issuance and renewal of license agreements, licenses, leases and permits, and for other services; Provided, That all fees and charges presently being collected under existing laws and regulations shall continue to be imposed and collected until otherwise provided; Provided, further, That timber taken and removed from private lands for commercial purposes shall be exempt from the payment of forest charges.

SECTION 65. Authority of Department Head to impose other fees. — In addition to the fees and charges imposed under existing laws, rules and regulations, the Department Head is hereby authorized, upon recommendation of the Director and in consultation with representatives of the industries affected, to impose other fees for forest protection, management, reforestation, and development, the proceeds of which shall accrue into a special deposit of the Bureau as its revolving fund for the aforementioned purposes.

SECTION 66. Collection and Disbursement. — The collection of the charges and fees above-mentioned shall be the responsibility of the Director or his authorized representative. The Director shall remit his monthly collection of fees and charges mentioned in Section 64 to the Treasurer of the Philippines within the first ten (10) days of the succeeding month; Provided, That the proceeds of the collection of the fees imposed under Section 65 and the special deposit heretofore required of licensees shall be constituted into a revolving fund for such purposes and be deposited in the Philippine National Bank, as a special deposit of the Bureau. The Budget Commissioner and the National Treasurer shall effect the quarterly releases out of the collection accruing to the general fund upon request of the Director on the basis of a consolidated annual budget of a work program approved by the Department Head and the President.

In the case of the special deposit revolving fund, withdrawals therefrom shall be effected by the Department Head on the basis of a consolidated annual budget prepared by the Director of a work program for the specific purposes mentioned in Section 65. cdtai

SECTION 67. Basis of Assessment. — Tree measurement shall be the basis for assessing government charges and other fees on timber cut and removed from forest lands, alienable or disposable lands, and the civil reservations; Provided, That until such time as the mechanics of tree measurement shall have been developed and promulgated in rules and regulations, the present scaling method provided for in the National Internal Revenue Code shall be used.

The Director may, with the approval of the Department Head, prescribe a new method of assessment of forest products and collection of charges thereon based upon the result of production cost and market studies undertaken by the Bureau; Provided, That such charges shall not be lower than those now imposed.

CHAPTER IV — CRIMINAL OFFENSES AND

PENALTIES

SECTION 68. Cutting, gathering and/or collecting timber or other products without license. — Any person who shall cut, gather, collect, or remove timber or other forest products from any forest land, or timber from alienable and disposable public lands, or from private lands, without any authority under a license agreement, lease, license or permit, shall be guilty of qualified theft as defined and punished under Articles 309 and 310 of the Revised Penal Code; Provided, That in the case of partnership, association or corporation, the officers who ordered the cutting, gathering or collecting shall be liable, and if such officers are aliens, they shall, in addition to the penalty, be deported without further proceedings on the part of the Commission on Immigration and Deportation.

The Court shall further order the confiscation in favor of the government of the timber or forest products to cut, gathered, collected or removed, and the machinery, equipment, implements and tools used therein, and the forfeiture of his improvements in the area.

The same penalty plus cancellation of his license agreement, lease, license or permit and perpetual disqualification from acquiring any such privilege shall be imposed upon any licensee, lessee, or permittee who cuts timber from the licensed or leased area of another, without prejudice to whatever civil action the latter may bring against the offender.

SECTION 69. Unlawful occupation or destruction of forest lands. — Any person who enters and occupies or possesses, or makes kaingin for his own private use or for others any forest land without authority under a license agreement, lease, license or permit, or in any manner destroys such forest land or part thereof, or causes any damage to the timber stand and other products and forest growths found therein, or who assists, aids or abets any other person to do so, or sets a fire, or negligently permits a fire to be set in any forest land shall, upon conviction, be fined in an amount of not less than five hundred pesos (P500.00) nor more than twenty thousand pesos (P20,000.00) and imprisoned for not less than six (6) months nor more than two (2) years for each such offense, and be liable to the payment of ten (10) times the rental fees and other charges which would have been accrued had the occupation and use of the land been authorized under a license agreement, lease, license or permit: Provided, That in the case of an offender found guilty of making kaingin, the penalty shall be imprisoned for not less than two (2) nor more than (4) years and a fine equal to eight (8) times the regular forest charges due on the forest products destroyed, without prejudice to the payment of the full cost of restoration of the occupied area as determined by the Bureau.

The Court shall further order the eviction of the offender from the land and the forfeiture to the Government of all improvements made and all vehicles, domestic animals and equipment of any kind used in the commission of the offense. If not suitable for use by the Bureau, said vehicles shall be sold at public auction, the proceeds of which shall accrue to the Development Fund of the Bureau.

In case the offender is a government official or employee, he shall, in addition to the above penalties, be deemed automatically dismissed from office and permanently disqualified from holding any elective or appointive position.

SECTION 70. Pasturing Livestock. — Imprisonment for not less than six (6) months nor more than two (2) years and a fine equal to ten (10) times the regular rentals due, in addition to the confiscation of such livestock and all improvement introduced in the area in favor of the government, shall be imposed upon any person, who shall, without authority under a lease or permit, graze or cause to graze livestock in forest lands, grazing lands and alienable and disposable lands which have not as yet been disposed of in accordance with the Public Land Act; Provided, That in case the offender is a corporation, partnership or association, the officers and directors thereof shall be liable.

SECTION 71. Illegal occupation of national parks system and recreation areas and vandalism

therein. — Any person who shall, without permit, occupy for any length of time any portion of the national parks system or shall, in any manner, cut, destroy, damage or remove timber or any species of vegetation or forest cover and other natural resources found therein, or shall mutilate, deface or destroy objects of natural beauty or of scenic value within areas in the national parks system, shall be fined not less than two hundred (P200.00) pesos or more than five hundred (P500.00) pesos exclusive of the value of the thing damaged; Provided, That if the area requires rehabilitation or restoration as determined by the Director, the offender shall also be required to restore or compensate for the restoration of the damage; Provided, Further, That any person who, without proper permit shall hunt, capture or kill any kind of bird, fish or wild animal life within any area in the national parks system shall be subject to the same penalty; Provided, Finally, That the Court shall order eviction of the offender from the land and the forfeiture in favor of the Government of all timber or any species of vegetation and other natural resources collected or removed, and any construction or improvement made thereon by the offender. If the offender is an association or corporation, the president or manager shall be directly responsible and liable for the act of his employees or laborers.

In the event that an official of a city or municipal government is primarily responsible for detecting and convicting the violator of the provisions of this Section, fifty per centum (50%) of the fine collected shall accrue to such municipality or city for the development of local parks.

SECTION 72. Destruction of wildlife resources. — Any person violating the provisions of Section 55 of this Code, or the regulations promulgated thereunder, shall be fined not less than one hundred (P100.00) pesos for each such violation and in addition shall be denied a permit for a period of three (3) years from the date of the violation.

SECTION 73. Survey by unauthorized person. — Imprisonment for not less than two (2) nor more than four (4) years, in addition to the confiscation of the implements used in the violation of this section including the cancellation of the license, if any, shall be imposed upon any person who shall, without permit to survey from the Director, enter any forest lands, whether covered by a license agreement, lease, license, or permit, or not, and conduct or undertake a survey for whatever purpose.

SECTION 74. Misclassification and survey by government official or employee. — Any public officer or employee who knowingly surveys, classifies, or recommends the release of forest lands as alienable and disposable lands contrary to the criteria and standards established in this Code, or the rules and regulations promulgated hereunder, shall, after an appropriate administrative proceeding, be dismissed from the service with prejudice to re-employment, and upon conviction by a court of competent jurisdiction, suffer an imprisonment of not less than one (1) year and a fine of not less than one thousand, (P1,000.00) pesos. The survey, classification or release of forest lands shall be null and void.

SECTION 75. Tax declaration on real property. — Imprisonment for a period of not less than two (2) nor more than four (4) years and perpetual disqualification from holding an elective or appointive office, shall be imposed upon any public officer or employee who shall issue a tax declaration on real property without a certification from the Director of Forest Development and the Director of Lands or their duly designated representatives that the area declared for taxation is alienable and disposable lands, unless the property is titled or has been occupied and possessed by members of the national cultural minorities prior to July 4, 1955.

SECTION 76. Coercion and influence. — Any person who coerces, influences, abets or persuades the public officer or employee referred to in the two preceding sections to commit any of the acts mentioned therein shall suffer imprisonment of not less than one (1) year and pay a fine of five hundred (P500.00) pesos for every hectare or a fraction thereof so improperly surveyed, classified or released.

SECTION 77. Unlawful possession of implements and devices used by forest officers. —

Imprisonment for a period of not less than (2) nor more than four (4) years and a fine of not less than one thousand pesos (P1,000.00), nor more than ten thousand (P10,000.00) pesos in addition to the confiscation of such implements and devices, and the automatic cancellation of the license agreement, lease, license or permit, if the offender is a holder thereof, shall be imposed upon any person who shall, without authority from the Director or his authorized representative, make, manufacture, or has in his possession any government marking, hatchet or other marking implement, or any marker, poster, or other devices officially used by officers of the Bureau for the marking or identification of timber or other products, or any duplicate, counterfeit, or imitation thereof, or make or apply a government mark on timber or any other forest products by means of any authentic or counterfeit device, or alter, deface, or remove government marks or signs, from trees, logs, stumps, firewoods or other forest products, or destroy, deface, remove or disfigure any such mark, sign, poster or warning notices set by the Bureau to designate the boundaries of cutting areas, municipal or city forest or pasture, classified timber land, forest reserve, and areas under the national park system or to make any false mark or imitation of any mark or sign herein indicated; Provided, That if the offender is a corporation, partnership or association, the officers and directors thereof shall be liable.

SECTION 78. Payment, collection and remittance of forest charges. — Any person who fails to pay the amount due and payable under the provisions of this Code, the National Internal Revenue Code, or the rules and regulations promulgated thereunder, shall be liable to the payment of a surcharge of twenty-five per centum (25%) of the amount due and payable.

Any person who fails or refuses to remit to the proper authorities said forest charges collectible pursuant to the provisions of this Code or the National Internal Revenue Code, or who delays, obstructs or prevents the same, or who orders, causes or effects the transfer or diversion of the funds for purposes other than those specified in this Code, for each such offense shall, upon conviction, be punished by a fine of not exceeding one hundred thousand pesos (P100,000.00) and/or imprisonment for a period of not exceeding six (6) years in the discretion of the Court. If the offender is a government official or employee, he shall, in addition, be dismissed from the service with prejudice to reinstatement and with disqualification from holding any elective or appointive office.

If the offender is a corporation, partnership or association, the officers and directors thereof shall be liable.

SECTION 79. Sale of wood products. — No person shall sell or offer for sale any log, lumber, plywood or other manufactured wood products in the international or domestic market unless he complies with grading rules and established or to be established by the Government.

Failure to adhere to the established grading rules and standards, or any act of falsification of the volume of logs, lumber, or other forest products shall be a sufficient cause for the suspension of the export, sawmill, or other license or permit authorizing the manufacture or sale of such products for a period of not less than two (2) years.

A duly accredited representative of the Bureau shall certify to the compliance by the licensees with grading rules.

Every dealer in lumber and other building material covered by this Code shall issue an invoice for each sale of such material and such invoice shall state that the kind, standard and size of material sold to each purchaser in exactly the same as described in the invoice. Any violation of this Section shall be sufficient ground for the suspension of the dealer's license for a period of not less than two (2) years and, in addition thereto, the dealer shall be punished for each such offense by a fine of not less than two hundred pesos (P200.00) or the total value of the invoice, whichever is greater.

SECTION 80. Arrest; Institution of criminal actions. — A forest officer or employee of the Bureau shall arrest even without warrant any person who has committed or is committing in his presence any of the offenses defined in this Chapter. He shall also seize and confiscate, in favor of the

Government, the tools and equipment used in committing the offense, and the forest products cut, gathered or taken by the offender in the process of committing the offense. The arresting forest officer or employee shall thereafter deliver within six (6) hours from the time of arrest and seizure, the offender and the confiscated forest products, tools and equipment to, and file the proper complaint with, the appropriate official designated by law to conduct preliminary investigations and file informations in court.

If the arrest and seizure are made in the forests, far from the authorities designated by law to conduct preliminary investigations, the delivery to, and filing of the complaint with, the latter shall be done within a reasonable time sufficient for ordinary travel from the place of arrest to the place of delivery. The seized products, materials and equipment shall be immediately disposed of in accordance with forestry administrative orders promulgated by the Department Head.

The Department Head may deputize any member or unit of the Philippine Constabulary, police agency, barangay or barrio official, or any qualified person to protect the forest and exercise the power or authority provided for in the preceding paragraph.

Reports and complaints regarding the commission of any of the offenses defined in this Chapter, not committed in the presence of any forest officer or employee, or any of the deputized officers or officials, shall immediately be investigated by the forest officer assigned in the area where the offense was allegedly committed, who shall thereupon receive the evidence supporting the report or complaint.

If there is prima facie evidence to support the complaint or report, the investigating forest officer shall file the necessary complaint with the appropriate official authorized by law to conduct a preliminary investigation of criminal cases and file an information in Court.

SPECIAL CLAUSES

SECTION 81. Separability Clause. — Should any provision herein be subsequently declared unconstitutional, the same shall not affect the validity or the legality of the other provisions.

SECTION 82. Repealing Clause. — Presidential Decree Nos. 330, and 389, C.A. No. 452, R.A. No. 4715 and all laws, orders, rules and regulations or any part thereof which are inconsistent herewith are hereby repealed or amended accordingly.

SECTION 83. Date of Effectivity. — This Code shall take effect immediately upon promulgation.

Done in the City of Manila, this 19th day of May, in the year of Our Lord, nineteen hundred and seventy-five.

BATAS PAMBANSA BILANG 701

**AN ACT AMENDING SECTION THIRTY-SIX OF PRESIDENTIAL DECREE
NUMBERED SEVEN HUNDRED FIVE, OTHERWISE KNOWN AS "THE REVISED
FORESTRY CODE OF THE PHILIPPINES"**

Section 1. Section thirty-six of Presidential Decree Numbered Seven hundred five is amended by adding another paragraph after paragraph (h) to read as follows:.

"In addition to the incentives under this section, private landowners who engage in tree farming on areas fifty hectares or below by planting their lands with Ipil-Ipil and other fast-growing trees shall be exempt from the inventory requirement and other requirements before harvest as provided in this Decree for lessees of forest lands of the public domain: Provided, That the transport of trees cut shall be accompanied by the corresponding certificate of origin duly issued by the authorized forest officer."

Sec. 2. This Act shall take effect upon its approval.

Approved: April 5, 1984

PRESIDENTIAL DECREE NO. 1151 **[PHILIPPINE ENVIRONMENTAL POLICY]**

WHEREAS, the individual and, at times, conflicting demands of population growth, urbanization, industrial expansion, rapid natural resources utilization and increasing technological advances have resulted in a piece meal approach concept of environmental protection;

WHEREAS, such tunnel-vision concept is not conducive to the attainment of an ideal environmental situation where man and nature can thrive in harmony with one another; and

WHEREAS, there is now an urgent need to formulate an intensive, integrated program of environmental protection that will bring about a concerted effort towards the protection of the entire spectrum of the environment through a requirement of environmental impact assessments and statements;

NOW, THEREFORE, I, Ferdinand E. Marcos, President of the Philippines, by virtue of the powers vested in me by the Constitution, do hereby order and decree:

Section 1 **Policy**

It is hereby declared a continuing policy of the State:

- a. to create, develop, maintain, and improve conditions under which man and nature can thrive in productive and enjoyable harmony with each other;
- b. to fulfill the social, economic and other requirements of present and future generations of Filipino; and
- c. to insure the attainment of an environmental quality that is conducive to a life of dignity and well-being.

Section 2 **Goal**

In pursuing this policy, it shall be the responsibility of the Government, in cooperation with concerned private organizations and entities, to use all practicable means, consistent with other essential considerations of national policy, in promoting the general welfare to the end that the Nation may

- a. recognize, discharge and fulfill the responsibilities of each generation as trustee and guardian of the environment for succeeding generations;
- b. to assure the people of a safe, decent, healthful, productive and aesthetic environment;
- c. encourage the widest exploitation of the environment without degrading it, or endangering human life, health and safety or creating conditions adverse to agriculture, commerce and industry;
- d. preserve important historic and cultural aspects of the Philippine heritage;
- e. attain a rational and orderly balance between population and resource use; and
- f. improve the utilization of renewable and non-renewable resources.

Section 3 **Right to a Healthy Environment**

In furtherance of these goals and policies, the Government recognizes the right of the people to a healthy environment. It shall be the duty and responsibility of each individual to contribute to the preservation and enhancement of the Philippine environment.

Section 4 **Environmental Impact Statement**

Pursuant to the above enunciated policies and goals, all agencies and instrumentalities of the national government, including government-owned or controlled corporations, as well as private corporations, firms and entities shall prepare, file and include in every action, project or undertaking which significantly affects the quality of the environment a detailed statement on:

- a. the environmental impact of the proposed action, project or undertaking;
 - b. any adverse environmental effect which cannot be avoided should the proposal be implemented;
 - c. alternative to the proposed action;
 - d. a determination that the short-term uses of the resources of the environment are consistent with the maintenance and enhancement of the long-term productivity of the same; and
 - e. whenever a proposal involves the use of depletable or nonrenewable resources, a finding must be made that such use and commitment are warranted.
- Before an environmental impact statement is issued by a lead agency, all agencies having jurisdiction over, or special expertise on, the subject matter involved shall comment on the draft environmental impact statement made by the lead agency within thirty (30) days from the receipt of the same.

Section 5 **Agency Guidelines**

The different agencies charged with environmental protection as enumerated in Letter of Instruction No. 422 shall sixty (60) days from the effectivity of this Decree, submit to the National Environmental Protection Council (NEPC), their respective, guidelines, rules and regulations to carry out the provisions of Section 4 hereof on environmental impact assessments and statements.

Section 6 **Repealing Clause**

All Acts, Presidential Decrees, executive orders, rules and regulations or parts thereof which are inconsistent with the provisions of this Decree are hereby repealed, amended or modified accordingly.

Section 7 **Effectivity**

This Decree shall take effect immediately.

Approved: June 6, 1977

PRESIDENTIAL DECREE NO. 1152 [PHILIPPINE ENVIRONMENT CODE]

WHEREAS, the broad spectrum of environment has become a matter of vital concern to the government;

WHEREAS, the national leadership has taken a step towards this direction by creating the National Environment Protection Council under Presidential Decree No. 1121;

WHEREAS, it is necessary that the creation of the Council be complemented with the launching of a comprehensive program of environmental protection and management;

WHEREAS, such a program can assume tangible and meaningful significance only by establishing specific environment management policies and prescribing environment quality standards in a Philippine Environment Code.

NOW, THEREFORE, I, Ferdinand E. Marcos, President of the Republic of the Philippines, by virtue of the powers vested in me by the Constitution, do hereby order and decree:

Section 1 Short Title

This decree shall be known and cited as "The Philippine Environment Code."

TITLE I AIR QUALITY MANAGEMENT

Section 2 Purposes

The purposes of this Title are:

- a. to achieve and maintain such levels of air quality as to protect public health; and
- b. to prevent to the greatest extent practicable, injury and/or damage to plant and animal life and property, and promote the social economic development of the country.

Chapter I Standards

Section 3 Ambient Air Quality Standards

There shall be established ambient air quality standards which shall prescribe the maximum concentration of air pollutants permissible in the atmosphere consistent with public health, safety and general welfare.

In the establishment of ambient air quality standards, factors such as local atmospheric conditions, location and land use, and available technology, shall be considered among others.

Section 4 National Emission Standards

There shall be established national emission standards for new and existing stationary and mobile sources of pollution which shall consider among others such factors as type of industry, practicable control technology available, location and land use, and the nature of pollutants emitted.

**Section 5
Community Noise Standards**

Appropriate standards for community noise levels shall be established considering, among others, location, zoning and land use classification

**Section 6
Standards for Noise-Producing Equipment**

There shall be established a standard for noise-producing equipment such as construction equipment, transportation equipment, stationary engines, and electrical or electronic equipment and such similar equipment or contrivances. The standard shall set a limit on the acceptable level of noise emitted from a given equipment for the protection of public health and welfare, considering among others, the magnitude and condition of use, the degree of noise reduction achievable through the application of best available technology and the cost of compliance.

The installation of any noise-producing equipment shall conform with the requirements of Presidential Decree No. 1096 and other applicable laws as well as their implementing rules and regulations.

**Section 7
Aircraft Emission and Sonic Booms**

Appropriate government agencies shall encourage research studies on the harmful effects of aircraft emissions in the environment in order to establish permissible emission standards.

Research and studies shall also be undertaken to mitigate and/or minimize the effects of sonic booms in the environment.

**Chapter II
Regulation and Enforcement**

**Section 8
Air Quality and Noise Standards**

National Pollution Control Commission in coordination with appropriate government agencies shall be responsible for the enforcement of ambient air quality emission and noise standards, including the monitoring and surveillance of air pollutants, licensing and permitting of air pollution control facilities, and the promulgation of appropriate rules and regulations.

Existing air quality emission and noise standards may be revised and/or modified consistent with new development and technology.

**Section 9
Aircraft Noise**

Community noise standards around airports shall be implemented by the Civil Aeronautics Administration in coordination with the National Pollution Control Commission.

**Section 10
Vehicular Emission**

The Land Transportation Commission, in coordination with the National Pollution Control Commission, shall implement emission standards for vehicles and may deputize other appropriate law enforcement agencies for the purpose.

**Section 11
Radioactive Emissions**

The release and emission of radioactivity into the environment incident to the establishment or possession of nuclear energy facilities and radioactive materials, handling, transport, production, storage, use and disposal of radio active materials shall be regulated by the Philippine Atomic Energy Commission in coordination with other appropriated government agencies.

Chapter III Monitoring

Section 12 Air Quality Monitoring

The National Pollution Control Commission in coordination with appropriate government agencies, shall establish to the greatest extent practicable an air quality monitoring network. Such air quality monitoring network shall put to maximum use the capabilities of these agencies.

The National Environmental Protection Council shall be furnished with the results of air quality monitoring activities.

Section 13 Weather Modification

The Philippine Atmospheric, Geophysical and Astronomical Services Administration shall monitor regularly meteorological factors affecting environmental conditions in order to effectively guide air pollution monitoring activities.

Activities relating to weather modification such as rainfall stimulation and storm seeding experiments shall be undertaken in consultation or coordination with the Philippine Atmospheric, Geophysical and Astronomical Services Administration.

TITLE II WATER QUALITY MANAGEMENT

Section 14 Purpose

It is the purpose of this Title to prescribe management guidelines aimed to protect and improve the quality of Philippine water resources through:

- a. classification of Philippine waters;
- b. establishment of water quality standards;
- c. protection and improvement of the quality of Philippine water resources; and
- d. responsibilities for surveillance and mitigation of pollution incidents.

Chapter I Classification Standards

Section 15 Classification of Philippine Waters

The National Pollution Control Commission, in coordination with appropriate government agencies, shall classify Philippine waters, according to their best usage. In classifying said waters, the National Pollution Control Commission shall take into account, among others, the following:

- a. the existing quality of the body of water at the time of classification;
- b. the size, depth, surface area covered, volume, direction, rate of flow, gradient of stream; and

- c. the most beneficial uses of said bodies of water and lands bordering them for residential, agricultural, commercial, industrial, navigational, recreational, and aesthetic purposes.

Section 16
Reclassification of Waters
Based on Intended Beneficial Use

Where the public interest so requires, the National Pollution Control Commission, in coordination with appropriate government agencies, shall reclassify a body of water based on the intended beneficial use and take such steps as may be necessary to upgrade the quality of said water. Other government agencies may adopt higher standards for a particular body of water, subject to the approval of the National Pollution Control Commission.

Section 17
Upgrading of Water Quality

Where the quality of water has deteriorated to a degree where its state will adversely affect its best usage, the government agencies concerned shall take such measures as may be necessary to upgrade the quality of such water to meet the prescribed water quality standards.

Section 18
Water Quality Standards

The National Pollution Control Commission shall prescribe quality and effluent standards consistent with the guidelines set by the National Environmental Protection Council and the classification of waters prescribed in the preceding sections, taking into consideration, among others, the following:

- a. the standard of water quality or purity may vary according to beneficial uses; and
- b. the technology relating to water pollution control.

Chapter II
Protection and Improvement of Water Quality

Section 19
Enforcement and Coordination

The production, utilization, storage and distribution of hazardous, toxic and other substances such as radioactive materials, heavy metals, pesticides, fertilizers, and oils, and disposal, discharge and dumping of untreated wastewater, mine-tailings and other substances that may pollute any body of water of the Philippines resulting from normal operations of industries, water-borne sources, and other human activities, as well as those resulting from accidental spills and discharges shall be regulated by appropriate government agencies pursuant to their respective charters and enabling legislations. In the performance of the above functions, the government agencies concerned shall coordinate with the National Environmental Protection Council and furnish the latter with such information as may be necessary to enable it to attain its objectives under Presidential Decree No. 1121.

Section 20
Clean-up Operations

It shall be the responsibility of the polluter to contain, remove and clean-up water pollution incidents at his own expense. In case of his failure to do so, the government agencies concerned shall undertake containment, removal and clean-up operations and expenses incurred in said operations shall be charged against the persons and/or entities responsible for such pollution.

Section 21

Water Quality Monitoring and Surveillance

The various government agencies concerned with environmental protection shall establish to the greatest extent practicable a water quality surveillance and monitoring network with sufficient stations and sampling schedules to meet the needs of the country. Said water quality surveillance network shall put to maximum use the capabilities of such government agencies. Each agency involved in such network shall report to the National Environment Protection Council the results of these monitoring activities as the need arises.

TITLE III

LAND USE MANAGEMENT

Section 22

Purposes

The purposes of this Title are:

- a. to provide a rational, orderly and efficient acquisition, utilization and disposition of land its resources in order to derive therefrom maximum benefits; and
- b. to encourage the prudent use and conservation of land resources in order to prevent an imbalance between the nation's needs and such resources.

Section 23

National Land Use Scheme

The Human Settlements Commission, in coordination with the appropriate agencies of the government, shall formulate and recommend to the National Environmental Protection Council a land use scheme consistent with the purpose of this Title.

The Land Use Scheme shall include, among others, the following:

- a. a science-based and technology-oriented land inventory and classification system;
- b. a determination of present land uses, the extent to which they are utilized, under-utilized, rendered idle or abandoned;
- c. a comprehensive and accurate determination of the adaptability of the land for community development, agriculture, industry, commerce, and other fields of endeavor;
- d. a method of identification of areas where uncontrolled development could result in irreparable damage to important historic, or aesthetic values, or nature systems or processes of national significance;
- e. a method for exercising control by the appropriate government agencies over the use of land in area of critical environmental concern and areas impacted by public facilities including, but not limited to, airports, highways, bridges, ports and wharves, buildings and other infrastructure projects;
- f. a method to ensure the consideration of regional development and land use in local regulations;
- g. a policy for influencing the location of new communities and methods for assuring appropriate controls over the use of land around new communities;
- h. a system of controls and regulations pertaining to areas and development activities designed to ensure that any source of pollution will not be located where it would result in a violation of any applicable environmental pollution control regulations; and

- i. a recommended method for the periodic revisions and updating of the national land use scheme to meet changing conditions.

Section 24

Location of Industries

In the location of industries, factories, plants, depots and similar industrial establishments, the regulating or enforcing agencies of the government shall take into consideration the social, economic, geographic and significant environmental impact of said establishments.

TITLE IV

NATURAL RESOURCES MANAGEMENT AND CONSERVATION

Section 25

Purposes

The purpose of this Title are:

- a. to provide the basics on the management and conservation of the country's natural resources to obtain the optimum benefits therefrom and to preserve the same for the future generations; and
- b. to provide general measures through which the aforesaid policy may be carried out effectively.

Chapter I

Fisheries and Aquatic Resources

Section 26

Management Policy

The National government, through the Department of Natural Resources, shall establish a system of rational exploitation of fisheries and aquatic resources within the Philippine territory and shall encourage citizen participation therein to maintain and/or enhance the optimum and continuous productivity of the same.

Section 27

Measures for Rational Exploitation

Measures for the rational exploitation of fisheries and other aquatic resources may include, but shall not be limited to, the following:

- a. undertaking manpower and expertise development;
- b. acquiring the necessary facilities and equipment;
- c. regulating the marketing of threatened species of fish or other aquatic resources;
- d. reviewing all existing rules and regulations on the exploitation of fisheries and aquatic resources with a view to formulating guidelines for the systematic and effective enforcement thereof; and
- e. conserving the vanishing species of fish and aquatic resources such as turtles, sea snakes, crocodiles, corals, as well as maintaining the mangrove areas, marshes and inland areas, coral reef areas and islands serving as sanctuaries for fish and other aquatic life.

Chapter II

Wildlife

Section 28 Management Policy

The National Government, through the Department of Natural Resources, shall establish a system of rational exploitation and conservation of wildlife resources and shall encourage citizen participation in the maintenance and/or enhancement of their continuous productivity.

Section 29 Measures for Rational Exploitation

Measures for rational exploitation of wildlife resources may include, but shall not be limited to, the following:

- a. regulating the marketing of threatened wildlife resources;
- b. reviewing all existing rules and regulations on the exploitation of wildlife resources with a view of formulating guidelines for the systematic and effective enforcement thereof; and
- c. conserving the threatened species of fauna, increasing their rate of production, maintaining their original habitat, habitat manipulation, determining limits, population control in relation to the carrying capacity of any given area, banning of indiscriminate and/or destructive means of catching or hunting them.

Chapter III Forestry and Soil Conservation

Section 30 Management Policy for Forestry

The National Government, through the Department of Natural Resources shall undertake a system of rational exploitation forest resources and shall encourage citizen participation therein to keep the country's forest resources at maximum productivity at all times.

Section 31 Measures for Rational Exploitation of Forest Resources

Measures for the rational exploitation of forest resources may include, but shall not be limited to the following:

- a. regulating the marketing of threatened forest resources;
- b. reviewing all existing rules and regulations on the exploitation of forest resources with a view of formulating guidelines for the systematic and efficient enforcement thereof;
- c. conserving threatened species of flora as well as increasing their rate of propagation; the banning of destructive modes of exploitation, kaingin making or shifting cultivation, indiscriminate harvesting of minor forest products, the recycling methods of waste materials; and
- d. carrying out a continuing effort on reforestation; timber stand improvement; forest protection; land classification; forest occupancy management; agri-silviculture; range management; agri-silvicultural/kaingin management; multiple use forest; timber management; and forest research.

Section 32 Management Policy on Soil Conservation

The National Government, through the Department of Natural Resources and the Department Agriculture, shall likewise undertake a soil conservation program including therein the identification and protection of critical watershed areas, encouragement of scientific farming techniques, physical and biological means of soil conservation, and short-term and long-term researches and technology for effective soil conservation.

Section 33 **Use of Fertilizers and Pesticides**

The use of fertilizers and pesticides in agriculture shall be regulated, prescribing therefore a tolerance level in their use. Their use shall be monitored by appropriate government agencies to provide empirical data for effective regulation.

Chapter IV **Flood Control and Natural Calamities**

Section 34 **Measures in Flood Control Program**

In addition to the pertinent provisions of existing laws, the following shall be included in a soil erosion, sediment and flood control program:

- a. the control of soil erosion on the banks of rivers, the shores or lakes and the sea-shores;
- b. the control of flow and flooding in and from rivers and lakes;
- c. the conservation of water which, for purposes of this Section shall mean forms of water, but shall not include captive water;
- d. the needs of fisheries and wildlife and all other recreational uses of natural water;
- e. measures to control the damming, diversion, taking, and use of natural water, so far as any such act may affect the quality and availability of natural water for other purposes; and
- f. measures to stimulate research in matters relating to natural water and soil conservation and the application of knowledge thereby acquired.

Section 35 **Measures to Mitigate Destructive Effects of Calamities**

The national government, through the Philippine Atmospheric, Geophysical and Astronomical Services Administration, shall promote intensified and concerted research efforts on weather modification, typhoon, earthquake, tsunami, storm surge, and other tropical natural phenomena in order to bring about any significant effect to mitigate or prevent their destructive effects.

Chapter V **Energy Development**

Section 36 **Policy**

Consistent with the environmental protection policies, the national government, through the Energy Development Board, shall undertake an energy development program encouraging therein the utilization of invariant sources such as solar, wind and tidal energy.

Section 37 **Measures for Energy Development**

Measures for energy development program may include, but shall not be limited to, the following:

- a. setting up pilot plants utilizing invariant sources of energy;
- b. training of technical personnel for purposes of energy development; and
- c. conducting researches aimed at developing technology for energy development.

Section 38
Safety Measures on Energy Development

Rules and regulations shall be promulgated to prevent or mitigate the adverse effects of energy development on the environment. For this purpose, all nuclear powered plants and plants exploring and utilizing geothermal energy, whether owned or controlled by private or government entities shall:

- a. observe internationally accepted standards of safety; and
- b. provide safety devices to ensure the health and welfare of their personnel as well as the surrounding community.

Chapter VI
Conservation and Utilization of Surface Ground Waters

Section 39
Management Policy

In addition to existing laws, the national government through the National Water Resources Council in coordination with other appropriate government agencies, shall prescribe measures for the conservation and improvement of the quality of Philippine water resources and provide for the prevention, control and abatement of water pollution.

Chapter VII
Mineral Resources

Section 40
Management Policy

The National Government, through the Department of Natural Resources, shall undertake a system of gainful exploitation and rational and efficient utilization of mineral resources and shall encourage citizen participation in this endeavor.

Section 41
Measures for Exploitation and Utilization of Mineral Resources

Measures for the gainful exploitation and rational and efficient utilization of such mineral resources may include, but shall not be limited to, the following:

- a. increasing research and development in mineral resources technology;
- b. training of additional technical manpower needed in geology, geophysics, mining engineering, and related fields;
- c. regulating the exploitation of identified mineral reserves;
- d. accelerating the exploitation of undiscovered mineral deposits; and
- e. encouraging the establishment of processing plants for refined metal.

TITLE V

WASTE MANAGEMENT

Section 42

Purposes

The purposes of this Title are:

- a. to set guidelines for waste management with a view to ensuring its effectiveness;
- b. to encourage, promote and stimulate technological, educational, economic and social efforts to prevent environmental damage and unnecessary loss of valuable resources of the nation through recovery, recycling and re-use of wastes and waste products; and
- c. to provide measures to guide and encourage appropriate government agencies in establishing sound, efficient, comprehensive and effective waste management.

Chapter I

Enforcement and Guidelines

Section 43

Waste Management Programs

Preparation and implementation of waste management programs shall be required for all provinces, cities and municipalities. The Department of Local Government and Community Development shall promulgate guidelines for the formulation and establishment of waste management program.

Every waste management program shall include the following:

- a. an orderly system of operation consistent with the needs of the area concerned;
- b. a provision that the operation will not create pollution of any kind or will constitute public nuisance;
- c. a system for safe and sanitary disposal of waste;
- d. a provision that existing plans affecting the development, use and protection of air, water or natural resources shall be considered;
- e. schedules and methods of implementing the development, construction and operation of the plan together with the estimated costs; and
- f. a provision for the periodic revision of the program to ensure its effective implementation.

Section 44

Responsibility of Local Government

Each province, city or municipality shall provide measures to facilitate collection, transportation, processing and disposal of waste within its jurisdiction in coordination with other government agencies concerned. For this purpose, the national government shall provide the necessary subsidy to local governments upon request made through the National Environmental Protection Council and subject to such terms and conditions as the latter may provide.

Chapter II

Methods of Solid Waste Disposal

Section 45

Solid Waste Disposal

Solid waste disposal shall be by sanitary landfill, incineration, composting, and other methods as may be

approved by competent government authority.

Section 46
Sanitary Landfills

Local governments, including private individuals, corporations or organizations may operate or propose to operate one or more sanitary landfills. An entity proposing to operate a sanitary landfill shall submit to the appropriate government agency an operational work plan showing, among other things, a map of the proposed work location, disposal areas for rubbish, garbage, refuse and other waste matter; and the equipment or machinery needed to accomplish its operations. In no case shall land-fill or work locations under this Section be located along any shore or coast-line, or along the banks of rivers and streams, lakes, throughout their entire length, in violation of any existing rules and regulations.

Section 47
Incineration and Composting Plants

The installation and establishment of incineration or composting plants, or the alteration/modification of any part thereof shall be regulated by the local governments concerned in coordination with the National Pollution Control Commission.

Section 48
Disposal Sites

The location of solid waste disposal sites shall conform with existing zoning, land use standards, and pollution control regulations.

Section 49
Dumping into the Sea and Other Navigable Waters

The dumping or disposal of solid wastes into the sea and any body of water in the Philippines, including shore-lines and river banks, where the wastes are likely to be washed into the water is prohibited. However, dumping of solid wastes or other materials into the sea or any navigable waters shall be permitted in case of immediate or imminent danger to life and property, subject to the rules and regulations of the Philippine Coast Guard and the National Pollution Control Commission. Government agencies and private entities which are undertaking solid waste management programs shall make consultations with the government agencies concerned with respect to the effects of such dumping to the marine environment and navigation.

Chapter III
Methods of Liquid Waste Disposal

Section 50
Liquid Waste Disposal

Wastewater from manufacturing plants, industries, community, or domestic sources shall be treated either physically, biologically or chemically prior to disposal in accordance with the rules and regulations promulgated by proper government authority.

Section 51
Applicability of Section 49

The provisions of Section 49 hereof shall likewise apply to the dumping or disposal of liquid waste into the sea and other bodies of water.

TITLE VI

MISCELLANEOUS PROVISIONS

Section 52 Population Environment Balance

In the assessment of development projects, the National Environmental Protection Council, hereinafter referred to in this Title as the Council, shall take into consideration their effect on population with a view to achieving a rational and orderly balance between man and his environment.

Section 53 Environment Education

The Department of Education and Culture shall integrate subjects on environmental education in its school curricula at all levels. It shall also endeavor to conduct special community education emphasizing the relationship of man and nature as well as environmental sanitation and practices.

The Council and other government agencies implementing environmental protection laws in coordination with public information agencies of the government shall undertake public information activities for the purpose of stimulating awareness and encouraging involvement in environmental protection.

Section 54 Environmental Research

The Council shall undertake and/or promote continuing studies and research programs on environmental management and shall, from time to time, determine priority areas of environmental research.

Section 55 Monitoring and Dissemination of Environmental Information of Foreign Origin

The Council shall keep itself informed of current environmental developments by obtaining information and literature from foreign sources through the Department of Foreign Affairs, government agencies and other entities, both domestic and foreign. Such information and literature shall be given the widest dissemination possible.

Section 56 Incentive

To operate the installation and the utilization of pollution control facilities, the following incentives are hereby granted:

- a. exemption to the extent of fifty (50) percent of tariff duties and compensating tax for importation of pollution control equipment, devices, spare parts and accessories for a period of five (5) years from the effectivity of this Decree subject to the conditions that will be imposed by the Council;
- b. a tax credit equivalent of fifty (50) percent of the value of the compensating tax and tariff duties that would have been paid on the pollution control equipment, devices, spare parts and accessories had these items been imported shall, within a period of seven (7) years from the effectivity of this Decree, be given to the person or firm who or which purchases them from a domestic manufacturer, and another tax credit equivalent to twenty-five (25) percent thereof shall be given to said manufacturer, subject to such conditions as may be imposed by the Council; and
- c. deductions equivalent to fifty (50) percent of the expenses actually incurred on research projects undertaken to develop technologies for the manufacture of pollution control equivalent which have been proven effective and commercially reproducible, from the taxable income of the person or firm actually undertaking such projects subject to the conditions that may be imposed by the Council.

The pollution control equipment, devices, spare parts and accessories acquired under this Section shall not be sold, transferred or disposed within five (5) years from the date of acquisition without the prior approval of the Council otherwise the importer or purchaser shall pay twice the amount of the tax exemption or tax credit granted.

Section 57
Financial Assistance/Grant

Financial assistance/grant for the study, design and construction of environmental protection facilities especially for waste disposal in favor of cities, municipalities, small and medium scale industries may be granted on a case-to-case basis subject to such conditions as may be imposed by the Council.

Section 58
Participation of Local Government Units and Private Individuals

It shall be the responsibility of local government units as well as private individuals to actively participate in the environmental management and protection programs of the government.

Section 59
Preservation of Historic and Cultural Resources and Heritage

It shall be the duty of every person to help preserve the historic and cultural resources of the country such as sites, structures, artifacts, documents, objects, memorials, and priceless trees.

Section 60
Government Offices Performing Environmental Protection Functions

Government agencies vested by laws to exercise environmental management powers, shall continue to function as such within their respective jurisdictions. The Council may, however, in the exercise of its powers and functions under Presidential Decree No. 1121, inquire into any action or issue of environmental significance.

Section 61
Public Hearings

The Council may, whenever it deems necessary, conduct public hearings on issue of environmental significance.

Section 62
Definition of Terms

As used in this Code.

- a. Ambient Air Quality means the average atmospheric purity as distinguished from discharge measurements taken at the source of pollution. It is the general amount of pollution present in a broad area.
- b. Emission means the act of passing into the atmosphere an air contaminant, pollutant, gas stream and unwanted sound from a known source.
- c. Water Quality means the characteristics of water which define its use in terms of physical, chemical, and biological contents; hence, the quality of water for domestic use is different from industrial use.
- d. Water Quality Surveillance means a close and continuous supervision of the water quality to detect development, movement, or changes in the characteristics of the water.

- e. Water Quality Standard means a plan that is established by governmental authority as a program for water pollution prevention and abatement. Such standard may include water classification and the criteria to support the uses of the water.
- f. Effluent Standards means restrictions established to limit levels of concentration of physical, chemical, and biological constituents which are discharged from point sources.
- g. Clean-up Operations refers to activities conducted in removing the pollutants discharged or spilled in water to restore it to pre-spill condition.
- h. Accidental Spills refers to spills of oil or other hazardous substances in water that result from accidents such as collisions and groundings.
- i. Areas of Critical Environmental Concern are areas where uncontrolled development could result in irreparable damage to important historic, cultural, or aesthetic values or natural systems or processes of national significance.
- j. Hazardous Substances means elements or compounds which when discharged in any quantity present imminent or substantial danger to public health and welfare.
- k. Areas Impacted by Public Facilities refers to areas where the introduction of public facilities may tend to induce development and urbanization of more than local significance or impact.
- l. Environmental Impact is the alteration, to any degree, of environmental conditions or the creation of a new set of environmental conditions, adverse or beneficial, to be induced or caused by a proposed project.
- m. Government Agencies refers to national, local and regional agencies and instrumentalities including government-owned or controlled corporations.

TITLE VII FINAL PROVISIONS

Section 63 Separability of Provisions

If any provision of this Code, or the application of such provisions to any person or circumstances, is declared unconstitutional, the remainder of the Code or the application of such provisions to other persons or circumstances shall not be affected by such declaration.

Section 64 Effectivity

This Code shall take effect upon its approval.

Done in the City of Manila, this 6th day of June, the year of our Lord, nineteen hundred and seventy-seven.

Approved: June 6, 1977

REPUBLIC ACT No. 3844 August 8, 1963
AN ACT TO ORDAIN THE AGRICULTURAL LAND REFORM CODE AND TO
INSTITUTE LAND REFORMS IN THE PHILIPPINES...

REPUBLIC ACT No. 3844
AN ACT TO ORDAIN THE AGRICULTURAL LAND REFORM CODE AND TO
INSTITUTE LAND REFORMS IN THE PHILIPPINES, INCLUDING THE ABOLITION
OF TENANCY AND THE CHANNELING OF CAPITAL INTO INDUSTRY, PROVIDE
FOR THE NECESSARY IMPLEMENTING AGENCIES, APPROPRIATE FUNDS
THEREFOR AND FOR OTHER PURPOSES

PRELIMINARY CHAPTER

TITLE

DECLARATION OF POLICY AND COMPOSITION OF CODE

Section 1. Title - This Act shall be known as the Agricultural Land Reform Code.

Section 2. Declaration of Policy - It is the policy of the State:

- (1) To establish owner-cultivatorship and the economic family-size farm as the basis of Philippine agriculture and, as a consequence, divert landlord capital in agriculture to industrial development;
- (2) To achieve a dignified existence for the small farmers free from pernicious institutional restraints and practices;
- (3) To create a truly viable social and economic structure in agriculture conducive to greater productivity and higher farm incomes;
- (4) To apply all labor laws equally and without discrimination to both industrial and agricultural wage earners;
- (5) To provide a more vigorous and systematic land resettlement program and public land distribution; and
- (6) To make the small farmers more independent, self-reliant and responsible citizens, and a source of genuine strength in our democratic society.

Section 3. Composition of Code - In pursuance of the policy enunciated in Section two, the following are established under this Code:

- (1) An agricultural leasehold system to replace all existing share tenancy systems in agriculture;
- (2) A declaration of rights for agricultural labor;
- (3) An authority for the acquisition and equitable distribution of agricultural land;
- (4) An institution to finance the acquisition and distribution of agricultural land;
- (5) A machinery to extend credit and similar assistance to agriculture;
- (6) A machinery to provide marketing, management, and other technical services to agriculture;
- (7) A unified administration for formulating and implementing projects of land reform;
- (8) An expanded program of land capability survey, classification, and registration; and
- (9) A judicial system to decide issues arising under this Code and other related laws and regulations.

CHAPTER I

AGRICULTURAL LEASEHOLD SYSTEM

Section 4. Abolition of Agricultural Share Tenancy - Agricultural share tenancy, as herein defined, is hereby declared to be contrary to public policy and shall be abolished: Provided, That existing share tenancy contracts may continue in force and effect in any region or locality, to be governed in the meantime by the pertinent provisions of Republic Act Numbered Eleven hundred and ninety-nine, as amended, until the end of the agricultural year when the National Land Reform Council proclaims that all the government machineries and agencies in that region or locality relating to leasehold envisioned in this Code are operating, unless such contracts provide for a shorter period or the tenant sooner exercise his option to elect the leasehold system: Provided, further, That in order not to jeopardize international commitments, lands devoted to crops covered by marketing allotments shall be made the subject of a separate proclamation that adequate provisions, such as the organization of cooperatives, marketing agreements, or other similar workable arrangements, have been made to insure efficient management on all matters requiring synchronization of the agricultural with the processing phases of such crops: Provided, furthermore, That where the agricultural share tenancy contract has ceased to be operative by virtue of this Code, or where such a tenancy contract has been entered into in violation of the provisions of this Code and is, therefore, null and void, and the tenant continues in possession of the land for cultivation, there shall be presumed to exist a leasehold relationship under the provisions of this Code, without prejudice to the right of the landowner and the former tenant to enter into any other lawful contract in relation to the land formerly under tenancy contract, as long as in the interim the security of tenure of the former tenant under Republic Act Numbered Eleven hundred and ninety-nine, as amended, and as provided in this Code, is not impaired: Provided, finally, That if a lawful leasehold tenancy contract was entered into prior to the effectivity of this Code, the rights and obligations arising therefrom shall continue to subsist until modified by the parties in accordance with the provisions of this Code.

Section 5. Establishment of Agricultural Leasehold Relation - The agricultural leasehold relation shall be established by operation of law in accordance with Section four of this Code and, in other cases, either orally or in writing, expressly or impliedly.

Section 6. Parties to Agricultural Leasehold Relation - The agricultural leasehold relation shall be limited to the person who furnishes the landholding, either as owner, civil law lessee, usufructuary, or legal possessor, and the person who personally cultivates the same.

Section 7. Tenure of Agricultural Leasehold Relation - The agricultural leasehold relation once established shall confer upon the agricultural lessee the right to continue working on the landholding until such leasehold relation is extinguished. The agricultural lessee shall be entitled to security of tenure on his landholding and cannot be ejected therefrom unless authorized by the Court for causes herein provided.

Section 8. Extinguishment of Agricultural Leasehold Relation - The agricultural leasehold relation established under this Code shall be extinguished by:

- (1) Abandonment of the landholding without the knowledge of the agricultural lessor;
- (2) Voluntary surrender of the landholding by the agricultural lessee, written notice of which shall be served three months in advance; or
- (3) Absence of the persons under Section nine to succeed to the lessee, in the event of death or permanent incapacity of the lessee.

Section 9. Agricultural Leasehold Relation Not Extinguished by Death or Incapacity of the Parties - In case of death or permanent incapacity of the agricultural lessee to work his landholding, the leasehold shall continue between the agricultural lessor and the person who can cultivate the landholding personally, chosen by the agricultural lessor within one month from such death or permanent incapacity, from among the following: (a) the surviving spouse; (b) the eldest direct descendant by consanguinity; or (c) the next eldest descendant or descendants in the order of

their age: Provided, That in case the death or permanent incapacity of the agricultural lessee occurs during the agricultural year, such choice shall be exercised at the end of that agricultural year: Provided, further, That in the event the agricultural lessor fails to exercise his choice within the periods herein provided, the priority shall be in accordance with the order herein established. In case of death or permanent incapacity of the agricultural lessor, the leasehold shall bind his legal heirs.

Section 10. Agricultural Leasehold Relation Not Extinguished by Expiration of Period, etc. - The agricultural leasehold relation under this Code shall not be extinguished by mere expiration of the term or period in a leasehold contract nor by the sale, alienation or transfer of the legal possession of the landholding. In case the agricultural lessor sells, alienates or transfers the legal possession of the landholding, the purchaser or transferee thereof shall be subrogated to the rights and substituted to the obligations of the agricultural lessor.

Section 11. Lessee's Right of Pre-emption - In case the agricultural lessor decides to sell the landholding, the agricultural lessee shall have the preferential right to buy the same under reasonable terms and conditions: Provided, That the entire landholding offered for sale must be pre-empted by the Land Authority if the landowner so desires, unless the majority of the lessees object to such acquisition: Provided, further, That where there are two or more agricultural lessees, each shall be entitled to said preferential right only to the extent of the area actually cultivated by him. The right of pre-emption under this Section may be exercised within ninety days from notice in writing which shall be served by the owner on all lessees affected.

Section 12. Lessee's Right of Redemption - In case the landholding is sold to a third person without the knowledge of the agricultural lessee, the latter shall have the right to redeem the same at a reasonable price and consideration: Provided, That the entire landholding sold must be redeemed: Provided, further, That where there are two or more agricultural lessees, each shall be entitled to said right of redemption only to the extent of the area actually cultivated by him. The right of redemption under this Section may be exercised within two years from the registration of the sale, and shall have priority over any other right of legal redemption.

Section 13. Affidavit Required in Sale of Land Subject to Right of Pre-emption - No deed of sale of agricultural land under cultivation by an agricultural lessee or lessees shall be recorded in the Registry of Property unless accompanied by an affidavit of the vendor that he has given the written notice required in Section eleven of this Chapter or that the land is not worked by an agricultural lessee.

Section 14. Right of Pre-emption and Redemption Not Applicable to Land to be Converted into Residential, Industrial and Similar Purposes - The right of pre-emption and redemption granted under Sections eleven and twelve of this Chapter cannot be exercised over landholdings suitably located which the owner bought or holds for conversion into residential, commercial, industrial or other similar non-agricultural purposes: Provided, however, That the conversion be in good faith and is substantially carried out within one year from the date of sale. Should the owner fail to comply with the above condition, the agricultural lessee shall have the right to repurchase under reasonable terms and conditions said landholding from said owner within one year after the aforementioned period for conversion has expired: Provided, however, That the tenure of one year shall cease to run from the time the agricultural lessee petitions the Land Authority to acquire the land under the provisions of paragraph 11 of Section fifty-one.

Section 15. Agricultural Leasehold Contract in General - The agricultural lessor and the agricultural lessee shall be free to enter into any kind of terms, conditions or stipulations in a leasehold contract, as long as they are not contrary to law, morals or public policy. A term, condition or stipulation in an agricultural leasehold contract is considered contrary to law, morals or public policy:

(1) If the agricultural lessee is required to pay a rental in excess of that which is hereinafter provided for in this Chapter;

(2) If the agricultural lessee is required to pay a consideration in excess of the fair rental value as defined herein, for the use of work animals and/or farm implements belonging to the agricultural lessor or to any other person; or

(3) If it is imposed as a condition in the agricultural leasehold contract: (a) that the agricultural lessee is required to rent work animals or to hire farm implements from the agricultural lessor or a third person, or to make use of any store or services operated by the agricultural lessor or a third person; or (b) that the agricultural lessee is required to perform any work or render any service other than his duties and obligations provided in this Chapter with or without compensation; or (c) that the agricultural lessee is required to answer for any fine, deductions and/or assessments. Any contract by which the agricultural lessee is required to accept a loan or to make payment therefor in kind shall also be contrary to law, morals or public policy.

Section 16. Nature and Continuity of Conditions of Leasehold Contract - In the absence of any agreement as to the period, the terms and conditions of a leasehold contract shall continue until modified by the parties: Provided, That in no case shall any modification of its terms and conditions prejudice the right of the agricultural lessee to the security of his tenure on the landholding: Provided, further, That in case of a contract with a period an agricultural lessor may not, upon the expiration of the period increase the rental except in accordance with the provisions of Section thirty-four.

Section 17. Form and Registration of Contract - Should the parties decide to reduce their agreement into writing, the agricultural leasehold contract shall be drawn in quadruplicate in a language or dialect known to the agricultural lessee and signed or thumb-marked both by the agricultural lessee personally and by the agricultural lessor or his authorized representative, before two witnesses, to be chosen by each party. If the agricultural lessee does not know how to read, the contents of the document shall be read and explained to him by his witness. The contracting parties shall acknowledge the execution of the contract before the justice of the peace of the municipality where the land is situated. No fees or stamps of any kind shall be required in the preparation and acknowledgment of the instrument. Each of the contracting parties shall retain a copy of the contract. The justice of the peace shall cause the third copy to be delivered to the municipal treasurer of the municipality where the land is located and the fourth copy to the Office of the Agrarian Counsel.

Except in case of mistake, violence, intimidation, undue influence, or fraud, an agricultural contract reduced in writing and registered as hereinafter provided, shall be conclusive between the contracting parties, if not denounced or impugned within thirty days after its registration.

Section 18. Registration of Leasehold Contract - The municipal treasurer shall, upon receipt of his copy of the contract, require the agricultural lessee and agricultural lessor to present their respective copies of the contract, and shall cause to be annotated thereon the date, time and place of registration as well as its entry or registration number.

Section 19. Registry of Agricultural Leasehold Contracts - The Municipal Treasurer of the municipality wherein the land is situated shall keep a record of all such contracts drawn and executed within his jurisdiction, to be known as "Registry of Agricultural Leasehold Contracts". He shall keep this registry together with a copy of each contract entered therein, and make annotations on said registry of all subsequent acts relative to each contract, such as its renewal, novation, cancellation, etc. No registration fees or documentary stamps shall be required in the registration of said contracts or of any subsequent acts relative thereto.

Section 20. Memorandum of Loans - No obligation to pay money on account of loans including interest thereon obtained by the agricultural lessee from the agricultural lessor or his representative shall be enforceable unless the same or a memorandum thereof be in writing in a language or dialect known to the agricultural lessee, and signed or thumb-marked by him, or by his agent.

Section 21. Exemption from Lien and/or Execution - The following shall be exempt from lien and/or execution against the agricultural lessee:

- (1) Twenty-five per centum of the entire produce of the land under cultivation; and
- (2) Work animals and farm implements belonging to the agricultural lessee: Provided, That their value does not exceed one thousand pesos. But no article or species of property mentioned in this Section shall be exempt from execution issued upon a judgment recovered for its price or upon a judgment of foreclosure of a mortgage thereon.

Section 22. Use of Accepted Standards of Weights and Measures - In all transactions entered into between the agricultural lessee and the agricultural lessor concerning agricultural products the official or, upon agreement of the parties, the accepted standards of weights and measures shall be used.

Section 23. Rights of Agricultural Lessee in General - It shall be the right of the agricultural lessee:

- (1) To have possession and peaceful enjoyment of the land;
- (2) To manage and work on the land in a manner and method of cultivation and harvest which conform to proven farm practices;
- (3) To mechanize all or any phase of his farm work; and
- (4) To deal with millers and processors and attend to the issuance of quedans and warehouse receipts for the produce due him.

Section 24. Right to a Home Lot - The agricultural lessee shall have the right to continue in the exclusive possession and enjoyment of any home lot he may have occupied upon the effectivity of this Code, which shall be considered as included in the leasehold.

Section 25. Right to be Indemnified for Labor - The agricultural lessee shall have the right to be indemnified for the cost and expenses incurred in the cultivation, planting or harvesting and other expenses incidental to the improvement of his crop in case he surrenders or abandons his landholding for just cause or is ejected therefrom. In addition, he has the right to be indemnified for one-half of the necessary and useful improvements made by him on the landholding: Provided, That these improvements are tangible and have not yet lost their utility at the time of surrender and/or abandonment of the landholding, at which time their value shall be determined for the purpose of the indemnity for improvements.

Section 26. Obligations of the Lessee - It shall be the obligation of the agricultural lessee:

- (1) To cultivate and take care of the farm, growing crops, and other improvements on the landholding as a good father of a family and perform all the work therein in accordance with proven farm practices;
- (2) To inform the agricultural lessor within a reasonable time of any trespass committed by third persons upon the farm, without prejudice to his direct action against the trespasser;
- (3) To take reasonable care of the work animals and farm implements delivered to him by the agricultural lessor and see that they are not used for purposes other than those intended or used by another without the knowledge and consent of the agricultural lessor: Provided, however, That if said work animals get lost or die, or said farm implements get lost or are destroyed, through the negligence of the agricultural lessee, he shall be held responsible and made answerable therefor to the extent of the value of the work animals and/or farm implements at the time of the loss, death or destruction;
- (4) To keep his farm and growing crops attended to during the work season. In case of unjustified abandonment or neglect of his farm, any or all of his expected produce may, upon order of the Court, be forfeited in favor of the agricultural lessor to the extent of the damage caused thereby;

(5) To notify the agricultural lessor at least three days before the date of harvesting or, whenever applicable, of threshing; and

(6) To pay the lease rental to the agricultural lessor when it falls due.

Section 27. Prohibitions to Agricultural Lessee - It shall be unlawful for the agricultural lessee:

(1) To contract to work additional landholdings belonging to a different agricultural lessor or to acquire and personally cultivate an economic family-size farm, without the knowledge and consent of the agricultural lessor with whom he had entered first into household, if the first landholding is of sufficient size to make him and the members of his immediate farm household fully occupied in its cultivation; or

(2) To employ a sub-lessee on his landholding: Provided, however, That in case of illness or temporary incapacity he may employ laborers whose services on his landholding shall be on his account.

Section 28. Termination of Leasehold by Agricultural Lessee During Agricultural Year - The agricultural lessee may terminate the leasehold during the agricultural year for any of the following causes:

(1) Cruel, inhuman or offensive, treatment of the agricultural lessee or any member of his immediate farm household by the agricultural lessor or his representative with the knowledge and consent of the lessor;

(2) Non-compliance on the part of the agricultural lessor with any of the obligations imposed upon him by the provisions of this Code or by his contract with the agricultural lessee;

(3) Compulsion of the agricultural lessee or any member of his immediate farm household by the agricultural lessor to do any work or render any service not in any way connected with farm work or even without compulsion if no compensation is paid;

(4) Commission of a crime by the agricultural lessor or his representative against the agricultural lessee or any member of his immediate farm household; or

(5) Voluntary surrender due to circumstances more advantageous to him and his family.

Section 29. Rights of the Agricultural Lessor - It shall be the right of the agricultural lessor:

(1) To inspect and observe the extent of compliance with the terms and conditions of their contract and the provisions of this Chapter;

(2) To propose a change in the use of the landholding to other agricultural purposes, or in the kind of crops to be planted: Provided, That in case of disagreement as to the proposed change, the same shall be settled by the Court according to the best interest of the parties concerned: Provided, further, That in no case shall an agricultural lessee be ejected as a consequence of the conversion of the land to some other agricultural purpose or because of a change in the crop to be planted;

(3) To require the agricultural lessee, taking into consideration his financial capacity and the credit facilities available to him, to adopt in his farm proven farm practices necessary to the conservation of the land, improvement of its fertility and increase of its productivity: Provided, That in case of disagreement as to what proven farm practice the lessee shall adopt, the same shall be settled by the Court according to the best interest of the parties concerned; and

(4) To mortgage expected rentals.

Section 30. Obligations of the Agricultural Lessor - It shall be the obligation of the agricultural lessor:

- (1) To keep the agricultural lessee in peaceful possession and cultivation of his landholding; and
- (2) To keep intact such permanent useful improvements existing on the landholding at the start of the leasehold relation as irrigation and drainage system and marketing allotments, which in the case of sugar quotas shall refer both to domestic and export quotas, provisions of existing laws to the contrary notwithstanding.

Section 31. Prohibitions to the Agricultural Lessor - It shall be unlawful for the agricultural lessor:

- (1) To dispossess the agricultural lessee of his landholding except upon authorization by the Court under Section thirty-six. Should the agricultural lessee be dispossessed of his landholding without authorization from the Court, the agricultural lessor shall be liable for damages suffered by the agricultural lessee in addition to the fine or imprisonment prescribed in this Code for unauthorized dispossession;
- (2) To require the agricultural lessee to assume, directly or indirectly, the payment of the taxes or part thereof levied by the government on the landholding;
- (3) To require the agricultural lessee to assume, directly or indirectly, any part of the rent, "canon" or other consideration which the agricultural lessor is under obligation to pay to third persons for the use of the land;
- (4) To deal with millers or processors without written authorization of the lessee in cases where the crop has to be sold in processed form before payment of the rental; or
- (5) To discourage, directly or indirectly, the formation, maintenance or growth of unions or organizations of agricultural lessees in his landholding, or to initiate, dominate, assist or interfere in the formation or administration of any such union or organization.

Section 32. Cost of Irrigation System - The cost of construction of a permanent irrigation system, including distributory canals, may be borne exclusively by the agricultural lessor who shall be entitled to an increase in rental proportionate to the resultant increase in production: Provided, That if the agricultural lessor refuses to bear the expenses of construction the agricultural lessee or lessees may shoulder the same, in which case the former shall not be entitled to an increase in rental and shall, upon the termination of the relationship, pay the lessee or his heir the reasonable value of the improvement at the time of the termination: Provided, further, That if the irrigation system constructed does not work, it shall not be considered as an improvement within the meaning of this Section.

Section 33. Manner, Time and Place of Rental Payment - The consideration for the lease of the land shall be paid in an amount certain in money or in produce, or both, payable at the place agreed upon by the parties immediately after threshing or processing if the consideration is in kind, or within a reasonable time thereafter, if not in kind.

In no case shall the agricultural lessor require the agricultural lessee to file a bond, make a deposit or pay the rental in advance, in money or in kind or in both, but a special and preferential lien is hereby created in favor of the agricultural lessor over such portion of the gross harvest necessary for the payment of the rental due in his favor.

Section 34. Consideration for the Lease of Riceland and Lands Devoted to Other Crops - The consideration for the lease of riceland and lands devoted to other crops shall not be more than the equivalent of twenty-five per centum of the average normal harvest during the three agricultural years immediately preceding the date the leasehold was established after deducting

the amount used for seeds and the cost of harvesting, threshing, loading, hauling and processing, whichever are applicable: Provided, That if the land has been cultivated for a period of less than three years, the initial consideration shall be based on the average normal harvest during the preceding years when the land was actually cultivated, or on the harvest of the first year in the case of newly-cultivated lands, if that harvest is normal: Provided, further, That after the lapse of the first three normal harvests, the final consideration shall be based on the average normal harvest during these three preceding agricultural years: Provided, furthermore, That in the absence of any agreement between the parties as to the rental, the maximum allowed herein shall apply: Provided, finally, That if capital improvements are introduced on the farm not by the lessee to increase its productivity, the rental shall be increased proportionately to the consequent increase in production due to said improvements. In case of disagreement, the Court shall determine the reasonable increase in rental.

Section 35. Exemption from Leasehold of Other Kinds of Lands - Notwithstanding the provisions of the preceding Sections, in the case of fishponds, saltbeds, and lands principally planted to citrus, coconuts, cacao, coffee, durian, and other similar permanent trees at the time of the approval of this Code, the consideration, as well as the tenancy system prevailing, shall be governed by the provisions of Republic Act Numbered Eleven hundred and ninety-nine, as amended.

Section 36. Possession of Landholding; Exceptions - Notwithstanding any agreement as to the period or future surrender, of the land, an agricultural lessee shall continue in the enjoyment and possession of his landholding except when his dispossession has been authorized by the Court in a judgment that is final and executory if after due hearing it is shown that:

(1) The agricultural lessor-owner or a member of his immediate family will personally cultivate the landholding or will convert the landholding, if suitably located, into residential, factory, hospital or school site or other useful non-agricultural purposes: Provided; That the agricultural lessee shall be entitled to disturbance compensation equivalent to five years rental on his landholding in addition to his rights under Sections twenty-five and thirty-four, except when the land owned and leased by the agricultural lessor, is not more than five hectares, in which case instead of disturbance compensation the lessee may be entitled to an advanced notice of at least one agricultural year before ejectment proceedings are filed against him: Provided, further, That should the landholder not cultivate the land himself for three years or fail to substantially carry out such conversion within one year after the dispossession of the tenant, it shall be presumed that he acted in bad faith and the tenant shall have the right to demand possession of the land and recover damages for any loss incurred by him because of said dispossessions.

(2) The agricultural lessee failed to substantially comply with any of the terms and conditions of the contract or any of the provisions of this Code unless his failure is caused by fortuitous event or force majeure;

(3) The agricultural lessee planted crops or used the landholding for a purpose other than what had been previously agreed upon;

(4) The agricultural lessee failed to adopt proven farm practices as determined under paragraph 3 of Section twenty-nine;

(5) The land or other substantial permanent improvement thereon is substantially damaged or destroyed or has unreasonably deteriorated through the fault or negligence of the agricultural lessee;

(6) The agricultural lessee does not pay the lease rental when it falls due: Provided, That if the non-payment of the rental shall be due to crop failure to the extent of seventy-five per centum as a result of a fortuitous event, the non-payment shall not be a ground for dispossession, although the obligation to pay the rental due that particular crop is not thereby extinguished; or

(7) The lessee employed a sub-lessee on his landholding in violation of the terms of paragraph 2 of Section twenty-seven.

Section 37. Burden of Proof - The burden of proof to show the existence of a lawful cause for the ejection of an agricultural lessee shall rest upon the agricultural lessor.

Section 38. Statute of Limitations - An action to enforce any cause of action under this Code shall be barred if not commenced within three years after such cause of action accrued.

CHAPTER II

BILL OF RIGHTS FOR AGRICULTURAL LABOR

Section 39. Rights for Agricultural Labor - To enable the farm workers to enjoy the same rights and opportunities in life as industrial workers, they shall enjoy the following:

- (1) Right to self-organization;
- (2) Right to engage in concerted activities;
- (3) Right to minimum wage;
- (4) Right to work for not more than eight hours;
- (5) Right to claim for damages for death or injuries sustained while at work;
- (6) Right to compensation for personal injuries, death or illness; and
- (7) Right against suspension or lay-off.

Section 40. Right to Self-Organization - The farm workers shall have the right to self-organization and to form, join or assist farm workers' organizations of their own choosing for the purpose of collective bargaining through representatives of their own choosing: Provided, That this right shall be exercised in a manner as will not unduly interfere with the normal farm operations. Individuals employed as supervisors shall not be eligible for membership in farm workers' organizations under their supervision but may form separate organizations of their own.

Section 41. Right to Engage in Concerted Activities - The farm workers shall also have the right to engage in concerted activities for the purpose of collective bargaining and other mutual aid or protection.

For the purpose of this and the preceding Section, it shall be the duty of the farm employer or manager to allow the farm workers, labor leaders, organizers, advisers and helpers complete freedom to enter and leave the farm, plantation or compound at the portion of the same where said farm workers live or stay permanently or temporarily.

Section 42. Right to Minimum Wage - Notwithstanding any provision of law or contract to the contrary, farm workers in farm enterprises shall be entitled to at least P3.50 a day for eight hours' work: Provided, That this wage may, however, be increased by the Minimum Wage Board as provided for in Republic Act Numbered Six hundred and two.

Section 43. Right to Eight Hours' Work - Notwithstanding the provision of existing laws to the contrary, farm workers shall not be required to work for more than eight hours daily. When the work is not continuous, the time during which the farm worker is not working and can leave his working place and can rest completely shall not be counted.

Work may be performed beyond eight hours a day in case of actual or impending emergencies caused by serious accidents, fire, flood, typhoon, epidemic, or other disaster or calamity, or in case of urgent work to be performed on farm machines, equipment or installations in order to avoid a serious loss which the farm employer or manager would otherwise suffer, or some other just cause of a similar nature, but in all such cases the farm workers shall be entitled to receive compensation for the overtime work performed at the same rate as their regular wages, plus at least twenty-five per centum additional, based on their daily wages.

No farm employer or manager shall compel a farm worker to work during Sundays and legal holidays: Provided, however, That should the farm worker agree to work on said days, he shall be paid an additional sum of at least twenty-five per centum of his regular compensation; Provided, further, That the farm employer or manager shall not be held liable for any claim for overtime work which he had not previously authorized, except if the work rendered was to avoid damages to crops, produce, work animals or implements, buildings or the like.

Any agreement or contract between the farm employer or manager and the farm worker contrary to the provisions of this Section shall be null and void.

Section 44. Right of Action for Damages - Notwithstanding the provisions of existing laws to the contrary, Act Numbered Eighteen hundred and seventy-four, as amended, entitled "An Act to extend and regulate the responsibility of employers for personal injuries and death suffered by their employees while at work", shall apply to farm workers insofar as it may be applicable.

Section 45. Right to Compensation for Personal Injuries, Death, or Illness - Notwithstanding the provisions of existing laws to the contrary, Act Numbered Thirty-four hundred and twenty-eight, as amended, entitled "An Act prescribing the compensation to be received by employees for personal injuries, death or illness contracted in the performance of their duties", shall apply to farm workers insofar as it may be applicable.

Section 46. Right Against Suspension of Lay-off - The landowner, farm employer or farm manager shall not suspend, lay-off or dismiss any farm worker without just cause from the time a farm workers' organization or group of farm workers has presented to the landowner a petition or complaint regarding any matter likely to cause a strike or lockout and a copy thereof furnished with the Department of Labor, or while an agricultural dispute is pending before the Court of Agrarian Relations. If it is proved during the said period that a worker has been suspended or dismissed without just cause, the Court may direct the reinstatement and the payment of his wage during the time of his suspension or dismissal or of any sum he should have received had he not been suspended or dismissed, without prejudice to any criminal liability of the landowner, farm employer or farm manager as prescribed by Section twenty-four of Commonwealth Act Numbered One hundred and three, as amended.

Section 47. Other Applicable Provisions - All other existing laws applicable to non-agricultural workers in private enterprises which are not inconsistent with this Code shall likewise apply to farm workers, farm labor organizations and agrarian disputes as defined in this Code, as well as to relations between farm management and farm labor and the functions of the Department of Labor and other agencies.

Section 48. Exceptions to Preceding Section - The preceding Sections of this Chapter, except Sections forty, forty-one, forty-two and forty-three shall not apply to farm enterprises comprising not more than twelve hectares.

CHAPTER III LAND AUTHORITY

ARTICLE I

Organization and Functions of the Land Authority

Section 49. Creation of the Land Authority - For the purpose of carrying out the policy of establishing owner-cultivatorship and the economic family-size farm as the basis of Philippine agriculture and other policies enunciated in this Code, there is hereby created a Land Authority, hereinafter called the Authority, which shall be directly under the control and supervision of the President of the Philippines. The Authority shall be headed by a Governor who shall be appointed by the President with the consent of the Commission on Appointments.

He shall be assisted by two Deputy Governors who shall be appointed by the President with the consent of the Commission on Appointments, each of whom shall head such operating

departments as may be set up by the Governor. The Governor and the Deputy Governors shall hold office for five years.

Section 50. Qualifications and Compensation of Governors - No person shall be appointed Governor or Deputy Governor of the Authority unless he is a natural-born citizen of the Philippines, with adequate background and experience in land reform here and/or elsewhere, and at least thirty-five years of age.

The Governor shall receive an annual compensation of twenty-four thousand pesos; the Deputy Governors shall each receive an annual compensation of eighteen thousand pesos.

Section 51. Powers and Functions - It shall be the responsibility of the Authority:

(1) To initiate and prosecute expropriation proceedings for the acquisition of private agricultural lands as defined in Section one hundred sixty-six of Chapter XI of this Code for the purpose of subdivision into economic family-size farm units and resale of said farm units to bona fide tenants, occupants and qualified farmers: Provided, That the powers herein granted shall apply only to private agricultural lands subject to the terms and conditions and order of priority hereinbelow specified:

a. all idle or abandoned private agricultural lands, except those held or purchased within one year from the approval of this Code by private individuals or corporations for the purpose of resale and subdivision into economic family-size farm units in accordance with the policies enunciated in this Code: Provided, That the subdivision and resale shall be substantially carried out within one year from the approval of this Code;

b. all private agricultural lands suitable for subdivision into economic family-size farm units, owned by private individuals or corporations worked by lessees, no substantial portion of whose landholding in relation to the area sought to be expropriated, is planted to permanent crops under labor administration, in excess of seventy-five hectares except all private agricultural lands under labor administration and lands acquired under Section seventy-one of this Code; and

c. in expropriating private agricultural lands declared by the National Land Reform Council or by the Land Authority within a land reform district to be necessary for the implementation of the provisions of this Code, the following order of priority shall be observed:

1. idle or abandoned lands;
2. those whose area exceeds 1,024 hectares;
3. those whose area exceeds 500 hectares but is not more than 1,024 hectares;
4. those whose area exceeds 144 hectares but is not more than 500 hectares;
and
5. those whose area exceeds 75 hectares but is not more than 144 hectares.

(2) To help bona fide farmers without lands or agricultural owner-cultivators of uneconomic-size farms to acquire and own economic family-size farm units;

(3) To administer and dispose of agricultural lands of the public domain under the custody and administration of the National Resettlement and Rehabilitation Administration prior to the approval of this Code and such other public agricultural lands as may hereafter be reserved by the President of the Philippines for resettlement and sale, in accordance with such terms and conditions as are set forth under this Chapter: Provided, That the exercise of the authority granted herein, as well as in the preceding sub-paragraph, shall not contravene public policy on the permanency of forest reserves or other laws intended for the preservation and conservation of public forests;

(4) To develop plans and initiate actions for the systematic opening of alienable and disposable lands of the public domain for speedy, distribution to and development by deserving and qualified persons or corporations;

(5) To recommend to the President, from time to time after previous consultation with the Secretary of Agriculture and Natural Resources, what portion of the alienable or disposable public lands shall be reserved for settlement or disposition under this chapter;

(6) To give economic family-size farms to landless citizens of the Philippines who need, deserve, and are capable of cultivating the land personally, through organized resettlement, under the terms and conditions the Authority may prescribe, giving priority to qualified and deserving farmers in the province where such lands are located;

(7) To reclaim swamps and marshes, obtain titles thereto whenever feasible and subdivide them into economic family-size farms for distribution to deserving and qualified farmers;

(8) To undertake measures which will insure the early issuance of titles to persons or corporations who have actually settled and cultivated disposable alienable lands of the public domain;

(9) To survey, subdivide and set aside lands or areas of landholdings under its administration for economic family-size farms, large-scale farm operations, town sites, roads, parks, government centers and other civic improvements as circumstances may warrant and to submit subdivision survey plans conducted either by the government or private surveyors on parcels of lands under its administration for verification and approval either by the Director of Lands or by the Land Registration Commission;

(10) To inform the Agricultural Productivity Commission and the Office of the Agrarian Counsel of the problems of settlers and farmers on lands under its administration;

(11) To acquire for agricultural lessees exercising their right of pre-emption under Chapter I of this Code, any landholdings mentioned thereunder;

(12) To conduct land capability survey and classification of the entire country and print maps;

(13) To make such arrangements with the Land Bank with respect to titles of agricultural lands of the public domain under its administration as will be necessary to carry out the objectives of this Code;

(14) To expropriate home lots occupied by agricultural lessees outside their landholdings for resale at cost to said agricultural lessees; and

(15) To submit to the President of the Philippines and to both Houses of Congress through their presiding officers, to the Secretary of Finance and to the Auditor General within sixty days of the close of the fiscal year, an annual report showing its accomplishments during the year; the expropriation proceedings it has undertaken; the expenditures it has incurred and other financial transactions undertaken with respect thereto.

Section 52. Appointment of Subordinate Officials and Employees - The Governor shall organize the personnel in such departments, divisions and sections of the Authority as will insure their maximum efficiency. He shall appoint, subject to civil service rules and regulations, fix the compensation, subject to WAPCO rules and regulations, and determine the duties of subordinate officials and employees as the exigencies of the service may require.

ARTICLE II

Expropriation of Private Agricultural Lands

Section 53. Compulsory Purchase of Agricultural Lands - The Authority shall, upon petition in writing of at least one-third of the lessees and subject to the provisions of Chapter VII of this Code, institute and prosecute expropriation proceedings for the acquisition of private agricultural lands and home lots enumerated under Section fifty-one. In the event a landowner agrees to sell his property under the terms specified in this Chapter and the National Land Reform Council finds it suitable and necessary to acquire such property, a joint motion embodying the agreement, including the valuation of the property, shall be submitted by the Land Authority and the landowner to the Court for approval: Provided, That in such case, any person qualified to be a beneficiary of such expropriation or purchase may object to the valuation as excessive, in which case the Court shall determine the just compensation in accordance with Section fifty-six of this Code.

Section 54. Possession of the Land; Procedure - The Authority, after commencing the expropriation suit, may take immediate possession of the land upon deposit with the Court that has acquired jurisdiction over the expropriation proceedings in accordance with the Rules of Court, of money, and bonds of the Land Bank, in accordance with the proportions provided for under Section eighty of this Code, equal to the value as determined by the Court in accordance with the provisions of Section fifty-six hereof.

Section 55. Expeditious Survey and Subdivision - Immediately after the Authority takes possession of lands to be acquired by it under this Code, it shall undertake a subdivision survey of the land into economic family-size farms which shall be immediately assigned to beneficiaries selected in accordance with Section one hundred and twenty-eight subject to such rules and regulations as it may prescribe.

Section 56. Just Compensation - In determining the just compensation of the land to be expropriated pursuant to this Chapter, the Court, in land under leasehold, shall consider as a basis, without prejudice to considering other factors also, the annual lease rental income authorized by law capitalized at the rate of six per centum per annum.
The owner of the land expropriated shall be paid in accordance with Section eighty of this Act by the Land Bank and pursuant to an arrangement herein authorized.

Section 57. Duty of Court in Expropriation Proceedings - In expropriation proceedings, it shall be the duty of the Court to include in its resolution or order of expropriation a provision that the Land Authority shall, after taking possession of the land and after the subdivision thereof, allow the Land Bank to have the title thereto for the purpose of paying the owner the just compensation therefor.

Section 58. Issuance of Certificates of Title for Parcel or Lot - After the payment of just compensation on the land expropriated the Land Bank shall cause the issuance of separate certificates of titles for each parcel or lot in accordance with the subdivision survey made under Section fifty-five.

Section 59. Prohibition Against Alienation and Ejectment - Upon the filing of the petition referred to in Section fifty-three the landowner may not alienate any portion of the land covered by such petition except in pursuance of the provisions of this Code, or enter into any form of contract to defeat the purposes of this Code, and no ejectment proceedings against any lessee or occupant of the land covered by the petition shall be instituted or prosecuted until it becomes certain that the land shall not be acquired by the Authority.

Section 60. Disposition of Expropriated Land - After separate certificates of titles have been issued in accordance with Section fifty-eight, the Land Authority, on behalf of the Republic of the Philippines and in representation of the Land Bank as the financing agency, shall allot and sell each parcel or lot to a qualified beneficiary selected under Section fifty-five of this Code, subject to uniform terms and conditions imposed by the Land Bank: Provided, That the resale shall be at cost which shall mean the purchase price not more than six per centum per annum, which shall

cover administrative expenses, and actual expenses for subdivision, surveying, and registration: Provided, further, That such cost shall be paid on the basis of an amortization plan not exceeding twenty-five years at the option of the beneficiary.

In case some agricultural lessees working portions of agricultural lands acquired by the government under this Code prefer to remain as lessees thereof, which preference shall be expressed in writing and attested by a representative of the Office of Agrarian Counsel, the resale and redistribution to them shall be deferred until such time that such lessees are ready and willing to assume the obligations and responsibilities of independent owners, which shall be manifested by a written notice to this effect by the lessees and which shall oblige the Land Authority forthwith to allot and sell such portions to such lessees under the same uniform terms and conditions. Pending the sale, such lessees shall continue to work on their landholdings and receive the produce thereof, subject, however, to the requirement that they pay the Land Bank the allowable rental established in Section thirty-four. The Land Bank shall apply the rental to the six percent added to the acquisition price and credit the balance to the acquisition cost in the name of the lessee as partial payment for the land.

The Land Authority shall administer said parcels of land during the period they are under lease. Competent management and adequate production credit shall be provided in accordance with the program developed by the Land Reform Project Team for such area.

Section 61. Organization of Cooperative Associations - For the purpose of more efficient management, adoption of modern farm methods and techniques, and spreading risk, either through diversification of farm projects or mutual assumption of risks the farmer beneficiaries may organize themselves into cooperative associations with the advice or assistance of the Agricultural Productivity Commission and in accordance with the guidelines established by said Commission for such associations.

Section 62. Limitation on Land Rights - Except in case of hereditary succession by one heir, landholdings acquired under this Code may not be resold, mortgaged, encumbered or transferred until after the lapse of ten years from the date of full payment and acquisition and after such ten-year period, any transfer, sale or disposition may be made only in favor of persons qualified to acquire economic family-size farm units in accordance with the provisions of this Code: Provided, That a purchaser who acquired his landholding under a contract to sell may secure a loan on the same from any private lending institution or individual for an amount not exceeding his equity on said landholding upon a guaranty by the Land Bank.

Section 63. Inscription of Specific Prohibition Against Resale and Subdivision of Landholding - Certificates of titles of landholdings acquired by the Land Authority and resold to purchasers shall contain therein a specific inscription prohibiting further subdivision and the resale, transfer or encumbrance of said landholdings except as provided in the preceding Section.

Section 64. Exemption from Attachment - Lands acquired under the provisions of this Chapter shall be exempt from execution and attachment, except when the land itself is the property mortgaged, in accordance with Section sixty-two of this Code.

Section 65. Precedence of Expropriation Cases - Expropriation cases filed by the Authority under provisions of this Chapter shall take precedence over all other civil cases pending before the Court and shall be terminated within a period not exceeding six months from the date of filing.

ARTICLE III

Distribution of Agricultural Lands of the Public Domain

Section 66. Title to Public Agricultural Land - Upon reservation by the President of the Philippines of public agricultural land available for disposition by the Land Authority, such land shall be surveyed, titled and transferred to the Land Bank, which shall reduce said title into individual titles for specific parcels or lots in accordance with the subdivision survey conducted by the Land

Authority under paragraph 9 of Section fifty-one: Provided, however, That existing laws governing the acquisition of public lands shall have been complied with.

The Land Authority shall thereupon distribute in accordance with the provisions of this Code, each parcel or lot, subject to the terms and conditions of the Land Bank, to a beneficiary selected pursuant to Section seventy-one or in accordance with paragraph 3 of Section fifty-one, to a beneficiary selected pursuant to paragraph 3 of Section one hundred twenty-eight.

Section 67. Census of Settlements - The Authority shall take a census of all settlements already made or started by farmers on their own initiative on public agricultural lands, forest lands, and on private titled lands which had been cleared, occupied and cultivated wholly or partially by them, with or without legal sanction. The census shall include, among other things, the bona fide character of the settlements, the character of the settlers or farmers, the exact status of the lands settled, the feasibility of enlarging the settlements, particularly in connection with the resources of the land occupied and the neighboring areas, actual and potential accessibility to markets, as well as strategic location of the settlement with respect to national security.

Section 68. Assistance to Settlers in Transporting Themselves and Their Belongings - The Authority may, in certain projects, assist settlers in transporting themselves, their belongings, work animals and farm equipment, if any, from the communities from which they are migrating to the settlement areas reserved for the purpose and for subsistence necessary until credit can be provided by government financing agencies, or by any other credit institution by loaning to them the full amount required for such purposes. These loans from the Land Authority shall be non-interest bearing, shall constitute a lien upon the land, and shall be amortized over a period of ten years, payable annually beginning with the end of the third year, after the date of arrival in the settlement areas, subject to the right of the borrower to pay in the full at any time prior to the maturity of the loan.

Section 69. Assistance to Settlers in Securing Equipment - The Authority may assist the settlers in securing equipment, supplies and materials needed; or assist the cooperative associations of the new settlers in securing the most advantageous prices or terms on farm implements and supplies needed.

Section 70. Providing Housing and Accommodations to Settlers - The Authority may help provide housing and other accommodations for the new settlers upon their arrival in the settlement areas by the stationing them in properly surveyed and subdivided lots reserved for the purpose: help them organize community activities; and cooperate with the Bureau of Health, the Bureau of Public Schools and other pertinent agencies of the Government, in providing services necessary for the proper establishment of community facilities.

Section 71. Power of the Land Authority to Sell to Holders of Bonds Issued to Former Landowners Whose Lands Have Been Purchased for Redistribution - The Land Authority shall sell, for a price not less than the appraised value, any portion not exceeding one hundred forty-four hectares in the case of individuals or one thousand twenty-four hectares in the case of corporations of the public agricultural lands transferred to the Land Bank which is suitable for large-scale farm operations to any holder, who is qualified to acquire agricultural lands through purchase, of bonds issued to former landowners whose lands have been purchased for redistribution under this Code, subject to the condition that the purchaser shall, within two years after acquisition, place under cultivation at least thirty per centum of the entire area under plantation administration and the remaining seventy per centum within five years from the date of acquisition. The Governor of the Land Authority shall issue the title of said land upon showing that the purchaser has begun the development and cultivation of his land under plantation administration: Provided, That public agricultural land sold as hereinabove specified shall not be the object of any expropriation as long as the same shall be developed and cultivated for large-scale production under farm labor management, except as allowed by the Constitution. The selling price of the portion of the public agricultural land sold under this Section shall be credited to the Government's subscription to the Land Bank. As payment for the land sold under

this Section, the Land Bank shall accept as sole instruments of payment the bonds issued pursuant to Section seventy-six. Issued bonds accepted as payment for the land sold shall be cancelled to the extent of the amount paid.

All sales under this Code shall be subject to the provision of Chapter V of the Public Land Act covering sales of public agricultural lands insofar as they are not inconsistent with the provisions of this Code.

Section 72. Duplicate Records to be Furnished the Bureau of Lands - The Land Authority shall furnish the Bureau of Lands with the duplicate records of proceedings on applications for the sale or other disposition of public agricultural lands under its administration.

Section 73. Transfer of Appropriations, Powers, Functions, etc - The National Resettlement and Rehabilitation Administration and the Land Tenure administration are hereby abolished and their powers and functions not inconsistent with this Code, balances of all appropriations, funds, equipment, records and supplies, as well as agricultural lands, public and private, under their administration, are hereby transferred to the Authority: Provided, That the function of the Land Tenure Administration with respect to the expropriation of urban lands as provided by existing laws is hereby transferred to and all hereafter be undertaken by the People's Homesite and housing Corporation.

In addition to the appropriations herein transferred there is hereby appropriated from the general funds in the National Treasury not otherwise appropriated the sum of five million pesos, or so much thereof as may be necessary, to carry out the purposes of this Code.

To carry out the land capability survey and classification mentioned in paragraph 12 of Section fifty-one and Section one hundred thirty-two of this Code, there is hereby appropriated out of the unappropriated funds of the National Treasury the amount of ten million pesos.

CHAPTER IV LAND BANK

Section 74. Creation - To finance the acquisition by the Government of landed estates for division and resale to small landholders, as well as the purchase of the landholding by the agricultural lessee from the landowner, there is hereby established a body corporate to be known as the "Land Bank of the Philippines", hereinafter called the "Bank", which shall have its principal place of business in Manila. The legal existence of the Bank shall be for a period of fifty years counting from the date of the approval hereof. The Bank shall be subject to such rules and regulations as the Central Bank may from time to time promulgate.

Section 75. Powers in General - To carry out this main purpose, the Bank shall have the power:

- (1) To prescribe, repeal, and alter its own by laws, to determine its operating policies, and to issue such rules and regulations as may be necessary to achieve the main purpose for the creation of the Bank;
- (2) To adopt, alter and use a corporate seal;
- (3) To acquire and own real and personal property and to sell, mortgage or otherwise dispose of the same;
- (4) To sue and be sued, make contracts, and borrow money from both local and foreign sources. Such loans shall be subject to approval by the President of the Philippines and shall be fully guaranteed by the Government of the Philippines;
- (5) Upon recommendation of the Committee on Investments, to hold, own, purchase, acquire, sell or otherwise invest, or reinvest in stocks, bonds or other securities capable of giving the Bank a reasonably assured income sufficient to support its financing activities and give its private stockholders a fair return on their holdings: Provided, however, That pending the organization of the Committee on Investments, the Bank may exercise the powers herein provided without the recommendation of said Committee on Investments: Provided, further, That in case of the dissolution of the Land Bank all unsold public lands transferred to it which may be allocated to the

Government of the Philippines in the course of liquidation of the business of the Bank shall revert to the Department of Agriculture and Natural Resources; and

(6) To provide, free of charge, investment counselling and technical services to landowners whose lands have been acquired by the Land Bank. For this purpose, the Land Bank may contract the services of private consultants.

Section 76. Issuance of Bonds - The Land Bank shall, upon recommendation by the Board of Trustees and approval of the Monetary Board of the Central Bank, issue bonds, debentures and other evidences of indebtedness at such terms, rates and conditions as the Bank may determine up to an aggregate amount not exceeding, at any one time, five times its unimpaired capital and surplus. Such bonds and other obligations shall be secured by the assets of the Bank and shall be fully tax exempt both as to principal and income. Said income shall be paid to the bondholder every six (6) months from the date of issue. These bonds and other obligations shall be fully negotiable and unconditionally guaranteed by the Government of the Republic of the Philippines and shall be redeemable at the option of the Bank at or prior to maturity, which in no case shall exceed twenty-five years. These negotiable instruments of indebtedness shall be mortgageable in accordance with established banking procedures and practices to government institutions not to exceed sixty per centum of their face value to enable the holders of such bonds to make use of them in investments in productive enterprises. They shall also be accepted as payments for reparation equipment and materials.

The Board of Trustees shall have the power to prescribe rules and regulations for the registration of the bonds issued by the Bank at the request of the holders thereof.

Section 77. Issuance of Preferred Shares of Stock to Finance Acquisition of Landed Estates - The Land Bank shall issue, from time to time, preferred shares of stock in such quantities not exceeding six hundred million pesos worth of preferred shares as may be necessary to pay the owners of landed estates in accordance with Sections eighty and eighty-one of this Code. The amount of shares that the Bank may issue shall not exceed the aggregate amount need to pay for acquired estates in the proportions prescribed in said Section eighty of this Code. The Board of Trustees shall include as a necessary part of the by-laws that it shall issue under Section seventy-five of this Code, such formula as it deems adequate for determining the net asset value of its holdings as a guide and basis for the issuance of preferred shares. The shares of stock issued under the authority of this provision shall be guaranteed a rate of return of six per centum per annum. In the event that the earnings of the Bank for any single fiscal year are not sufficient to enable the Bank, after making reasonable allowance for administration, contingencies and growth, to declare dividends at the guaranteed rate, the amount equivalent to the difference between the Bank's earnings available for dividends and that necessary to pay the guaranteed rate shall be paid by the Bank out of its own assets but the Government shall, on the same day that the Bank makes such payment, reimburse the latter in full, for which purpose such amounts as may be necessary to enable the Government to make such reimbursements are hereby appropriated out of any moneys in the National Treasury not otherwise appropriated. The Bank shall give sufficient notice to the Budget Commissioner and the President of the Philippines in the event that it is not able to pay the guaranteed rate of return on any fiscal period. The guaranteed rate of return on these shares shall not preclude the holders thereof from participating at a percentage higher than six per centum should the earnings of the Bank for the corresponding fiscal period exceed the guaranteed rate of return. The Board of Trustees shall declare and distribute dividends within three months after the close of each fiscal year at the guaranteed rate unless a higher rate of return is justified by the Bank's earnings after making reasonable allowance for administration, contingencies and growth, in which case dividends shall be declared and distributed at a higher rate. The capital gains derived from the sale or transfer of such shares and all income derived therefrom in the form of dividends shall be fully exempt from taxes.

Section 78. Special Guaranty Fund - In the event that the Bank shall be unable to pay the bonds, debentures, and other obligations issued by it, a fixed amount thereof shall be paid from a special guaranty fund to be set up by the Government, to guarantee the obligation of the Land Bank, and

established in accordance with this Section, and thereupon, to the extent of the amounts so paid, the Government of the Republic of the Philippines shall succeed to all the rights of the holders of such bonds, debentures or other obligations: Provided, however, That for the next four years after the establishment of the Bank, the payment to the special guaranty fund should not exceed one million pesos per year, after which period, the Government shall pay into the guaranty fund the sum of five hundred thousand pesos each year until the cumulative total of such guaranty fund is no less than twenty percent of the outstanding net obligation of the Land Bank at the end of any single calendar year.

The guaranty fund shall be administered by the Central Bank of the Philippines in the manner most consistent with its charter. For the purpose of such fund, there shall be appropriated annually the sum of one million pesos out of any moneys in the National Treasury not otherwise appropriated, until the total amount of twenty million pesos shall have been attained.

Section 79. Receiving Payments and Time Deposits - The Bank, under the supervision of the Monetary Board and subject to the provisions of the General Banking Act, shall receive savings and time deposits from the small landholders in whose favor public lands or landed estates acquired by the Land Authority have been sold and, for this purpose, establish, and maintain branches and offices in such areas as may be necessary to service such deposits. The Monetary Board shall supervise and authorize the Bank to receive savings and time deposits from the public in areas where facilities for such a service do not exist or cannot be adequately provided by other deposit institutions.

Section 80. Making Payment to Owners of Landed Estates - The Land bank shall make payments in the form herein prescribed to the owners of land acquired by the Land Authority for division and resale under this Code. Such payment shall be made in the following manner: ten per centum in cash and the remaining balance in six percent, tax-free, redeemable bonds issued by the Bank in accordance with Section seventy-six, unless the landowner desires to be paid in shares of stock issued by the Land Bank in accordance with Section seventy-seven in an amount not exceeding thirty per centum of the purchase price.

In the event there is an existing lien on encumbrance on the land in favor of any Government institution at the time of acquisition by the Land Bank, the bonds and/or shares, in that order, shall be accepted as substitute collaterals to secure the indebtedness.

The profits accruing from payment shall be exempt from the tax on capital gains.

Section 81. Capital - The authorized capital stock of the Bank shall be one billion five hundred million pesos divided into ninety million shares with a par value of ten pesos each, which shall be fully subscribed by the Government and sixty million preferred shares with a par value of ten pesos each which shall be issued in accordance with the provisions of Sections seventy-seven and eighty-three of this Code. Of the total capital subscribed by the Government, two hundred million pesos shall be paid by the Government within one year from the approval of this Code, and one hundred million pesos every year thereafter for two years for which purpose the amount of two hundred million pesos is hereby appropriated upon the effectivity of this Code, and one hundred million pesos every year for the next two years thereafter, out of the funds in the National Treasury not otherwise appropriated for the purpose: Provided, That if there are not enough funds in the National Treasury for the appropriation herein made, the Secretary of Finance, with the approval of the President of the Philippines, shall issue bonds or other evidence of indebtedness to be negotiated either locally or abroad in such amount as may be necessary to cover any deficiency in the amount above-appropriated but not exceeding four hundred million pesos, the proceeds of which are hereby appropriated: Provided, further, That the bonds to be issued locally shall not be supported by the Central Bank: Provided, finally, That there is automatically appropriated out of the unappropriated funds in the National Treasury such amounts as is necessary to cover the losses which shall include among other things loss of earnings occasioned by the limitation of the resale cost herein provided such that said amount together with the administrative expenses mentioned in Section ninety hereof shall not exceed in the aggregate the equivalent of two and one-half per centum of its assets limited therein.

Section 82. Government Shares - All shares of stock in the Bank subscribed or owned by the Government shall not be entitled to participate in the income earned by the Bank from its investments and other operations, whether in the form of cash or stock dividends or otherwise. Amounts expended for the administration of the Bank shall not be deemed as a participation of the Government in income.

Section 83. Preferred Shares - All preferred shares of stock issued under Section seventy-seven of this Code shall be entitled to the income earned by the Bank on its investments and other operations and shall have a limited right to elect annually one member of the Board of Trustees and one member of the Committee on Investments: Provided, That the holders of such preferred shares of stock shall not bring derivative suits against the Bank. Such preferred shares shall be fully transferable: Provided, further, That upon the liquidation of the Bank, the redemption of such preferred shares shall be given priority and shall be guaranteed at par value.

Section 84. Voting of Shares - The voting power of all the shares of stock of the Land Bank owned or controlled by the Government shall be vested in the President of the Philippines or in such person or persons as he may from time to time designate.

Section 85. Use of Bonds - The bonds issued by the Land Bank may be used by the holder thereof and shall be accepted in the amount of their face value as any of the following:

(1) Payment for agricultural lands or other real properties purchased from the Government;

(2) Payment for the purchase of shares of stock of all or substantially all of the assets of the following Government owned or controlled corporations: The National Development Company; Cebu Portland Cement Company; National Shipyards and Steel Corporation; Manila Gas Corporation; and the Manila Hotel Company.

Upon offer by the bondholder, the corporation owned or controlled by the Government shall, through its Board of Directors, negotiate with such bondholder with respect to the price and other terms and conditions of the sale. In case there are various bondholders making the offer, the one willing to purchase under terms and conditions most favorable to the corporation shall be preferred. If no price is acceptable to the corporation, the same shall be determined by a Committee of Appraisers composed of three members, one to be appointed by the corporation, another by the bondholder making the highest or only offer, and the third by the two members so chosen. The expenses of appraisal shall be borne equally by the corporation and the successful purchaser.

Should the Government offer for sale to the public any or all of the shares of stock or the assets of any of the Government owned or controlled corporations enumerated herein, the bidder who offers to pay in bonds of the Land Bank shall be preferred provided that the various bids be equal in every respect except in the medium of payment.

(3) Surety or performance bonds in all cases where the Government may require or accept real property as bonds; and

(4) Payment for, reparations goods.

Section 86. Board of Trustees - The affairs and business of the Bank shall be directed, its powers exercised and its property managed and preserved by a Board of Trustees. Such Board shall be composed of one Chairman and four members, one of whom shall be the head of the Land Authority who shall be an ex-officio member of such Board and another to be elected by the holders of preferred shares. The Chairman and two members of the Board of Trustees shall serve on full-time basis with the Bank. With the exception of the head of the Land Authority and the member elected by the holders of preferred shares, the Chairman and all members of the Board shall be appointed by the President with the consent of the Commission on Appointments for a term of seven years, except that the first Chairman and members to be appointed under this Code shall serve for a period of three, five and seven years, such terms to be specified in their

respective appointments. Thereafter the Chairman and members, with the exception of the ex-officio member, appointed after such initial appointment shall serve for a term of seven years including any Chairman or member who is appointed in place of one who resigns or is removed or otherwise vacates his position before the expiration of his seven-year term. The Chairman and the two full-time members of the Board shall act as the heads of such operating departments as may be set up by the Board under the authority granted by Section eighty-seven of this Code. The Chairman shall have authority, exercisable at his discretion, to determine from time to time the organizational divisions to be headed by each member serving full time and to make the corresponding shifts in designations pursuant thereto. The compensation of the Chairman and the members of the Board of Trustees serving full time shall be twenty-four thousand and eighteen thousand pesos, respectively. The other members of the Board shall receive a per diem of one hundred pesos for each session of the Board that they attend.

Section 87. The Chairman and Vice-Chairman - The Chairman of the Board shall be the chief executive officer of the Bank. He shall have direct control and supervision of the business of the Bank in all matters which are not by this Code or by the by-laws of the Bank specifically reserved to be done by the Board of Trustees. He shall be assisted by an Executive Vice-Chairman and one or more vice-chairman who shall be chosen and may be removed by the Board of Trustees. The salaries of the Vice-Chairmen shall be fixed by the Board of Trustees with the approval of the President of the Philippines.

Section 88. Qualifications of Members - No person shall be appointed Chairman or member of the Board unless he is a man of accepted integrity, probity, training and experience in the field of banking and finance, at least thirty-five years of age and possessed of demonstrated administrative skill and ability.

Section 89. Committee on Investments - There shall be a Committee on Investments composed of three members; the member of the Board of Trustees elected by the holders of preferred shares as Chairman, one member to be appointed by the President of the Philippines from among the government members of the Board of Trustees, and another member to be selected by the holders of preferred shares under Section eighty-three of this Code. The Committee on Investments shall recommend to the Board of Trustees the corporations or entities from which the Land Bank shall purchase shares of stock.

The Land Bank shall not invest in any corporation, partnership or company wherein any member of the Board of Trustees or of the Committee on Investments or his spouse, direct descendant or ascendant has substantial pecuniary interest or has participation in the management or control of the enterprise except with the unanimous vote of the members of the Board of Trustees and of the Committee on Investments, excluding the member interested, in a joint meeting held for that purpose where full and fair information of the extent of such interest or participation has been adequately disclosed in writing and recorded in the minutes of the meeting: Provided, That such interested member shall not in any manner participate in the deliberations and shall refrain from exerting any pressure or influence whatever on any official or member of the Bank whose functions bear on or relate to the investment of the funds of the Bank in the enterprise: Provided, further, That the total investment in any single corporation, partnership, company, or association shall not exceed five per centum of the total investible funds.

Section 90. Personnel; Cost of Administration - The Administrative expenses of the Bank during any single fiscal year shall not in any case exceed two and one-half per centum of its total assets. The Board of Trustees shall provide for an organization and staff of officers and employees necessary to carry out the functions of the Bank, fix their compensation, and appoint and remove such officers and employees for cause. The Bank officers and employees shall be subject to the rules and regulations issued by the Civil Service Commission but shall not fall under the Wage and Position Classification Office. The Board of Trustees shall recommend to the Civil Service Commission rules and regulations for the recruitment, appointment, compensation, administration, conduct, promotion and removal of all Bank officers and employees under a strict merit system and prepare and conduct examinations under the supervision of said Commission.

Section 91. Legal counsel - The Secretary of Justice shall be ex-officio legal adviser of the Bank. Any provision of law to the contrary notwithstanding, the Land Bank shall have its own Legal Department, the chief and members of which shall be appointed by the Board of Trustees. The composition, budget and operating expenses of the Office of the Legal Counsel and the salaries and traveling expenses of its officers and employees shall be fixed by the Board of Trustees and paid by the Bank.

Section 92. Auditor - The Auditor General shall be the ex-officio auditor of the Bank and shall appoint a representative, who shall be the auditor in charge of the auditing office of the Bank. The Auditor General shall, upon the recommendation of the auditor of the Bank, appoint or remove the personnel of the auditing office. The compensation, budget and operating expenses of the auditing office and the salaries and traveling expenses of the officers and employees thereof shall be fixed by the Board of Trustees and paid by the Bank notwithstanding any provision of law to the contrary.

Section 93. Report on Condition of Bank - The representative of the Auditor General shall make a quarterly report on the condition of the Bank to the President of the Philippines, to the Senate through its President, to the House of Representatives through its Speaker, to the Secretary of Finance, to the Auditor General and to the Board of Trustees of the Bank. The report shall contain, among other things, a statement of the resources and liabilities including earnings and expenses, the amount of capital stock, surplus, reserve and profits, as well as losses, bad debts, and suspended and overdue paper carried in the books as assets of the Bank, and a plantilla of the Bank.

Section 94. Auditing Rules and Regulations - The Auditor General shall, with respect to the Bank, formulate improved and progressive auditing rules and regulations designed to expedite the operations of the Bank and prevent the occurrence of delays and bottlenecks in its work.

Section 95. Removal of Members - The President of the Philippines may, at any time, remove the Chairman or any member of the Board appointed by him if the interest of the Bank so requires, for any of the following causes:

(1) Mismanagement, grave abuse of discretion, infidelity in the conduct of fiduciary relations, or gross neglect in the performance of duties;

(2) Dishonesty, corruption, or any act involving moral turpitude; and

(3) Any act or performance tending to prejudice or impair the substantial rights of the stockholders.

Conviction of the Chairman or a member for a crime carrying with it a penalty greater than arresto mayor shall cause the removal of such Chairman or member without the necessity of Presidential action.

The Chairman or member may, in any of the above cases, be civilly liable for any damage that may have been suffered by the stockholders.

Section 96. Transfer of Claims and Liabilities - The assets of the former Land Tenure Administration and the National Resettlement and Rehabilitation Administration in the form of claims and receivables arising from the sale or transfer of private and public lands, agricultural equipment, machinery, tools and work animals, but excluding advances made for subsistence, to small landholders shall, after an exhaustive evaluation to determine their true asset value, be irrevocably transferred to the Bank under such arrangements as the Land Authority and the Bank shall agree upon. Thereafter, the Bank shall have authority and jurisdiction to administer the claims, to collect and make adjustments on the same and, generally, to do all other acts properly pertaining to the administration of claims held by a financial institution. The Land Authority, upon request of the Bank, shall assist the latter in the collection of such claims. The Land Authority

shall be entitled to collect from the Bank no more than the actual cost of such collection services as it may extend. The claims transferred under this Section shall not be considered as part of the Government's subscription to the capital of the Bank.

Section 97. Regulation - The Bank shall not be subject to the laws, rules and regulations governing banks and other financial institutions of whatever type except with respect to the receipt of savings and time deposits in accordance with Section seventy-nine of this Code, in which case the legal reserve and other requirements prescribed by the Central Bank for such deposits shall apply. The Bank shall be operated as an autonomous body and shall be under the supervision of the Central Bank.

Section 98. Tax Exemption - The operations, as well as holdings, equipment, property, income and earnings of the Bank from whatever sources shall be fully exempt from taxation.

Section 99. Organization of Bank - The Bank shall be organized within one year from the date that this Code takes effect.

Section 100. Penalty for Violation of the Provisions of this Chapter - Any trustee, officer, employee or agent of the Bank who violates or permits the violation of any of the provisions of this Chapter, or any person aiding or abetting the violations of any of the provisions of this Chapter, shall be punished by a fine not to exceed ten thousand pesos or by imprisonment of not more than five years, or both such fine and imprisonment at the discretion of the Court.

CHAPTER V AGRICULTURAL CREDIT ADMINISTRATION

Section 101. Reorganization of ACCFA to Align Its Activities - The administrative machinery of the Agricultural Credit and Cooperative Financing Administration created under Republic Act Numbered Eight hundred twenty-one, as amended by Republic Act Numbered Twelve hundred and eighty-five, shall be reorganized to enable it to align its activities with the requirements and objectives of this Code and shall be known as the Agricultural Credit Administration.

Section 102. Financing - To finance the additional credit functions of the Agricultural Credit Administration as a result of the land reform program laid down in this Code, there is hereby appropriated the sum of one hundred fifty million pesos out of funds in the National Treasury not otherwise appropriated in addition to existing appropriations for the Agricultural Credit and Cooperative Financing Administration.

Section 103. Privilege of Rediscounting - The Agricultural Credit Administration is hereby granted the privilege of rediscounting with the Central Bank of the Philippines, the Development Bank of the Philippines and the Philippine National Bank eligible evidence of indebtedness acquired by it in carrying on its authorized activities, at an interest rate equal to the lowest charged by the above financing institution on any private person or entity.

Section 104. Power to Obtain Additional Funds - Nothing in this Section shall limit the power of the Agricultural Credit Administration to obtain from the Central Bank of the Philippines, the Development Bank of the Philippines, the Philippine National Bank and other financing institutions, such additional funds as may be necessary for the effective implementation of this Act: Provided, That such additional funds are to be utilized as loans to farmers and/or farmers' cooperatives.

Section 105. Loaning Activities - Loaning activities of the Agricultural Credit Administration shall be directed to stimulate the development and operation of farmers' cooperatives. The term "Farmers' Cooperatives" shall be taken to include all cooperatives relating to the production and marketing of agricultural products and those formed to manage and/or own, on a cooperative basis, services

and facilities, such as irrigation and transport system, established to support production and/or marketing of agricultural products.

Under such rules and regulations in accordance with generally accepted banking practices and procedures as may be promulgated by the Agricultural Credit Administration, Rural Banks and Development Banks may, in their respective localities, be designated to act as agents of the Agricultural Credit Administration in regard to its loaning activities.

Section 106. Credit to Small Farmers - Production loans and loans for the purchase of work animals, tillage equipment, seeds, fertilizers, poultry, livestock, feed and other similar items, may be extended to small farmers as defined in Republic Act Numbered Eight hundred twenty-one, based upon their paying capacity and such securities as they can provide, and under such terms and conditions as the Agricultural Credit Administration may impose, provided the amount thereof does not exceed two thousand pesos, or such amount as may be fixed by the President, but in no case shall the amount of loan exceed eighty per centum of the value of the collateral pledged. In instances where credit is extended for items which are not consumed in their use, such items may be pledged as security therefor. The Agricultural Credit Administration shall promulgate such rules and regulations as may be necessary in the extension of the loans herein authorized so as to assure their repayment: Provided, That such rules and regulations shall follow and be in accordance with generally accepted financing practices and procedures.

Section 107. Security for Loans - The production of the borrower, after deducting the lease rental and/or liens thereon, shall be accepted as security for loans: Provided, That said production is pledged to the Agricultural Credit Administration with appropriate safeguards to insure against its unauthorized disposition: Provided, further, That the amount of loan shall not exceed sixty per centum of the value of the estimated production.

Section 108. Loans to Cooperatives - The Agricultural Credit Administration is hereby authorized to extend such types of loans as it may deem necessary for the effective implementation of this Code, to eligible farmers' cooperatives as herein defined, under such terms and conditions as it may impose and with such securities as it may require. A farmers' cooperative that has been registered with the Securities and Exchange Commission and affiliated with the Agricultural Credit Administration shall be eligible for loans if, in the judgment of the latter, its organization, management and business policies are of such character as will insure the safety and effective use of such loans.

Section 109. Loans for Construction or Acquisition by Purchase of Facilities - Loans for the construction or acquisition by purchase of facilities of farmers' cooperatives may be granted by the Agricultural Credit Administration.

Section 110. Interest on Loans - The total charges including interest and insurance fees on all kinds of loans shall not be more than eight per centum per annum: Provided, That if an impairment of the capitalization of the Agricultural Credit Administration is imminent by reason of the limitation of the interest rate herein provided, there is automatically appropriated out of the unappropriated funds in the National Treasury such amounts as is necessary to cover the losses of the Agricultural Credit Administration, but not exceeding six million pesos for any one year.

Section 111. Institution of Supervised Credit - To provide for the effective use of credit by farmers, the Agricultural Credit Administration may institute a program of supervised credit in cooperation with the Agricultural Productivity Commission.

Section 112. Guidance to Cooperatives - The Agricultural Credit Administration shall have the power to register and provide credit guidance or assistance to all agricultural cooperatives including irrigation cooperatives and other cooperative associations or fund corporations.

Section 113. Auditing of Operations - For the effective supervision of farmers' cooperatives, the head of the Agricultural Credit Administration shall have the power to audit their operations, records and books of account and to issue subpoena and subpoena duces tecum to compel the

attendance of witnesses and the production of books, documents and records in the conduct of such audit or of any inquiry into their affairs. Any person who, without lawful cause, fails to obey such subpoena or subpoena duces tecum shall, upon application of the head of Agricultural Credit Administration with the proper court, be liable to punishment for contempt in the manner provided by law and if he is an officer of the association, to suspension or removal from office.

Section 114. Prosecution of Officials - The Agricultural Credit Administration, through the appropriate provincial or city fiscal, shall have the power to file and prosecute any and all actions which it may have against any and all officials or employees of farmers' cooperatives arising from misfeasance or malfeasance in office.

Section 115. Free Notarial Services - Any justice of the peace, in his capacity as notary ex-officio, shall render service free of charge to any person applying for a loan under this Code either in administering the oath or in the acknowledgment of instruments relating to such loan.

Section 116. Free Registration of Deeds - Any register of deeds shall accept for registration, free of charge any instrument relative to a loan made under this Code.

Section 117. Writing-off Unsecured and Outstanding Loans - Subject to the approval of the President upon recommendation of the Auditor General, the Agricultural Credit Administration may write-off from its books, unsecured and outstanding loans and accounts receivable which may become uncollectible by reason of the death or disappearance of the debtor, should there be no visible means of collecting the same in the foreseeable future, or where the debtor has been verified to have no income or property whatsoever with which to effect payment. In all cases, the writing-off shall be after five years from the date the debtor defaults.

Section 118. Exemption from Duties, Taxes and Levies - The Agricultural Credit Administration is hereby exempted from the payment of all duties, taxes, levies, and fees, including docket and sheriff's fees, of whatever nature or kind, in the performance of its functions and in the exercise of its powers hereunder.

CHAPTER VI AGRICULTURAL PRODUCTIVITY COMMISSION

Section 119. Creation of the Agricultural Productivity Commission - For the purpose of accelerating progressive improvement in the productivity of farms, the advancement of farmers and the strengthening of existing agricultural extension services through the consolidation of all/promotional, educational and informational activities pertaining to agriculture, the present Bureau of Agricultural Extension of the Department of Agriculture and Natural Resources is hereby placed directly under the executive supervision and control of the President and hereinafter renamed Agricultural Productivity Commission.

Upon the effectivity of this Code, the Agricultural Tenancy Commission of the Department of Justice, together with its powers, duties, responsibilities, files, records supplies, equipment, personnel and unexpended balance of appropriations, is hereby placed under the Agricultural Productivity Commission as a separate office thereof.

Section 120. Commissioner of the Agricultural Productivity Commission - The Agricultural Productivity Commission shall be administered by an Agricultural Productivity Commissioner who shall be appointed by the President with the consent of the Commission on Appointments and who shall have a compensation of sixteen thousand pesos per annum. No person shall be appointed as a Agricultural Productivity Commissioner unless he be a holder of at least a Bachelor of Science degree in Agriculture from a reputable school or college of agriculture and shall have practiced agriculture for at least five years, and who is of recognized competence in agricultural economics or any of its equivalents.

Section 121. Powers and Duties - The Agricultural Productivity Commissioner shall exercise the same powers and duties vested in the Director of the Bureau of Agricultural Extension.

Section 122. Division on Cooperatives - In addition to the existing divisions of the Bureau of Agriculture Extension, herein renamed as Agricultural Productivity Commission, there shall be a Division of Cooperatives and such other divisions and sections as the Agricultural Productivity Commissioner may deem necessary to organize in order to carry out the promotional and educational activities of the Commission.

Section 123. Recruitment, Selection and Training of Extension Workers - The extension workers shall be recruited and selected from graduates of agricultural college with adequate practical experience and training in actual crop, tree, poultry and livestock farming: Provided, however, That in the event there are no graduates of agricultural colleges available, graduates of agricultural high schools may be temporarily employed. Training of extension workers shall be done in conjunction with research institutions to insure their maximum efficiency.

Section 124. Functions of Extension Workers - In addition to their functions under Republic Act Numbered Six hundred eighty, it shall be the duty of extension workers:

(1) To reside in the locality where they are assigned, to disseminate technical information to farmers, and to demonstrate improved farm management practices and techniques;

(2) To work with individual farmers in farm planning and budgeting, guide them in the proper conduct of farm business and work out schedules of re-payment of loans obtained by farmers;

(3) To assist farmers in securing the services or assistance of other agencies, or their personnel, having to do with relevant activities and problems of farmers;

(4) To visit newly-established independent farm operators either singly or collectively at least once a month;

(5) To conduct educational activities that will acquaint leaseholders and other independent farm operators with their rights and responsibilities under this Code;

(6) To encourage the formation and growth of private associations, study clubs, committees and other organized groups of farmers, familiarize them with modern methods of farming and interest them to actively participate, collaborate or take the initiative in agricultural research, experimentation and implementation of projects in cooperation with the Agricultural Productivity Commissioner and other agencies; and

(7) To promote, stimulate and assist in the organization of farmers' cooperatives.

Section 125. Appropriation - In addition to the funds herein transferred, there is hereby appropriated from the general funds in the National Treasury not otherwise appropriated the sum of five million pesos, or so much thereof as may be necessary to carry out the purposes of this Chapter.

CHAPTER VII LAND REFORM PROJECT ADMINISTRATION

Section 126. Creation of National Land Reform Council - There is hereby created a National Land Reform Council, hereinafter called the Council, which shall be composed of the Governor of the Land Authority, who shall act as Chairman, the Administrator of the Agricultural Credit Administration, the Chairman of the Board of Trustees of the Land Bank, the Commissioner of the Agricultural Productivity Commission and another member appointed by the President upon recommendation of the minority party receiving the second largest number of votes in the last Presidential election who shall hold office at the pleasure of such minority party, unless sooner

removed for cause by the President as members and the Agrarian Counsel as legal counsel: Provided, That the Council shall not be considered fully constituted and ready to function until after the member representing the minority party has been appointed by the President of the Philippines: Provided, further, That the minority party shall submit its recommendation to the President within sixty days from the approval of this Code, in the absence of which the Council shall be deemed to be so constituted even without such member from the minority party: Provided, finally, That the minority representative shall receive a per diem of fifty pesos for each day he attends a council meeting, chargeable to the appropriations of the Land Authority.

Section 127. Meetings; Resolutions - The Chairman of the Council shall convoke the Council as its responsibilities enumerated in Section one hundred twenty-eight may warrant, and shall preside over its meetings.

It shall be the duty of the members to attend any meeting of the Council upon the call of the Chairman. In case of inability, a member may require the officer next in rank in his agency to attend the meeting in his behalf.

A majority vote of the members present if there is a quorum shall be necessary for the approval of a resolution. Upon such approval the resolution shall be final and binding upon all members of the Council and their respective agencies insofar as their functions, powers and duties required under this Code are concerned.

The refusal of any member to implement any resolution or part thereof falling within the scope of the powers granted to his agency shall be sufficient ground for the President of the Philippines to remove said member from office or to impose upon him disciplinary or administrative sanctions.

Section 128. Functions of National Land Reform Council - It shall be the responsibility of the Council:

(1) To construct the general program of land reform contemplated by this Code;

(2) To establish guidelines, plans and policies for its member-agencies relative to any particular land reform project;

(3) To formulate such rules and regulations as may be necessary to carry out the provisions of this Code for (a) the selection of agricultural land to be acquired and distributed under this Code; (b) the determination of sizes of family farms as defined in Section one hundred sixty-six; and (c) the selection of beneficiaries to family farms available for distribution: Provided, That priority shall be given in the following order: First, to members of the immediate family of the former owner of the land within the first degree of consanguinity who will cultivate the land personally with the aid of labor available within his farm household; Second, to the actual occupants personally cultivating the land either as agricultural lessees or otherwise with respect to the area under their cultivation; Third, to farmers falling under the preceding category who are cultivating uneconomic-size farms with respect to idle or abandoned lands; Fourth, to owner-operators of uneconomic-size farms; and Fifth, to such other categories as may be fixed by virtue of this Code, taking into consideration the needs and qualifications of the applicants:

(4) To revise, approve, or reject any land reform proposal or project; and

(5) To proclaim in accordance with the provisions of this Code, which proclamation shall be considered as having been promulgated immediately after three successive weekly publications in at least two newspapers of general circulation in the region or locality affected by the proclamation, preference being given to local newspapers, if any, that all the government machineries and agencies in any region or locality relating to leasehold envisioned in this Code are operating: Provided, That the conversion to leasehold in the proclaimed area shall become effective at the beginning of the next succeeding agricultural year after such promulgation: Provided, further, That the proclamation shall be made after having considered factors affecting feasibility and fund requirements and the other factors embodied in Sections one hundred twenty-nine, one hundred thirty and one hundred thirty-one.

Section 129. Creation of Land Reform Districts - The Council shall exercise the functions enumerated in the preceding Section for particular areas which the Council shall select and designate as land reform districts. A district shall constitute one or more reform projects, each project to comprise either a large landed estate or several areas within small estates. In the selection of a district, the Council shall consider factors affecting the feasibility of acquiring for redistribution the areas within the district, including:

- (1) The productivity of the area;
- (2) Its suitability for economic family-size farms;
- (3) The tenancy rate in the area;
- (4) The minimum fixed capital outlay required to develop the area;
- (5) The proximity of the area to resettlement projects; and
- (6) The number of farmers that cultivate uneconomic-size farms, the ability and readiness of such farmers to be resettled, and the availability of idle or abandoned lands that may be acquired or expropriated as well as of other resettlement facilities.

Section 130. Regional Land Reform Committee - For the purpose of implementing the program and policies of the Council on the local level, the Council shall establish in each region of the Philippines a Regional Land Reform Committee which shall be composed of the representatives of the agencies composing the National Land Reform Council and shall be under the chairmanship of the representative of the Land Authority. The committee shall recommend to the Council such plans for projects of land reform in its jurisdiction as it may deem appropriate. The Committee shall conduct public hearings, gather and analyze data, estimate the essentials of such plans for projects or programs and consolidate its findings in a report to be submitted to the Council for its consideration. The decision of the Council upon such projects or programs shall be returned to the Committee, within thirty days from the submission thereof, for early implementation or execution by said Committee and the agencies represented therein.

Section 131. Land Reform Project Team - The Regional Land Reform Committee shall direct and assign a Land Reform Project Team for any project or projects within the region, to be composed of an appropriate number of personnel from the member-agencies. The team shall be headed by a representative of the Land Authority designated by the Committee, but each agency shall, in every case, be duly represented by at least one member in the Team. On the basis of national, regional, and local policies and programs formulated and approved by the Council through the Committee, the Team shall determine (a) the suitability of any area for redistribution into economic family-size farms; (b) the economic size of farm units; (c) the feasibility of acquiring and distributing the area; (d) the willingness of the lessees to assume the responsibilities of ownership; and (e) the financial and other requirements of the project. For this purpose, it shall gather data, obtain opinions, conduct surveys, pursue investigations, and incorporate any information thus established in a development program for the area concerned to be submitted in the form of a consolidated report to the Committee.

CHAPTER VIII

LAND CAPABILITY SURVEY AND CLASSIFICATION

Section 132. Land Survey to Conform to Legal Requirements - To provide the necessary basis for the implementation of the land reform program formulated under this Code, the Land Authority is hereby authorized to undertake a land capability survey and classification in cooperation with the relevant agencies that will be directly benefited by such survey and classification. The survey shall be made to conform to the requirements of the Department of Agriculture and Natural Resources for implementation of Agricultural programs and forestry inventory, of the Board of Technical Surveys and Maps, and of the National Economic Council and other agencies for agricultural planning and other purposes.

Section 133. Cadastral Survey - To resolve the rights of landholders holding unregistered property, the Bureau of Lands is directed to undertake an expanded cadastral survey and land registration program commencing within three months from the passage of this Code.

Section 134. Costs of Fees and Charges - Notwithstanding any provisions of law to the contrary, the following rules shall apply with respect to the costs, fees and charges in the survey, monumenting, and registration of lands of whatever description and nature had in relation to cadastral proceedings undertaken by the National Government, either alone through its offices, agencies and instrumentalities, or in conjunction with provincial and municipal governments.

Section 135. Apportionment of Cost of Survey - One-half of the cost of survey and monumenting and registration proceedings shall be fully assessed and collected against each and all of the lots included in cadastral proceedings and shall be apportioned in accordance with the area thereof, but in no case shall less than ten pesos be charged against each lot, the other half being chargeable to the National Government. The amounts taxed against each of the lots or parcels of land shall be considered as a special assessment of taxes against the respective parcels, shall constitute a first lien upon the land and shall be collected by the Director of Lands or his duly authorized representatives in equal installments within a period of three years, bearing interest at the rate of six per centum per annum. The first installment shall become due and payable at the same time as the general land taxes for the year next succeeding the year in which the assessment of the cost shall be received by the Provincial Treasurer, and shall be collected in the same manner as such general taxes. Each succeeding installment shall become due and payable at the same time as the general land taxes for the corresponding current year and shall be collected in the same manner. The Director of Lands shall for this purpose send to the officer in charge of such collection a copy of said assessment of costs: Provided, however, That the amounts representing the proportional shares of the costs taxed against lots surveyed at the request and expense of their owner and for which a plan other than the cadastral plan has been made by a duly authorized surveyor prior to the decision in the cadastral proceeding, or which have been registered in accordance with the provisions of Act Numbered Four hundred ninety-six, entitled "The Land Registration Act", or surveyed, patented, or leased under the Public Land and Mining Laws, prior to the decision in the cadastral proceeding, or have been declared to the public lands by the Court, shall not constitute a lien against said lot nor shall be collected from the owner thereof: Provided, further, That the owner of any lot may, if he so desires, pay any installment of the costs taxed against his lot at any time before the same becomes due.

Section 136. Payment of Costs of Land in Its Entirety in Case of Transfer of Land - In case of the sale, transfer, or conveyance, for a pecuniary consideration, of any property, or part thereof, registered by virtue of a decree issued in a cadastral proceeding, prior to the payment of the total amount of the costs taxed against such property in accordance with the preceding Section endorsed as an encumbrance or lien upon each cadastral certificate of title, the vendor or his legal representative shall pay such costs in their entirety in case the order apportioning the costs has already been issued in the cadastral proceeding in which the property being sold, transferred, or conveyed is included, and the register of deeds concerned shall demand of the vendor, before registering the deed for such sale, transfer, or conveyance of said property, that he exhibit a receipt signed by the Director of Lands or his duly authorized representative showing that such encumbrance or lien has been paid.

Section 137. Costs of Registration Proceedings - The costs of the registration proceedings under the provisions of this Code shall consist of a sum equivalent to ten per centum of the costs of the survey and monumenting of the land. The amount of the costs of the proceeding so taxed shall be for all services rendered by the Land Registration Commission and the clerk or his deputies in each cadastral proceeding, and the expense of publication, mailing, and posting notice, as well as the notices of the decision and the order apportioning the cost shall be borne by the Land Registration Commission.

Section 138. Laws Covering Survey and Registration of Land in Forces - Unless otherwise provided in this Chapter, all provisions of law covering the survey and registration of land shall remain in full force and effect.

Section 139. Revolving Fund - All amounts collected by the Bureau of Lands or its duly authorized representatives from the owners of the various lots as costs of proceedings, survey, and monumenting in relation to the cadastral survey program herein described shall be paid into a Special Cadastral Program Revolving Fund to finance the cadastral land survey and registration of other unregistered lands.

Section 140. Appropriation - To finance and support the expanded cadastral land survey and registration program set forth herein, the amount of one hundred million pesos is hereby appropriated out of funds in the National Treasury not otherwise appropriated, which amount shall be paid into a "Special Cadastral Program Revolving Fund", to finance the cadastral land survey and registration of other unregistered areas.

CHAPTER IX COURTS OF AGRARIAN RELATIONS

Section 141. Creation - Courts of Agrarian Relations are hereby organized and established throughout the Philippines in conformity with the provisions of this Chapter.

Section 142. Regional Districts - Regional districts for the Courts of Agrarian Relations in the Philippines are constituted as follows:

The first Regional District shall consist of the provinces of Cagayan, Batanes, Isabela and Nueva Vizcaya, with seat in Tuguegarao, Cagayan for Branch I and in Ilagan, Isabela for Branch II;

The second Regional District, of the provinces of Ilocos Norte, Ilocos Sur, Abra, Mountain Province, La Union and the City of Baguio, with seat in Laoag, Ilocos Norte for Branch I and in San Fernando, La Union for Branch II;

The third Regional District of the provinces of Pangasinan and Zambales, and the City of Dagupan, with seat in Lingayen, Pangasinan for Branch I, in Tayug, Pangasinan for Branch II and in Iba, Zambales for Branch III;

The fourth Regional District, of the provinces of Nueva Ecija and Tarlac, and Cabanatuan City, with seat in Cabanatuan City for Branch I, in Guimba, Nueva Ecija for Branch II, in Tarlac, Tarlac for Branch III and in Moncada, Tarlac for Branch IV;

The fifth Regional District, of the provinces of Pampanga, Bataan and Bulacan, with seat in Malolos, Bulacan for Branch I, in San Fernando, Pampanga for Branch II, in Angeles, Pampanga for Branch III and in Balanga, Bataan for Branch IV;

The sixth Regional District, of the City of Manila, Quezon City, Pasay City, the province of Rizal, the City of Cavite, the province of Cavite, the City of Tagaytay, Trece Martires City, and the province of Palawan, with seat in Manila for Branch I (Executive Judge), in Cavite City for Branch II and in Pasig, Rizal for Branch III; The seventh Regional District, of the province of Laguna, the City of San Pablo, the province of Batangas, the City of Lipa, and the provinces of Oriental Mindoro and Occidental Mindoro, with seat in Los Baños, Laguna for Branch I, in Batangas, Batangas for Branch II and in Mamburao, Mindoro Occidental for Branch III;

The eighth Regional District, of the province of Quezon, the subprovince of Aurora, the City of Lucena, and the province of Camarines Norte, with seat in the City of Lucena for Branch I and in Daet, Camarines Norte for Branch II;

The ninth Regional District, of the province of Camarines Sur, Naga City, Legaspi City and the provinces of Albay, Catanduanes, Sorsogon and Masbate, with seat in Naga City for Branch I, in Legaspi City for Branch II and in Sorsogon, Sorsogon for Branch III;

The tenth Regional District, of the province of Capiz, Roxas City, the provinces of Aklan, Romblon, Marinduque and Iloilo, the City of Iloilo, and the province of Antique, with seat in the City of Iloilo for Branch I and in Roxas City for Branch II;

The eleventh Regional District, of the province of Occidental Negros, the Cities of Bacolod and Silay, the province of Oriental Negros, Dumaguete City, and the subprovince of Siquijor, with seat in Bacolod City for Branch I, in Dumaguete City for Branch II and in San Carlos City for Branch III;

The twelfth Regional District, of the province of Samar, the City of Calbayog, the province of Leyte, and the Cities of Ormoc and Tacloban, with seat in Catbalogan, Samar for Branch I and in Ormoc City for Branch II;

The thirteenth Regional District, of the province of Cebu, the City of Cebu, and the province of Bohol, with seat in the City of Cebu for Branch I and in Tagbilaran, Bohol for Branch II;

The fourteenth Regional District, of the provinces of Surigao and Agusan, Butuan City, the province of Oriental Misamis, Cagayan de Oro City, the provinces of Bukidnon, Lanao del Sur and Lanao del Norte, and the Cities of Iligan and Marawi, with seat in Cagayan de Oro City for Branch I and in Iligan City for Branch II;

The fifteenth Regional District, of the province of Davao the City of Davao, the provinces of Cotabato and Occidental Misamis, Ozamiz City, the provinces of Zamboanga del Norte and Zamboanga del Sur, Zamboanga City, Basilan City and the province of Sulu, with seat in the City of Davao for Branch I, Cotabato City for Branch II and Ozamiz City for Branch III.

Section 143. Judges of Agrarian Relations - The judicial function of the Courts of Agrarian Relations shall be vested in an Executive Judge and the Regional District Judges, who shall be appointed from time to time, depending on the need for their services, by the President of the Philippines with the consent of the Commission on Appointments: Provided, however, That the Executive Judge and the eight Associate Judges, at the time of the approval of this Code, of the Court of Agrarian Relations established and organized under Republic Act Numbered Twelve hundred and sixty-seven, shall continue as Agrarian Judges without need of new appointments by the President of the Philippines and new confirmation of the Commission on Appointments: Provided, further, That upon the approval of this Code, the said Executive Judge shall continue as such with authority to exercise the usual administrative functions over the Court of Agrarian Relations not incompatible with the provisions of this Chapter and shall have his office in Manila without prejudice to his holding court in any district where the requirements of the service so warrant, and the eight Associate Judges shall be assigned as Regional District Judges by the Executive Judge to any of the regional districts as constituted in the preceding Section.

Section 144. Qualifications of Judges; Tenure of Office; Compensation - No person shall be appointed as Executive Judge or Regional District Judge unless he has been a citizen of the Philippines for ten years and has practiced law in the Philippines for a period of not less than ten years or has held during a like period, within the Philippines, an office requiring admission to the practice of law in the Philippines as an indispensable requisite.

Regional District Judges shall be appointed to serve during good behavior, until they reach the age of seventy years or become incapacitated to discharge the duties of their office, unless sooner removed in accordance with law.

The judges may be suspended or removed in the same manner and upon the same grounds as judges of the Court of First Instance:

The Executive Judge shall receive an annual compensation which shall be equal to that allowed or may hereafter be allowed for judges of the Court of First Instance and the Regional District

Judges shall receive an annual compensation of one thousand pesos less than that of the Executive Judge.

Section 145. Leave Privileges; Traveling Expenses - Judges of the Courts of Agrarian Relations shall be entitled to same retirement and leave privileges now granted or may hereafter be granted to judges of the court of First Instance. They shall be entitled to traveling expenses when performing their duties outside official stations.

Section 146. Vacation of Courts of Agrarian Relations - The yearly vacation of Courts of Agrarian Relations shall begin with the first of April and close with the first of June each year.

Section 147. Assignment of Judges to Vacation Duty - During the month of January of each year the Executive Judge shall issue an order naming the judges who are to remain on duty during the court vacation of that year; and, consistently with the requirements of the judicial service, the assignment shall be so made that no judge shall be assigned to vacation duty, unless upon his own request, with greater frequency than once in two years.

Such order shall specify, in the case of each judge assigned to vacation duty, the territory over which in addition to his own district his authority as vacation judge shall extend.

The Executive Judge may from time to time modify his order assigning the judges to vacation duty as newly arising conditions or emergencies may require.

A judge assigned to vacation duty shall not ordinarily be required to hold court during such vacation; but the Executive Judge may, when in his judgment the emergency shall require, direct any judge assigned to vacation duty to hold during the vacation a special term of court in any district.

Section 148. Judges of Regional Districts - Four judges shall be commissioned for each of the fourth and fifth Regional Districts; three judges shall be commissioned for each of the third, sixth, seventh, ninth, eleventh and fifteenth Regional Districts; and two judges for each of the other Regional Districts.

Section 149. Oath of Office - Before entering upon the discharge of the duties of their office, the judges shall take and subscribe to an oath of office in accordance with the provisions of Section twenty-three of the Revised Administrative Code.

Section 150. Division of Business Between Branches - All business appertaining to the Courts of Agrarian Relations of each Regional District shall be equitably distributed among the judges of the branches in such manner as shall be agreed upon by the judges themselves. Should the judges fail to agree on the distribution of business, then the Executive Judge shall make the distribution.

Section 151. Judges' Certification as to Work Completed - The judges of the Courts of Agrarian Relations shall certify at the end of each month that all petitions and motions in all cases pending decision or resolution for a period of thirty days from submission by the parties have been determined and decided before the date of the making of the certificate. No leave shall be granted and no salary shall be paid without such certificate.

Section 152. Official Station of Regional District Judges - Within thirty days after the approval of this Code, the Executive Judge shall issue an order designating the official station of the judges of the branches of each of the Regional Districts.

Section 153. Time and Place of Holding Court - Sessions of the Court shall be convened on all working days when there are cases ready for trial or other court business to be dispatched. The hours for the daily session of the Court shall be from nine to twelve in the morning, and from three to five in the afternoon, except on Saturdays, when a morning session only shall be required: but the judge may extend the hours of session whenever in his judgment it is proper to do so. The judge, in his discretion, may order that but one session per day shall be held instead of two, at such hours as

he may deem expedient for the convenience both of the Court and of the public; but the number of hours that the Court shall be in session per day shall be not less than five.

Sessions of the Court shall be held at the places of the official station of the respective judges: Provided, however, That whenever necessary in the interest of speedy and inexpensive justice and litigation, a judge shall hold court in the municipality where the subject matter of the dispute is located, utilizing the sala of the local justice of the peace court for this purpose.

A brief monthly report which shall be submitted within the first five days of the succeeding month showing the number and nature of the cases tried in his sala, the place of hearing in each case, the progress of the litigation with corresponding dates and the disposition made thereon shall be rendered by every judge under his signature and copies thereof shall be furnished the Executive Judge, who shall compile and report in an appropriate form the decisions promulgated in important cases. A judge who fails or neglects to make his report shall, upon first offense, be liable to warning by the Executive Judge, and upon repeated failure or neglect may be suspended or removed from office.

Section 154. Jurisdiction of the Court - The Court shall have original and exclusive jurisdiction over:

(1) All cases or actions involving matters, controversies, disputes, or money claims arising from agrarian relations: Provided, however, That all cases still pending in the Court of Agrarian Relations, established under Republic Act Numbered Twelve hundred and sixty-seven, at the time of the effectivity of this Code, shall be transferred to and continued in the respective Courts of Agrarian Relations within whose district the sites of the cases are located;

(2) All cases or actions involving violations of Chapters I and II of this Code and Republic Act Number Eight hundred and nine; and

(3) Expropriations to be instituted by the Land Authority: Provided, however, That expropriation proceedings instituted by the Land Tenure Administration pending in the Court of First Instance at the time of the effectivity of this Code shall be transferred to and continued in the respective Courts of Agrarian Relations within whose district the subject matter or property is located.

Section 155. Powers of the Court; Rules and Procedures - The Courts of Agrarian Relations shall have all the powers and prerogatives inherent in or belonging to the Court of First Instance.

The Courts of Agrarian Relations shall be governed by the Rules of Court: Provided, That in the hearing, investigation and determination of any question or controversy pending before them, the Courts without impairing substantial rights, shall not be bound strictly by the technical rules of evidence and procedure, except in expropriation cases.

Section 156. Appeals - Appeals from an order or decision of the Courts of Agrarian Relations may be taken to the Court of Appeals on questions of fact and of fact and law or to the Supreme Court on pure questions of law, as the case may be, in accordance with rules governing appeals from the Court of First Instance as provided in the Rules of Court.

Section 157. Detail of Judges to Another District - Whenever any judge in any of the Court shall certify to the Executive Judge that the condition of the docket in his Court is such as to require the assistance of an additional judge, or when there is any vacancy in any Court, the Executive Judge may, in the interest of justice, with the approval of the Supreme Court, assign any judge of the Court of Agrarian Relations whose docket permits his temporary absence from said Court, to hold session in the Court needing such assistance or where such vacancy exists.

Whenever a judge appointed or assigned in any branch of the Court shall leave his district by transfer or assignment to another Court of equal jurisdiction without having decided a case totally heard by him and which was duly argued or opportunity given for argument to the parties of their counsel, it shall be lawful for him to prepare and sign his decision in said case anywhere within the Philippines and send the same by registered mail to the clerk of court to be filed in the Court as of the date when the same was received by the clerk, in the same manner as if the judge had been present in the Court to direct the filing of the judgment: Provided, however, That if a case has been heard only in part, the Supreme Court, upon petition of any of the interested parties to

the case and the recommendation of the respective district judge, may also authorize the judge who has partly heard the case to continue hearing and to decide said case notwithstanding his transfer or appointment to another court of equal jurisdiction.

Section 158. Personnel of the Courts of Agrarian Relations -

(1) Court Commissioners; Qualifications and Compensation - There shall be twenty-four Court Commissioners who shall receive an annual compensation of nine thousand pesos each and shall be appointed by the President with the consent of the Commission on Appointments. A Court Commissioner shall be a member of the Philippine Bar and must have been engaged in the practice of law for five years or must have held a position in the government requiring the qualifications of a lawyer for the same period. A Court Commissioner may be assigned by the Executive Judge to assist in the hearing and investigation of cases. Subject to the latter's direction and supervision, he may hear evidence for the Court on any disputed point or issue in any given case or cases and shall after said hearing submit a report of all the cases heard by him together with the records thereof within the period prescribed by the Court. During the hearing he may rule upon questions of pleading and procedure but not on the merits of the case.

(2) Clerks of Court; Qualifications, Duties, Compensation and Bond - There shall be as many Clerks of Court as there are judges, who shall be appointed by the President of the Philippines with the consent of the Commission on Appointments. Deputy Clerks of Court and such other employees as may be required shall be appointed by the Executive Judge, subject to Civil Service law, rules and regulations.

No person shall be eligible for appointment as Clerk of Court unless he is duly authorized to practice law in the Philippines.

Before entering upon the discharge of the duties of his office, he shall file a bond in the amount of ten thousand pesos in the same manner and form as required of the Clerk of the Supreme Court, such bond to be approved by, and filed with, the Treasurer of the Philippines and shall be subject to inspection by interested parties. The Clerk of Court shall require his deputy to give an adequate bond as security against loss by reason of his wrong-doing or gross negligence.

The Clerks of Court shall each receive an annual compensation of seven thousand two hundred pesos. They shall exercise the same powers and perform the same duties on all matters within the jurisdiction of the Courts as those exercised by the Clerks of Court of the Courts of First Instance.

Clerks of Courts and other subordinate employees of the Courts of Agrarian Relations shall, for administrative purposes, belong to the Department of Justice; but in the performance of their duties, they shall be subject to the supervision of the judges of the Court to which they respectively pertain.

The Commissioners, otherwise known as Hearing Officers of the Court of Agrarian Relations, as well as the Clerks of Court at the time of the approval of this Code, shall continue as such without the need of new appointment by the President of the Philippines and new confirmation by the Commission on Appointments.

Section 159. Appropriation - There is hereby appropriated the sum of three million five hundred thousand pesos, or so much thereof as may be necessary, out of the unappropriated funds in the Philippine Treasury for expenses for courtrooms and court offices, including equipment for the Courts and their personnel, for salaries, and for other necessary expenses that may be incurred in carrying out the provisions of this Chapter. The amount appropriated shall be carried in succeeding appropriations for the Courts of Agrarian Relations.

CHAPTER X OFFICE OF AGRARIAN COUNSEL

Section 160. Creation of Office of Agrarian Counsel - To strengthen the legal assistance to agricultural lessees and agricultural owner-cultivators referred to in this Code, the Tenancy Mediation Commission is hereby expanded and shall hereafter be known as the Office of the Agrarian Counsel. The head of the Office shall hereafter be known as Agrarian Counsel and shall have the

rank, qualifications and salary of First Assistant Solicitor General. He shall be assisted by a Deputy Agrarian Counsel, who shall have the rank, qualifications and salary of Assistant Solicitor General. The Agrarian Counsel and Deputy Agrarian Counsel shall be appointed by the President with the consent of the Commission on Appointments of Congress and shall be under the direct supervision of the Secretary of Justice.

Section 161. Special Attorneys - There is hereby created in the Office of the Agrarian Counsel eighty additional positions of Special Attorneys, who shall be appointed by the President upon recommendation of the Secretary of Justice and with the consent of the Commission on Appointments. They shall have the rank, qualifications and salary provided by law for a solicitor in the Office of the Solicitor General with the lowest rank.

Section 162. Appointment of Subordinate Officials - The Agrarian Counsel shall appoint the subordinate officials and employees of the Office of Agrarian Counsel, subject to civil service rules and regulations, fix their compensation and prescribe their duties. The compensation of special attorneys transferred to the Office of Agrarian Counsel shall be fixed on salary scales corresponding to solicitors of the Office of the Solicitor General: Provided, That in the fixing of their salary seniority in rank shall be taken into account.
The Agrarian Counsel shall have the power to organize such divisions and sections as will insure maximum efficiency of the Office.

Section 163. Functions of the Office of Agrarian Counsel - It shall be the responsibility of the Office of the Agrarian Counsel, upon proper notification by the party concerned or by the association or organization to which belongs, to represent agricultural lessees, agricultural farm workers and agricultural owner-cultivators referred to in this Code who cannot engage the services of competent private counsel in cases before the Court of Agrarian Relations.

Section 164. Authority to Administer Oath - The Agrarian Counsel, the Deputy Agrarian Counsel and the Special Attorneys of the Office of Agrarian Counsel are hereby authorized to administer oaths free of charge.

Section 165. Appropriations - There is hereby appropriated, in addition to the appropriation of the Tenancy Mediation Commission for Fiscal Year 1964, the sum of three million pesos, or so much thereof as may be necessary, out of the unappropriated funds in the National Treasury, for salaries, wages, purchase of motor vehicles, supplies, equipment, and other sundry expenses. The amount appropriated herein shall be carried in the appropriations for the Office of the Agrarian Counsel in the General Appropriations Acts for succeeding fiscal years.

CHAPTER XI GENERAL PROVISIONS

Section 166. Definition of Terms - As used in Chapter I of this Code:

(1) "Agricultural Land" means land devoted to any growth, including but not limited to crop lands, salt beds, fish ponds, idle land and abandoned land as defined in paragraphs 18 and 19 of this Section, respectively.

(2) "Agricultural lessee" means a person who, by himself and with the aid available from within his immediate farm household, cultivates the land belonging to, or possessed by, another with the latter's consent for purposes of production, for a price certain in money or in produce or both. It is distinguished from civil lessee as understood in the Civil Code of the Philippines.

(3) "Agricultural lessor" means a person, natural or juridical, who, either as owner, civil law lessee, usufructuary, or legal possessor, lets or grants to another the cultivation and use of his land for a price certain.

(4) "Agricultural year" means the period of time required for raising a particular agricultural product, including the preparation of the land, sowing, planting and harvesting of crops and, whenever applicable, threshing of said crops: Provided, however, That in case of crops yielding more than one harvest from planting, "agricultural year" shall be the period from the preparation of the land to the first harvest and thereafter from harvest to harvest. In both cases, the period may be shorter or longer than a calendar year.

(5) "Court" means the Court of Agrarian Relations.

(6) Fair rental value" means the value not in excess of allowable depreciation plus six per cent interest per annum on the investment computed at its market value: Provided, That the fair rental value for work animal or animals and farm implements used to produce the crop shall not exceed five per cent of the gross harvest for the work animal or animals and five per cent for implements.

(7) "Farm implements" means hand tools or machines ordinarily employed in a farm enterprise.

(8) "Immediate farm household" means the members of the family of the lessee or lessor and other persons who are dependent upon him for support and who usually help him in his activities.

(9) "Incapacity" means any cause or circumstance which prevents the lessee from fulfilling his contractual and other obligations under this Code.

(10) "Inspect" means to enter, examine and observe. Under no circumstance, however, shall such entrance, examination and observation be utilized to commit any act of intimidation or coercion nor shall it be utilized to impair the civil rights of the individuals affected.

(11) "Proven farm practices" means sound farming practices generally accepted through usage or officially recommended by the Agricultural Productivity Commission for a particular type of farm.

(12) "Work animals" means animals ordinarily employed in a farm enterprise, such as carabaos, horses, bullocks, etc.

(13) "Personal cultivation" means cultivation by the lessee or lessor in person and/or with the aid of labor from within his immediate household.

As used in Chapter II:

(14) "Farm employer" includes any person acting directly or indirectly in the interest of a farm employer whether for profit or not, as well as a labor contractor, but shall not include any labor organization (otherwise than when acting as a farm employer) or anyone acting in the capacity of an officer or agent of such labor organization.

(15) "Farm worker" includes any agricultural wage, salary or piece but is not limited to a farm worker of a particular farm employer unless this Code explicitly states otherwise and any individual whose work has ceased as a consequence of, or in connection with, a current agrarian dispute or an unfair labor practice and who has not obtained a substantially equivalent and regular employment.

Whenever the term "farm worker" is used in this Code, it shall be understood to include farm laborer and/or farm employee.

(16) "Farm workers' organization" includes any union or association of farm workers which exists, in whole or in part, for the purpose of collective bargaining or dealing with farm employers concerning terms and conditions of employment.

(17) "Agrarian dispute" means any controversy relating to terms, tenure or conditions of employment, or concerning an association or representation of persons in negotiating, fixing,

maintaining, changing, or seeking to arrange terms or conditions of employment, regardless of whether the disputants stand in the proximate relation of farm employers and employees.
As used in Chapter III of this Code:

(18) "Idle lands" means land not devoted directly to any crop or to any definite economic purpose for at least one year prior to the notice of expropriation except for reasons other than force majeure or any other fortuitous event but used to be devoted or is suitable to such crop or is contiguous to land devoted directly to any crop and does not include land devoted permanently or regularly to other essential and more productive purpose.

(19) "Abandoned lands" means lands devoted to any crop at least one year prior to the notice of expropriation, but which was not utilized by the owner for his benefit for the past five years prior to such notice of expropriation.

(20) "Economic family-sized farm units" means an area of farm land that permits efficient use of labor and capital resources of the farm family and will produce an income sufficient to provide a modest standard of living to meet a farm family's needs for food, clothing, shelter, and education with possible allowance for payment of yearly installments on the land, and reasonable reserves to absorb yearly fluctuations in income.

(21) "Suitably for economic family-size farm" refers to situations where a parcel of land whose characteristics, such as climate, soil, topography, availability of water and location, will support a farm family if operated in economic family-size farm units and does not include those where large-scale operations will result in greater production and more efficient use of land.

(22) "Agricultural owner-cultivator" means any person who, providing capital and management, personally cultivates his own land with the aid of his immediate family and household.

(23) "Owner-manager" means the owner of a parcel of land devoted to agricultural production who provides the capital and management in the farm enterprise.

(24) "Labor administration" means cases where farm workers are employed wholly in the agricultural production.

(25) "Share tenancy" as used in this Code means the relationship which exists whenever two persons agree on a joint undertaking for agricultural production wherein one party furnishes the land and the other his labor, with either or both contributing any one or several of the items of production, the tenant cultivating the land personally with the aid of labor available from members of his immediate farm household, and the produce thereof to be divided between the landholder and the tenant.

(26) "Tax free" in reference to bonds and shares of stock issued by the Land Bank as payment for acquired private agricultural land shall mean all government taxes, except gift tax and inheritance tax.

Section 167. Penal Provisions -

(1) Violation of the provisions of Section thirteen and twenty-seven and paragraph 1 of Section thirty-one of this Code shall be punished by a fine not exceeding one thousand pesos or imprisonment not exceeding one year or both in the discretion of the court. In case of juridical persons, the manager or the person who has charge of the management or administration of the property or, in his default, the person acting in his stead, shall be liable under this Section.

(2) Any person, natural or juridical, who induces another, as tenant, to execute or enter into a share tenancy contract with himself or with another in violation of this Code shall be punished by a fine not exceeding five thousand pesos with subsidiary imprisonment in accordance with the

Revised Penal Code: Provided, That the execution of a share tenancy contract shall be considered prima facie evidence of such inducement as to the owner, civil law lessee, usufructuary or legal possessor. In case of juridical persons, the manager or the person who has charge of the management or administration of the property or, in his default, the person acting in his stead, shall be liable under this Section.

(3) Any person who executes an affidavit as required by Section thirteen of Chapter I, knowing the contents thereof to be false, shall be punished by a fine not exceeding one thousand pesos or imprisonment of not more than one year, or both, in the discretion of the court.

(4) Any person who wilfully violates the provisions of Sections forty and forty-one of this Code shall be punished by a fine of not less than one hundred pesos nor more than one thousand pesos or by imprisonment of not less than one month nor more than one year, or both such fine and imprisonment, in the discretion of the court. If any violation of Sections forty and forty-one of this Code is committed by a corporation, partnership or association, the manager or, in his default, the person acting as such when the violation took place shall be criminally responsible.

(5) Any person who wilfully violates the provisions of Section forty-two of this Code shall, upon conviction thereof, be subject to a fine of not more than two thousand pesos, or upon second conviction, to imprisonment of not more than one year or both such fine and imprisonment, in the discretion of the court. If any violation of the provisions of Section forty-two of this Code is committed by a corporation, partnership or association, the manager or, in his default, the person acting as such when the violation took place shall be criminally responsible.

Section 168. Pending Application for Mechanization - Any provision of this Code to the contrary notwithstanding, any application for mechanization where corresponding certifications for suitability for mechanization and for availability for resettlement by the Agricultural Tenancy Commission and the National Resettlement and Rehabilitation Administration, respectively, have been issued and proper notices served on the tenants at least two months prior to the approval of this Code shall be given due course and decided in accordance with the pertinent provisions and requirements of Republic Act Numbered Eleven hundred and ninety-nine, as amended.

Section 169. Personnel of Reorganized or Abolished Agencies - Permanent officials and employees of all existing government agencies which are abolished or reorganized under this Code, subject to Civil Service Rules and regulations, shall be absorbed and shall not be divested of their positions except presidential appointees: Provided, That those presidential appointees who cannot be absorbed and such officials and employees who prefer to be laid-off shall be given gratuity equivalent to one month salary for every year of service but in no case more than twenty-four month's salary, in addition to all benefits to which they are entitled under existing laws and regulations.

To carry out the provisions of this Section, there is hereby appropriated the sum of five hundred thousand pesos out of the unappropriated funds in the National Treasury.

Section 170. Budgeting and Disbursing of Appropriated Funds - Any provision of this Code or of any existing law to the contrary notwithstanding, not more than sixty per centum of the specific appropriations provided in this Code for operating expenditures shall be used for personnel services: Provided, That in the case of the appropriations for the Agricultural Productivity Commission not more than twenty per centum shall be spent for office personnel and other administrative expenses thereof: Provided, further, That the total operating expenditures of the Agricultural Credit Administration shall not exceed three per centum of its total capitalization in addition to the allowance for losses under Section one hundred ten: Provided, furthermore, That all unexpended balances of all appropriations provided in this Code for operating expenditures shall revert to the National Treasury at the end of the fiscal year in conformity with the provisions of Section twenty-three of Republic Act Numbered Nine hundred ninety-two: And provided, finally, That all the financial requirements of the various agencies established in this Code for their operation except the Land Bank and the Agricultural Credit Administration shall be proposed in

the President's budget in order that such appropriation as may be necessary therefor may be provided in the General Appropriation Acts for the succeeding fiscal years.

Section 171. Separability of Provisions - If, for any reason, any section or provision of this Code shall be questioned in any court, and shall be held to be unconstitutional or invalid, no other section or provision of this Code shall be affected thereby.

Section 172. Prior Inconsistent Laws - All laws or parts of any law inconsistent with the provisions of this Code are hereby repealed.

Section 173. Effective Date - This Code shall take effect upon its approval.

Approved: August 8, 1963

REPUBLIC ACT NO. 7907
AN ACT AMENDING REPUBLIC ACT NUMBERED THIRTY-EIGHT HUNDRED
FORTY-FOUR, AS AMENDED, OTHERWISE KNOWN AS THE "CODE OF
AGRARIAN REFORM IN THE PHILIPPINES."

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

Section 1. Sec. 75 of Republic Act No. 3844, as amended, is hereby further amended by adding the following subsections to read as follows:

"(12) to act as an official government depository with full authority to maintain deposits of the government, its branches, subdivisions and instrumentalities, and of government-owned or controlled corporations which deposits shall be subjected to liquidity floor and/or reserve requirements as may be imposed by the Monetary Board upon other commercial banks;

"(13) for the strengthening of the capital base of the bank, to establish a national marketing umbrella for farmers and fisheries cooperatives to attract massive capital formation from savings deposits of the cooperative member nationwide."

The existing subsection 12 is hereby renumbered as subsection 14.

Sec. 2. Section 78 of the same Act is hereby further amended by adding a new paragraph thereto to read as follows:

"Apart from the foregoing which pertains to the twenty-five years bonds previously issued by the bank and pursuant to its role as the financial intermediary of the Comprehensive Agrarian Reform Program, mandated under Republic Act No. 6657, the National Government through the Presidential Agrarian Reform Council (PARC), shall provided and/or allocate from the existing Agrarian Reform Fund or other unappropriated funds of the National Treasury an amount sufficient to pay all maturing bonds, debentures and all other obligations together with interest due thereon issued and/or incurred by the bank as compensation to the landowners including expenses related thereto. In the apportionment and distribution of funds from the Agrarian Reform Fund, the PARC shall give priority and preference to the payment of landowner compensation in the chronological sequence or order at which the voluntary offers of sale were made by the landowners."

Sec. 3. Section 80 of the same Act is hereby further amended by adding a new subsection thereto to read as follows:

"(7) At least sixty percent (60%) of the proceeds of the sale of the stocks, securities and other assets of the government now under administration by the Assets Privatization Trust (APT) shall be transferred to the land Bank of the Philippines for use in the payment of agricultural lands acquired pursuant to Presidential Decree No. 27 and Republic Act No. 6657."

Sec. 4. Section 81 of the same Act is hereby amended to read as follows:

"Sec. 81. Capital.- The authorized capital stock of the Bank shall be nine billion pesos, divided into seven hundred and eighty million common shares with a par value of ten pesos each, which shall be fully subscribed by the government, and one hundred and twenty million preferred shares with a par value of ten pesos each, which shall be issued in accordance with the provisions of Section seventy-seven and eighty-three of this Code. These preferred shares shall be non-voting. The Board, upon the recommendation of the Secretary of Finance and with the approval of the President of the Philippines, may increase the capitalization of the Bank up to such an amount as may be necessary to attain the objectives of this Act. The total capital stock subscribed by the Government shall be paid by the Agrarian Reform Fund Commission created under Presidential Decree No. 85, hereinafter referred to as the "commission" as follows: four hundred million pesos

within sixty (60) days from the approval of this Decree, and at least one hundred million pesos every year thereafter until the total subscription of the Government is fully Paid: Provided, That the common and preferred shares of the Bank which have been issued, including those already subscribed, shall form part of the increased capitalization of the Bank: Provided, further, That the additional common shares subscribed by the Government shall be paid by the bank through its banking operations in an amount equivalent to at least ten percent (10%) of its annual net income or any form of retained earnings until fully paid: Provided, Finally, That the dividends due the Government shall first be paid."

Sec. 5. Sec. 86 of the same Act relating to the Membership of it Board of Directors, as amended, is hereby further amended to read as follows:

"Sec. 86. The Board of Directors; Membership; Per Diem.- The affairs and business of the Bank shall be directed and its property managed and preserve by a board of Directors consisting of nine (9) members to be composed of the Secretary of Finance, as Chairman, the President of the bank as Vice-Chairman, the Secretary of Agrarian Reform, the secretary of Labor, and the Secretary of Agriculture as ex officio members. The President of the Philippines shall appoint two (2) members of the Board who shall represent the the agrarian reform beneficiaries and two (2) members who shall represent the private sector. The two (2) remaining members shall be elected from the shareholders coming from the public sector to the extent that they may be entitled to two (2) seats in proportion to the outstanding capital stock.

"Annually, on the first Tuesday after the first Monday in December, the stockholders shall meet to take up, among others, the election of two (2) members of the Board of Directors for the succeeding year. Each shareholder or proxy shall be entitled to as many votes as he may have shares of stock registered in his name on the 31st day of October last preceding and held by him at the time of the election. The two (2) members of the Board of Directors shall be elected preferably from the holders of the preferred shares as follows:

"(a) Not exceeding P100.00 M - one member

"(b) Exceeding P100.00 M - two members

"The appointive members of the Board shall hold a term of office for one (1) year and shall continue to hold office until their successor shall have been appointed and qualified. The board shall convene as often as necessary to discharge its responsibilities properly, but shall meet at least once every two (2) weeks. The Board may be convoked either by the Chairman or in his absence, the Vice-Chairman.

"The majority of the board members shall constitute a quorum. All decisions of the Board shall require the concurrence of at least a majority.

"No Person shall be elected or appointed director of the Bank unless he is natural born citizens of the Philippines, not less than thirty-five (35) years of age, of good moral character, and has attained proficiency, expertise and recognized competence in one or more of the following: banking, finance , economics, law, agriculture, agrarian reform, business management : Provided, Further, That no director, shareholder or employee of any other bank shall be eligible for election or appointment as member of the Board of Directors of the Bank.

"The Chairman and the members of the Board shall receive a per diem of One thousand five hundred pesos (P1,500) for each session of the Board attended but in no case not to exceed Seven thousand five hundred (P7,500) a month."

Sec. 6. Section 86-A of the same Act relating to the powers and responsibilities of the Board is hereby amended by adding subsection 6 which reads as follows:

"6. To compromise or release, in whole or in part, any claim or liability whatsoever for or against the bank, including interest, penalties, fees and/or other charges, under such terms and conditions as the board may find acceptable and practicable subject to their best business judgment and to the best interest of the corporation in accord with standard banking practices."

Sec. 7. A new Section 86-B is hereby added to read as follows:

"Section 86-b. Foreclosure of collateral and disposal of bank acquired properties.

"1. Foreclosures of Mortgage Collaterals. Foreclosure of mortgage collaterals to loans may be made either judicially or extra-judicially.

"2. Deputization of Legal Staff. The bank may, with the approval of the court, deputize any member of its legal staff to act as special sheriff in foreclosure cases, in the sale or attachment of debtor's properties and in the enforcement of court writs and processes in cases involving the bank. The special Sheriff of the bank shall make a report to the proper court after any action has been taken by him, which court shall treat such actions as if it were an act of its own sheriffs in all respect.

"3. Disposal of Real Estate and Other Properties in the Collection of Debt. Real estate and other properties acquired by the Bank in the collection of debts or investment by way of foreclosure or other means shall be sold or disposed of in accordance with law, within five (5) years after date of acquisition. The sale or disposal shall be effected through public bidding, in accordance with the law.

"4. Exemption from Attachment. The provisions of any law to the contrary notwithstanding, securities on loans and/or other credit accommodations granted by the bank shall not be subjected to attachment, executions to any other court process, nor shall they be included in the property of insolvent persons or institutions, unless all debts and obligations of the debtors to the bank have been paid, including accrued interest, penalties, collection expenses and other charges.

"5. Right of Redemption of Foreclosed Property; Right of Possession during Redemption Period. Within one (1) year from the registration of the foreclosure sale of real estate, the mortgagor shall have the right to redeem the property by paying all claims of the bank against him on the date of the sale including all the cost and other expenses incurred by reason of the foreclosure sale and custody of the property, as well as charges and accrued interest. The bank may take possession of the foreclosed property during the redemption period. The bank shall be eligible to post a bond for the purpose of such possession."

Sec. 8. Section 87 is hereby amended to read as follows:

"Section 87. Executive officers; Compensation. The Chief Executive of the Bank shall be the President, who shall be chosen and may be removed by the Board of Directors with the advise and consent of the President of the Philippines. His salary shall be fixed by the Board of Directors with the approval of the President of the Philippines. The President shall be assisted by Vice-Presidents as may be required, whose appointments and removal shall be fixed in accordance with Section 90 hereof by the Board of Directors upon recommendation of the President of the Bank."

SEC . 9. Section 88 of the same Act prescribing the qualifications of Executive Officers is also hereby amended to read as follows:

"No persons shall be appointed to any executive position in the Bank mentioned in the preceding section unless he be of good moral character and of unquestionable integrity and responsibility, and who is of recognized competence in the field of economics, agriculture, industry, law, banking and/or finance, and possessed of demonstrated administrative skill and ability."

Sec. 10. Section 90 of the same Act is hereby amended to read as follows:

"Section 90. Personnel. The Board of Directors shall provided for an organization and staff of officers and employees of the Bank and upon recommendation of the President of the Bank, appoint and fix their remunerations and other emoluments, and remove such officers and employees: Provided, That the Board shall have exclusive and final authority to promote, transfer, assign or reassign personnel of the Bank, any provisions of existing law to the contrary notwithstanding.

"All positions in the Bank shall be governed by a compensation, position classification system and qualification, standards approved by the Bank's Board of Directors based on a comprehensive job

analysis and audit of actual duties and responsibilities. The compensation loan shall be comparable with the prevailing compensation plans in the private sector and shall be subjected to periodic review by the Board no more than once every two (2) years without prejudices to yearly merit reviews or increases based on productivity and profitability. The bank shall therefore be exempt from existing laws, rules and regulations on compensation, position classification and qualification standards. It shall however endeavor to make its system conform as closely as possible with the principle under Republic Act No. 6758.

"The Bank officer and employees, including all members of the Board, shall not engage directly or indirectly in partisan activities or take part in any election except to vote.

"No officer or employee of the Bank subject to the Civil Service Law and Regulations shall be removed or suspended except for cause as provided by law."

Sec. 11. Separability Clause. If any provision or part hereof is held invalid, the other provisions not affected thereby shall remain continued in full force and effect.

Sec. 12. Repealing Clause. All laws, executive orders, rules and regulations or parts thereof inconsistent with any provision hereof hereby repealed or modified accordingly.

Sec. 13. Effectivity. This Act shall take effect upon its approval.

Approved: 23 February 1995.

PRESIDENTIAL DECREE NO. 1067
December 31, 1976
THE WATER CODE OF THE PHILIPPINES
A DECREE INSTITUTING A WATER CODE, THEREBY REVISING AND
CONSOLIDATING THE LAWS GOVERNING THE OWNERSHIP, APPROPRIATION,
UTILIZATION, EXPLOITATION, DEVELOPMENT, CONSERVATION AND
PROTECTION OF WATER RESOURCES.

WHEREAS, Article XIV, Section 8 of the New Constitution of the Philippines provides, inter alia, that all waters of the Philippines belong to the State;

WHEREAS, existing water legislations are piecemeal inadequate to cope with increasing scarcity of water and changing patterns of water use;

WHEREAS, there is a need for a Water Code based on rational concepts of integrated and multi-purpose management of water resources and sufficiently flexible to adequately meet future developments:

WHEREAS, water is vital national development and it has become increasingly necessary for government to intervene actively in improving the management of water resources;

NOW, THEREFORE, I, FERDINAND, E. MARCOS, President of the Philippines, by virtue of the powers in me vested by the Constitution, do hereby orders and decree the enactment of the water Code of the Philippines of 1776, as follows:

CHAPTER I
DECLARATION OF OBJECTIVES AND PRINCIPLES

Article 1. This Code shall be known as "The Water Code of the Philippines."

Article 2. The objectives of this Code are:

- a. To establish the basic principles and framework relating to the appropriation, control and conservation of water resources to achieve the optimum development and rational utilization of these resources;
- b. To define the extent of the rights and obligation of water users and owners including the protection and regulation of such rights;
- c. To adopt a basic law governing the ownership, appropriation, utilization, exploitation, development, conservation and protection of water resources and rights to land related thereto; and
- d. To identify the administrative agencies which will enforce this Code.

Art. 3. The underlying principles of this code are:

- a. All waters belong to the State.
- b. All waters that belong to the state can not be the subject to acquisitive prescription.
- c. The State may allow the use or development of waters by administration concession.
- d. The utilization, exploitation, development, conservation and protection of water resources shall be subject to the control and regulation of the government through the National Water Resources Council, hereinafter referred to as the Council.

e. Preference in the use and development of waters shall consider current usages and be responsive to the changing needs of the country.

Art. 4. Waters, as used in this Code, refers to water under the grounds, water above the ground, water in the atmosphere and the waters of the sea within the territorial jurisdiction of the Philippines.

CHAPTER II OWNERSHIP OF WATERS

Art. 5. The following belong to the state:

- a. Rivers and their natural beds;
- b. Continuous or intermittent waters of springs and brooks running in their natural beds and the beds themselves
- c. Natural lakes and lagoons;
- d. All other categories of surface waters such as water flowing over lands, water from rainfall whether natural or artificial, and water from agriculture runoff, seepage and drainage;
- e. Atmospheric water;
- f. subterranean or ground water; and
- g. Seawater

Art. 6. The following waters found on private lands also belong to the States:

- a. Continuous or intermittent waters rising on such lands;
- b. Lakes and lagoons naturally waters rising on such lands;
- c. Rain water and falling on such lands;
- d. Subterranean or ground waters; and,
- e. Waters in swamps and marshes.

The owner of the land where the water is found may use the same for domestic purposes without securing a permit, provided that such use shall have be registered, when required by the Council. The Council, however, may regulate such use when there is wastage, or in times of emergency.

Art. 7. Subject to the provisions of this Code, any person who captures or collects water by means of cisterns, tanks, or pools shall have exclusive control over such water and the right to dispose of the same.

Art. 8. Water legally appropriated shall be subject to the control of the appropriator from the moment it reaches the appropriator's canal or aqueduct leading to the place where the water will be used or stored and, thereafter, so long as it is being beneficially used for the purposes for which it was appropriated.

CHAPTER III APPROPRIATION OF WATERS

Art. 9. Waters may be appropriated and used in accordance with the provisions of this Code.

Appropriation of water, as used in this Code, is the acquisition of rights over the use of waters or the taking or diverting of waters from a natural source in the manner and for any purpose allowed by law.

Art. 10. Water may be appropriated for the following purposes:

- a. Domestic;
- b. Municipal;
- c. Irrigation;
- d. Power generation;
- e. Fisheries;
- f. Livestock raising;
- g. Industrial;
- h. Recreational; and
- i. Other purposes;

Use of water for domestic purposes is the utilization of water for drinking, washing, bathing, cooking or other household needs, home gardens, and watering or lawns or domestic animals.

Use of water for municipal purposes is the utilization of water for supplying the water requirements of the community.

Use of water for irrigation is the utilization of water for producing agricultural crops.

Use of water for power generation is the utilization of water for producing electrical or mechanical power.

Use of water for power fisheries is the utilization of water for the propagation and culture of fish as a commercial enterprise

Use of water for livestock raising is the utilization of water for large herds or flocks of animals raised as a commercial enterprise.

Use of water for industrial purposes is the utilization of water in factories, industrial plants and mines, including the use of water as an ingredient of a finished product.

Use of water for recreational purposes is the utilization of water for swimming pools, bath houses, boating, water skiing, golf courses and other similar facilities in resorts and other places of recreation.

Art. 11. The state, for reasons of public policy, may declare waters not previously appropriated, in whole or in part, exempt from appropriation for any or all purposes and, thereupon, such waters may not be appropriated for those purposes.

Art. 12. Waters appropriated for a particular purpose may be applied for another purpose only upon prior approval of the Council and on condition that the new use does not unduly prejudice the rights of other permittees, or require an increase in the volume of water.

Art. 13. Except as otherwise herein provided, no person, including government instrumentalities or government-owned or controlled corporations, shall appropriate water without a water right, which shall be evidenced by a document known as a water permit.

Water rights is the privilege granted by the government to appropriate and use water.

Art. 14. Subject to the provisions of this Code concerning the control, protection, conservation, and regulation of the appropriation and use of waters, any person may appropriate or use natural bodies of water without securing a water permit for any of the following.

- a. Appropriation of water by means of hand carried receptacles; and
- b. Bathing or washing, watering or dipping of domestic or farm animals, and navigation of watercrafts or transportation of logs and other objects by flotation.

Art. 15. Only citizens of the Philippines, of legal age, as well as juridical persons, who are duly qualified by law to exploit and develop water resources, may apply for water permits.

- Art. 16. Any person who desires to obtain a water permit shall file an application with the Council who shall make known said application to the public for any protests.
In determining whether to grant or deny an application, the Council shall consider the following: protests filed, if any; prior permits granted; the availability of water; the water supply need for beneficial use; possible adverse effects; land-use economics; and other relevant factors.
Upon approval of an application, a water permit shall be issued and recorded.
- Art. 17. The right to the use of water is deemed acquired as of the date of filing of the application for a water permit in case of approved permits, or as of the date of actual use in a case where no permit is required.
- Art. 18. All water permits granted shall be subject to conditions of beneficial use, adequate standards of design and construction, and such other terms and conditions as may be imposed by the Council. Such permits shall specify the maximum amount of water which may be diverted or withdrawn, the maximum rate diversion or withdrawal, the time or times during the year when water may be diverted or withdrawn, the points or points of diversion or location of wells, the place of use, the purpose for which water may be used and such other requirements the Council deems desirable.
- Art. 19. Water rights may be lent or transferred in whole or in part to another person with prior approval of the Council, after due notice and hearing.
- Art. 20. The measure and limit of appropriation of water shall be beneficial use.
Beneficial use of water is the utilization of water in the right amount during the period that the water is needed for producing the benefits for which the water is appropriated.
- Art. 21. Standards of beneficial use shall be prescribed by the council for the appropriator of water for different purposes and conditions, and the use of waters which are appropriated shall be measured and controlled in accordance therewith.
Excepting those for domestic use, every appropriator of water shall maintain water control and measuring devices, and keep records of water withdrawal. When required by the council, all appropriators of water shall furnish information on water use.
- Art. 22. Between two or more appropriation of water from the same sources of supply, priority in time of appropriation shall give the better right, except that in times of emergency, the use of water for domestic and municipal purposes shall have a better right over all other uses; Provided, That where water shortage is recurrent and the appropriator for municipal use has a lower priority in time of appropriation, then it shall be his duty to find an alternative source of supply in accordance with conditions prescribed by the Council.
- Art. 23. Priorities may be altered on grounds of greater beneficial use, multi-purpose use, and other similar grounds after due notice and hearing, subject to payment of compensation in proper cases.
- Art. 24. A water right shall be exercised in such a manner that rights of third persons or of other appropriators are not prejudiced thereby.
- Art. 25. A holder of a water permit may demand the establishment of easements necessary for the construction and maintenance of the works and facilities needed for the beneficial use of the waters to be appropriated subject to the requirements of just compensation and to the following conditions:
- a. That he is the owner, lessee, mortgagee or one having real right over the land upon which he purposes to use water; and
 - b. That the proposed easement is the most convenient and the least onerous to the servient estate.
- Easement relating to the appropriation and use of waters may be modified by agreement of the contracting parties provided the same is not contrary to law or prejudicial to third persons.

- Art. 26. Where water shortage is recurrent, the use of the water pursuant to a permit may, in the interest of equitable distribution of benefits among legal appropriators, be reduced after due notice and hearing.
- Art. 27. Water users shall bear the diminution of any water supply due to natural causes or force majeure.
- Art. 28. Water permits shall continue to be valid as long as water is beneficially used; however, it may be suspended on the grounds of non-compliance with approved plans and specifications or schedules of water distribution; use of water for a purpose other than that for which it was granted; non-payment of water charges, wastage; failure to keep records of water diversion, when required; and violation of any term or condition of any permit or of rules and regulations promulgated by the Council.
Temporary permits may be issued for the appropriation and use of water for short periods under special circumstances.
- Art. 29. Water permits may be revoked after due notice and hearing on grounds of non-use; gross violation of the conditions imposed in the permit; unauthorized sale of water; willful failure or refusal to comply with rules and regulations or any lawful order; pollution, public nuisance or acts detrimental to public health and safety; when the appropriator is found to be disqualified under the law to exploit and develop natural resources of the Philippines; when, in the case of irrigation, the land is converted to non-agricultural purposes; and other similar grounds.
- Art. 30. All water permits are subject to modification or cancellation by the Council, after due notice and hearing, in favor of a project of greater beneficial use or for multi-purpose development, and a water permittee who suffers thereby shall be duly compensated by the entity or person in whose favor the cancellation was made.

CHAPTER IV UTILIZATION OF WATERS

- Art. 31. Preference in the development of water resources shall consider security of the State, multiple use, beneficial effects, adverse effects and cost of development.
- Art. 32. The utilization of subterranean or ground water shall be coordinated with that of surface waters such as rivers, streams, springs and lakes, so that a superior right in one is not adversely affected by an inferior right in the other.
For this purpose, the Council shall promulgate rules and regulations and declare the existence of control areas for the coordinated development, protection, and utilization of subterranean or ground water and surface waters.
Control area is an area of land where subterranean or ground water and surface water are so interrelated that withdrawal and use in one similarly affects the other. The boundary of a control area may be altered from time to time, as circumstances warrant.
- Art. 33. Water contained in open canals, aqueducts or reservoirs of private persons may be used by any person for domestic purpose or for watering plants as long as the water withdrawn by manual methods without checking the stream or damaging the canal, aqueduct or reservoir; Provided, That this right may be restricted by the owner should it result in loss or injury to him.
- Art. 34. A water permittee or appropriator may use any watercourse to convey water to another point in the watercourse for the purpose stated in a permit and such water may be diverted or recaptured at that point by said permittee in the same amount less allowance for normal losses in transit
- Art. 35. Works for the storage, diversion, distribution and utilization of water resources shall contain adequate provision for the prevention and control of diseases that may be induced or spread by such works when required by the Council.

- Art. 36. When the reuse of waste water is feasible, it shall limited as much as possible to such uses other than direction human consumption. No person or agency shall distribute such water for public consumption until it is demonstrated that such consumption will not adversely affect the health and safety of the public.
- Art. 37. In the construction and operation of hydraulic works, due consideration shall be given to the preservation of scenic places and historical relics and in addition to the provisions of existing laws, no works that would required the destruction or removal of such places or relics shall be undertaken without showing that the destruction or removal is necessary and unavoidable.
- Art. 38. Authority for the construction of dams, bridges and other structures across of which may interfere with the flow of navigable or floatable waterways shall first be secured from the Department of Public Works, Transportation and Communications.
- Art. 39. Except in cases of emergency to save life or property, the construction or repair of the following works shall be undertaken only after the plans and specifications therefore, as may be required by the Council, are approved by the proper government agency; dams for the diversion or storage of water; structures for the use of water power; installations for the utilization of subterranean or ground water and other structures for utilization of water resources.
- Art. 40. No excavation for the purpose of emission of a hot spring or for the enlargement of the existing opening thereof shall be made without prior permit.
Any person or agency who intends to develop a hot spring for human consumption must first obtain a permit from the Department of Health.
- Art. 41. No person shall develop a stream, lake, or spring for recreational purposes without first securing a permit from the council.
- Art. 42. Unless otherwise ordered by the President of the Philippines and only in times of national calamity or emergency, no person shall induce or restrain rainfall by any method such as cloud seeding without a permit from the proper government agency.
- Art. 43. No person shall raise or lower the water level of a river, stream, lake, lagoon or marsh nor drain the same without a permit.
- Art. 44. Drainage systems shall be so constructed that their outlets are rivers, lakes, the sea, natural bodies of water, such other water course as any be approved by the proper government agency.
- Art. 45. When a drainage channel is constructed by a number of persons for their common benefit, cost of construction and maintenance of the channel be borne by each in proportion to the benefits derived.
- Art. 46. When artificial means are employed to drain water from higher to lower land, the owner of the higher land shall select the routes and methods of drainage that will cause the minimum damage to the lower lands, subject to the requirements of just compensation.
- Art. 47. When the use, conveyance or storage of water results in damage to another, the person responsible for the damage shall pay compensation.
- Art. 48. When a water resources project interferes with the access of landowner to a portion of his property or with the conveyance of irrigation or drainage water, the person or agency constructing the project shall bear the cost of construction and maintenance of the bridges, flumes and other structures necessary for maintaining access, irrigation, or drainage in addition to paying compensation for land and incidental damages.

Art. 49. Any person having an easement for an aqueduct may enter upon the servient land for the purpose of cleaning, repairing or replacing the aqueduct or the removal of obstructions therefrom.

Art. 50. Lower estates are obliged to receive the waters which naturally and without the intervention of man flow from the higher estates, as well as the stones or earth which they carry with them. The owner of the lower estate can not construct works which will impede this natural flow, unless he provides an alternative method of drainage; neither can the owner of the higher estate make works which will increase this natural flow.

Art. 51. The banks or rivers and streams and the shores of the seas and lakes throughout their entire length and within a zone of three (3) meters in urban areas, twenty (20) meters in agricultural areas and forty (40) meters in forest areas, along their margins, are subject to the easement of public use in the interest of recreation, navigation, flottage, fishing and salvage. No person shall be allowed to stay in this zone longer than what is necessary for recreation, navigation, flottage, fishing or salvage or to build structures of any kind.

Art. 52. The establishment, extent, from, and conditions of easement of water not expressly determined by the provisions of this Code shall governed by the provisions of the Civil Code.

CHAPTER V CONTROL OF WATERS

Art. 53. To promote the best interest and the coordinated protection of flood plain lands, the Secretary of Public Works, Transportation and Communications may declare flood control areas and promulgate guidelines for governing flood plain management plans in these areas.

Art. 54. In declare flood control areas, rules and regulations may be promulgate to prohibit or control activities that may damage or cause deterioration of lakes and dikes, obstruct the flow of water, change the natural flow of the river, increase flood losses or aggravate flood problems.

Art. 55. The government may construction necessary flood control structures in declared flood control areas, and for this purpose it shall have a legal easement as wide as may be needed along and adjacent to the river bank and outside the bed or channel of the river.

Art. 56. River beds, sand bars and tidal flats may not be cultivated except upon prior permission from the Secretary of the Department of Public works, Transportation and Communication and such permission shall not be granted where such cultivation obstructs the flow of water or increase flood levels so as to cause damage to other areas.

Art. 57. Any person may erect levees or revetments to protect his property from flood, encroachment by the river or change in the course of the river, provided that such constructions does not cause damage to the property of another.

Art. 58. When a river or stream suddenly changes its course to traverse private lands, the owners or the affected lands may not compel the government to restore the river to its former bed; nor can they restrain the government from taking steps to revert the river or stream to its former course. The owners of the lands thus affected are not entitled to compensation for any damage sustained thereby. However, the former owners of the new bed shall be the owners of the abandoned bed proportion to the area lost by each.

The owners of the affected lands may undertake to return the river or stream to its old bed at their own expense; Provided, That a permit therefore is secured from the Secretary of Public Works, Transportation and Communication and work pertaining thereto are commenced within two years from the changes in the course of the river or stream.

Art. 59. Rivers, lakes and lagoons may, upon the recommendation of the Philippines Coast Guard, be declared navigable either in whole or in part.

- Art. 60. The rafting of logs and other objects on rivers and lakes which are floatable may be controlled or prohibited during designated season of the year with due regard to the needs of irrigation and domestic water supply and other uses of water.
- Art. 61. The impounding of water in ponds or reservoirs may be prohibited by the Council upon consultation with the Department of Health if it is dangerous to public health, or it may order that such pond or reservoirs be drained if such is necessary for the protection of public health.
- Art. 62. Waters of a stream may be stored in a reservoir by a permittee in such amount as will not prejudices the right of any permittee downstream. Whoever operates the reservoir shall, when required, release water for minimum stream flow.
All reservoir operations shall be subject to rules and regulations issued by the Council or any proper government agency.
- Art. 63. The operator of a dam for the storage of water may be required to employ an engineer possessing qualifications prescribed for the proper operations, maintenance and administration of the dam.
- Art. 64. The Council shall approve the manner, location, depth, and spacing in which borings for subterranean or ground water may be made, determine the requirements for the registration of every boring or alteration to existing borings as well as other control measures for the exploitation of subterranean or ground water resources, and in coordination with the Professional Regulation Commission prescribe the qualifications of those who would drill such borings.
No person shall drill a well without prior permission from the Council.
- Art. 65. Water from one river basin may be transferred to another river basin only with approval of the Council. In considering any request for such transfer, the Council shall take into account the full costs of the transfer, the benefits that would accrue to the basin of origin without the transfer, the benefits would accrue to the receiving basin on account of the transfer, alternative schemes for supplying water to the receiving basin, and other relevant favors.

CHAPTER VI CONSERVATION AND PROTECTION OF WATERS AND WATERSHEDS AND RELATED LAND RESOURCES

- Art. 66. After due notice and hearing when warranted by circumstances, minimum stream flows for rivers and streams and minimum water levels for lakes may be established by the Council under such conditions as may be necessary for the protection of the environment, control of pollution, navigation, prevention of salt damage, and general public use.

Art. 67. Any watershed or any area of land adjacent to any surface water or overlying any ground water may be declared by the Department of Natural Resources (DENR) as a protected area.
Rules and regulations may be promulgated by such Department to prohibit or control such activities by the owners or occupants thereof within the protected area which may damage or cause the deterioration of the surface water or ground water or interfere with the investigation, use, control, protection, management or administration of such waters.

- Art. 68. It shall be the duty of any person in control of a well to prevent the water from flowing on the surface of the land, or into any surface water, or any porous stratum underneath the surface without being beneficially used.
- Art. 69. It shall be the duty of any person in control of a well containing water with minerals or other substances injurious to man, animals, agriculture, and vegetation to prevent such waters from flowing on the surface of the land or into any surface water or into any other aquifer or porous stratum.

Art. 70. No person shall utilize an existing well or pond or spread waters for recharging subterranean or ground water supplies without prior permission of the Council.

Art. 71. To promote better water conservation and usage for irrigation purposes, the merger of irrigation associations and the appropriation of waters by associations instead of by individuals shall be encouraged.

No water permit shall be granted to an individual when his water requirement can be supplied through an irrigation association.

Art. 72. In the consideration of a proposed water resource project, due regard shall be given to ecological changes resulting from the construction of the project in order to balance the needs of development and the protection of the environment.

Art. 73. The conservation of fish and wild life shall receive proper consideration and shall be coordinated with other features of water resources development programs to insure that fish and wildlife values receive equal attention with other project purposes.

Art. 74. Swamps and marshes which are owned by the State and which have a primary value for waterfowl propagation or other wildlife purposes may be reserved and protected from drainage operations and development.

Art. 75. No person shall, without prior permission from the National Pollution Control Commission, build any works that may produce dangerous or noxious substance or perform any act which may result in the introduction of sewage, industrial waste, or any pollutant into any source of water supply.

Water pollution is the impairment of the quality of water beyond a certain standard. This standard may vary according to the use of the water and shall be set by the National Pollution Control Commission.

Art. 76. The establishment of cemeteries and waste disposal areas that may affect the source of a water supply or a reservoir for domestic or municipal use shall be subject to the rules and regulations promulgated by the Department of Health.

Art. 77. Tailings from mining operations and sediments from placer mining shall not be dumped into rivers and waterways without prior permission from the Council upon recommendation by the National Pollution Control Commission.

Art. 78. The application of agriculture fertilizers and pesticides may be prohibited or regulated by the National Pollution Control Commission in areas where such application may cause pollution of a source of water supply.

CHAPTER VII ADMINISTRATION OF WATERS AND ENFORCEMENT OF THE PROVISIONS OF THIS CODE

Art. 79. The Administration and enforcement of the provisions of this Code, including the granting of permits and the imposition of penalties for administrative violations hereof, are hereby vested in the council, and except in regard to those functions which under this Code are specifically conferred upon other agencies of the government, the Council is hereby empowered to make all decisions and determinations provided for in this Code.

Art. 80. The Council may deputize any official or agency of the government to perform any of its specific functions or activities.

Art. 81. The Council shall provide a continuing program for data collection, research and manpower development need for the appropriation, utilization, exploitation, conservation, and protection of the water resources of the country.

- Art. 82. In the implementation of the provisions of this Code, the Council shall promulgate the necessary rules and regulations which may provide for penalties consisting of a fine not exceeding One thousand Pesos (P1,000.00) and/or suspension or revocation of the water permit or other right to the use of water. Violations of such rules and regulations may be administratively dealt with by the Council.
- Such rules and regulations shall take effect fifteen (15) days after publication in newspapers of general circulation.
- Rules and regulations prescribed by any government agency that pertain to the utilization, exploitation, development, control, conservation, or protection of water resources shall, if the council so requires, be subject to its approval.
- Art. 83. The Council is hereby authorized to impose and collect reasonable fees or charges for water resources development from water appropriators, except when it is for purely domestic purpose.
- Art. 84. The Council and other agencies authorized to enforce this Code are empowered to enter upon private lands, with previous notice to the owner, for the purpose of conducting surveys and hydrologic investigations, and to perform such other acts as are necessary in carrying out their functions including the power to exercise the right of eminent domain.
- Art. 85. No program or project involving the appropriation, utilization, exploitation, development, control, conservation, or protection of water resources may be undertaken without prior approval of the Council, except those which the council may, in its discretion, exempt.
- The Council may require consultation with the public prior to the implementation of certain water resources development projects.
- Art. 86. When plans and specifications of a hydraulic structure are submitted for approval, the government agency whose functions embrace the type of project for which the structure is intended, shall review the plans and specifications and recommend to the Council proper action thereon and the latter shall approve the same only when they are in conformity with the requirements of this Code and the rules and regulations promulgated by the Council. Notwithstanding such approval, neither the engineer who drew up the plans and specifications of the hydraulic structure, nor the constructor who built it, shall be relieved of his liability for damages in case of failure thereof by reason of defect in plans and specifications, or failure due to defect in plan construction, within ten (10) years from the completion of the structure.
- Any action recover such damages must be brought within five (5) years following such failure.
- Art. 87. The Council or its duly authorized representatives, in the exercise of its power to investigate and decide cases brought to its cognizance, shall have the power to administer oaths, compel the attendance of witnesses be subpoena duces tecum.
- Non-compliance or violation of such orders or subpoena and subpoena duces tecum shall be punished in the same manner as indirect contempt of an inferior court upon application by the aggrieved party with the proper Court of First Instance in accordance with the provisions of Rule 71 of the Rules of Court.
- Art. 88. The Council shall have original jurisdiction over all disputes relating to appropriation, utilization, exploitation, development, control, conservation and protection of waters within the meaning and context of the provisions of this Code.
- The decisions of the Council on water rights controversies shall be immediately executory and the enforcement thereof may be suspended only then a bond, in a amount fixed by the Council to answer for damages occasioned by the suspension or stay of execution, shall have been filed by the appealing party, unless the suspension is by virtue of an order of a competent court.
- All dispute shall be decide within sixty (60) days after the parties submit the same for decision or resolution.
- The Council shall have the power to issue writs of execution and enforce its decisions with the assistance of local or national police agencies.

Art. 89. The decisions of the Council on water rights controversies may be appealed to the court of first Instance of the province where the subject matter of the controversy is situated within fifteen (15) days from the date the party appealing receives a copy of the decision, of any of the following grounds: (1) grave abuse of discretion; (2) question of law; (3) questions of fact and law.

CHAPTER VIII PENAL PROVISIONS

Art. 90. The following acts shall be penalized by suspension or revocation of the violator's water permit or other right to the use of water and/or a fine of not exceeding One thousand Pesos (P1,000.00), in the discretion of the Council :

a. Appropriation of subterranean or ground water for domestic use by an overlying landowner without registration required by the Council;

b. Non-observance of any standard of beneficial use of water.

c. Failure of the appropriator to keep a record of water withdrawal when required.

d. Failure to comply with any of the terms or conditions in a water permit or a water rights grant.

e. Unauthorized use of water for a purpose other than that for which a right or permit was granted.

f. Construction or repair of any hydraulic work or structure without duly approved plans and specifications, when required.

g. Failure to install a regulating and measuring device for the control volume of water appropriated, when required.

h. Unauthorized sale, lease, or transfer of water and/or water rights.

i. Failure to provide adequate facilities to prevent or control diseases when required by the Council in the construction of any work for the storage, diversion, distribution and utilization of water.

j. Drilling of a well without permission of the Council.

k. Utilization of an existing well or ponding or spreading of water for recharging subterranean or ground water supplies without permission of the Council.

l. Violation of or non-compliance with any order, rules and regulation of the Council.

m. Illegal taking or diversion of water in an open canal, aqueduct or reservoir.

n. Malicious destruction of hydraulic works or structures valued at not exceeding P5,000.00.

Art. 91. A. A fine of not exceeding Three Thousand Pesos (P3,000.00) or imprisonment for not more than three (3) years, or both such fine and imprisonment, in the discretion of the Court, shall be imposed upon any person who commits any of the following acts:

1. Appropriation of water without a water permit, unless such person is expressly exempted from securing a permit by the provisions of this code;

2. Unauthorized obstruction of an irrigation canal.

3. Cultivation of river bed, sand bar or tidal flat without permission.

4. Malicious destruction of hydraulic works or structure valued at not exceeding Twenty-Five Thousand Pesos (P25,000.00)

B. A fine exceeding Three Thousand Pesos (P3,000.00) but not more than Six Thousand Pesos (P6,000.00) or imprisonment exceeding three years (3) years but not more than (6) years or both such fine and imprisonment in the discretion of the Court, shall be imposed on any person who commits any of the following acts:

1. Distribution for public consumption of water which adversely affects the health and safety of the public.

2. Excavation or enlargement of the opening of a hot spring without permission.

3. Unauthorized obstruction of a river or waterway, or occupancy of a river bank or seashore without permission.

4. Establishment of a cemetery or a waste disposal area near a source of water supply or reservoir for domestic or municipal use without permission.

5. Constructing, without prior permission of the government agency concerned, works that produce dangerous or noxious substances, or performing acts that result in the introduction of sewage, industrial waste, or any substance that pollutes a source of water supply.

6. Dumping mine tailings and sediments into rivers or waterways without permission.

7. Malicious destruction of hydraulic works or structure valued more than Twenty-five Thousand (P25,000.00) but not exceeding One Hundred Thousand Pesos (P100,000.00)

C. A fine exceeding Six Thousand Pesos (P6,000.00) but not more than ten Thousand Pesos (P10,000.00) or imprisonment exceeding six (6) years but not more than twelve (12) years, or both such fine and imprisonment, in the discretion of the Court, shall be imposed upon any person who commits any of the following acts:

1. Misrepresentation of citizenship in order to qualify for water permit.

2. Malicious destruction of a hydraulic works or structure, valued at more than One Hundred Thousand Pesos (P100,000.00).

Art. 92. If the offense is committed by a corporation, trust, firm, partnership, association or any other juridical person, the penalty shall be imposed upon the President, General Manager, and other guilty officer or officers of such corporation, trust, firm, partnership, association or entity, without prejudice to the filing of a civil action against said juridical person. If the offender is an alien, he shall be deported after serving his sentence, without further proceedings.

After final judgment of conviction, the Court upon petition of the prosecution attorney in the same proceedings, and after due hearing, may when the public interest so requires, order the suspension of or dissolution of such corporation, trust, firm, partnership association or juridical person.

Art. 93. All actions for offenses punishable under Article 91 of this code shall be brought before the proper court.

Art. 94. Actions for offenses punishable under this Code by a fine of not more than Three Thousand (P3,000.00) or by an imprisonment of not more than three (3) years, or both such fine and

imprisonment, shall prescribed in five (5) years; those punishable by a fine exceeding Three Thousand Pesos (3,000.00) but not more than six thousand Pesos (P6,000.00) or imprisonment exceeding three (3) years but not more than six years (6) years or both such fine and imprisonment, shall prescribe in seven (7) years; and those punishable by a fine exceeding Six Thousand Pesos (P6,000.00) but not more than Ten Thousand Pesos (P10,000.00) or an imprisonment exceeding Six (6) years but not more than Twelve (12) years, or both such fine and imprisonment, shall prescribe in ten (10) years.

CHAPTER IX TRANSITORY AND FINAL PROVISIONS

Art. 95. Within two (2) years from the promulgation of this code, all claims for a right to use water existing on or before December 31, 1974 shall be registered with the council which shall be confirm said rights in accordance with the provisions of this Code, and shall set their respective priorities. When priority in time of appropriation from a certain source of supply cannot be determined, the order of preference in the use of the waters shall be as follows :

- a. Domestic and municipal use;
- b. Irrigation;
- c. Power generation;
- d. Fisheries;
- e. Livestock raising;
- f. Industrial use; and
- g. Other uses.

Any claim not registered within said period shall be considered waived and the use of the water deemed abandoned, and the water shall thereupon be available for disposition as unappropriated waters in accordance with the provisions of this code.

Art. 96. No vested or acquired right to the use of water can arise from acts or omissions which are against the law or which infringe upon the rights of others.

Art. 97. Acts and contracts under the regime of old laws, if they are valid in accordance therewith, shall be respected, subject to the limitations established in this Code. Any modification or extension of these acts and contracts after the promulgation of this code, shall be subject to the provisions hereof.

Art. 98. Interim rules and regulations promulgated by the Council shall continue to have binding force and effect, when not in conflict with the provisions of this Code.

Art. 99. If any provision or part of this Code, or the application thereof to any person or circumstance, is declared unconstitutional or invalid for any reason, the other provisions of parts therein shall not be affected.

Art. 100. The following laws, parts and/or provisions of laws are hereby repealed:

a. The provisions of the Spanish law of waters of August 3, 1866, the Civil Code of Spain of 1889 and the Civil Code of the Philippines (R. A. 386) on ownership of waters, easement relating to waters, use of public waters which are inconsistent with the provision of the Code;

b. The provisions of R. A. 6395, otherwise known as the Revised Charter of the National Power Corporation, particularly section 3, paragraph (f), and section 12, so far as they relate to the appropriation of waters and the grant thereof;

c. The provisions of Act. No. 2152 as amended, otherwise know as the Irrigation Act, section 3, paragraphs (k) and (m) of P.D. No. 813, R. A. 2056; Section 90, C. A. 137; and

d. All Decrees, Laws, Acts, parts of Acts, Rules of Court, executive orders, and administrative regulations which are contrary to or inconsistent with the provisions of this Code.

Art. 101. This Code shall take effect upon its promulgation.

Done in the City of Manila, this 31st day of December, Nineteen Hundred and Seventy-Six.

FERDINAND E. MARCOS

President of the Philippines

By the President:

JACOBO C. CLAVE

Presidential Executive Assistant

PRESIDENTIAL DECREE NO. 1586
[ESTABLISHING AN ENVIRONMENTAL IMPACT STATEMENT SYSTEM,
INCLUDING OTHER ENVIRONMENTAL MANAGEMENT RELATED
MEASURES AND FOR OTHER PURPOSES]

WHEREAS, the pursuit of a comprehensive and integrated environmental protection program necessitates the establishment and institutionalization of a system whereby the exigencies of socio-economic undertakings can be reconciled with the requirements of environmental quality;

WHEREAS, the regulatory requirements of Environmental Impact Statements and Assessments instituted in pursuit of this national environmental protection program have to be worked into their full regulatory and procedural details in a manner consistent with the goals of the program.

NOW, THEREFORE, I, Ferdinand E. Marcos, President of the Philippines, by virtue of the powers vested in me by the Constitution do hereby order and declare:

Section 1
Policy

It is hereby declared the policy of the State to attain and maintain a rational and orderly balance between socio-economic growth and environmental protection.

Section 2
Environmental Impact Statement System

There is hereby established an Environmental Impact Statement System founded and based on the environmental impact statement required, under Section 4 of Presidential Decree No. 1151, of all agencies and instrumentalities of the national government, including government-owned or controlled corporations, as well as private corporations, firms and entities, for every proposed project and undertaking which significantly affect the quality of the environment.

Section 3
Determination of Lead Agency

The Minister of Human Settlements or his designated representative is hereby authorized to name the lead agencies referred to in Section 4 of Presidential Decree No. 1151 which shall have jurisdiction to undertake the preparation of the necessary environmental impact statements on declared environmentally critical projects and areas. All Environmental Impact Statements shall be submitted to the National Environmental Protection Council for review and evaluation.

Section 4
Presidential Proclamation of Environmentally Critical Areas and Projects

The President of the Philippines may, on his own initiative or upon recommendation of the National Environmental Protection Council, by proclamation declare certain projects, undertakings or areas in the country as environmentally critical. No person, partnership or corporation shall undertake or operate any such declared environmentally critical project or area without first securing an Environmental Compliance Certificate issued by the President or his duly authorized representatives. For the proper management of said critical project or area, the President may by his proclamation reorganize such government offices, agencies, institutions, corporations or instrumentalities including the re-alignment of government personnel, and their specific functions and responsibilities.

For the same purpose as above, the Ministry of Human Settlements shall:

- a. prepare the proper land or water use pattern for said critical project(s) or area(s);
- b. establish ambient environmental quality standards;

c. develop a program of environmental enhancement or protective measures against calamitous factors such as earthquake, floods, water erosion and others, and

d. perform such other functions as may be directed by the President from time to time.

Section 5 Environmentally Non-Critical Projects

All other projects, undertakings and areas not declared by the President as environmentally critical shall be considered as non-critical and shall not be required to submit an environmental impact statement. The National Environmental Protection Council, thru the Ministry of Human Settlements may however require non-critical projects and undertakings to provide additional environmental safeguards as it may deem necessary.

Section 6 Secretariat

The National Environmental Protection Council is hereby authorized to constitute the necessary secretariat which will administer the Environmental Impact Statement System and undertake the processing and evaluation of environmental impact statements.

Section 7 Management and Financial Assistance

Ministry of Human Settlements is hereby authorized to provide management and financial support to government offices and instrumentalities placed under its supervision pursuant to this Decree financed from its existing appropriation or from budgetary augmentation as the Minister of Human Settlements may deem necessary.

Section 8 Rules and Regulations

The National Environmental Protection Council shall issue the necessary rules and regulations to implement this Decree. For this purpose, the National Pollution Control Commission may be availed of as one of its implementing arms, consistent with the powers and responsibilities of the National Pollution Control Commission as provided in P.D. No. 984.

Section 9 Penalty for Violation

Any person, corporation or partnership found violating Section 4 of this Decree, or the terms and conditions in the issuance of the Environmental Compliance Certificate, or of the standards, rules and regulations issued by the National Environmental Protection Council pursuant to this Decree shall be punished by the suspension or cancellation of his/its certificate and/or a fine in an amount not to exceed Fifty Thousand Pesos (P50,000.000) for every violation thereof, at the discretion of the National Environmental Protection Council.

Section 10 Environmental Revolving Fund

Proceeds from the penalties prescribed in the preceding Section 9 and other penalties imposed by the National Pollution Control Commission as authorized in P.D. 984, shall be automatically appropriated into an Environment Revolving Fund hereby created as an exemption to P.D. 711 and P.D. 1234. The fund shall be used exclusively for the operation of the National Environmental Protection Council and the National Pollution Control Commission in the implementation of this Decree. The rules and regulations for

the utilization of this fund shall be formulated by the Ministry of Human Settlements and submitted to the President for approval.

Section 11
Repealing Clause

The Inter-Agency Advisory Council of the National Pollution Control Commission created under Section 4 of P.D. 984 is hereby abolished and its powers and responsibilities are forthwith delegated and transferred to the Control of the National Environmental Protection Council.
All other laws, decrees, executive orders, rules and regulations inconsistent herewith are hereby repealed, amended or modified accordingly.

Section 12
Effectivity Clause

This Decree shall take effect immediately.

Approved: June 11, 1978

PROCLAMATION NO. 2146
[DECEMBER 14, 1981]
PROCLAIMING CERTAIN AREAS AND TYPES OF PROJECTS AS
ENVIRONMENTALLY CRITICAL AND WITHIN THE SCOPE OF THE
ENVIRONMENTAL IMPACT STATEMENT SYSTEM ESTABLISHED UNDER
PRESIDENTIAL DECREE NO. 1586.

WHEREAS, it is the national policy to attain and maintain a rational and orderly balance between socio-economic growth and environmental conservation and protection;

WHEREAS, there is an urgent need to bring about an intensive, integrated program of environmental protection through a requirement of environmental impact assessments and statements;

WHEREAS, the environmental impact statement system established under Presidential Decree No. 1586 calls for the proper management of environmentally critical area,

WHEREAS, the pursuit of a comprehensive and integrated environmental protection program necessitates the establishment and institutionalization of a system whereby the exigencies of socio-economic undertakings can be reconciled with the requirements of environmental protection and conservation;

WHEREAS, the national leadership mandates the establishment of such a system to regulate and minimize the environmental impacts of projects and undertakings which may significantly affect the quality of the environment in Presidential Decree No. 1586, and

WHEREAS, in the effective implementation of such a system, there arises the need to identify and declare certain projects determined to be environmentally critical.

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers vested in me by law, hereby proclaim the following areas and types of projects as environmentally critical and within the scope of the Environmental Impact Statement System.

A. Environmentally Critical Projects

I. Heavy Industries

- a. Non-ferrous metal industries
- b. Iron and steel mills
- c. Petroleum and petro-chemical industries including oil and gas
- d. Smelting plants

II. Resource Extractive Industries

- a. Major mining and quarrying projects
- b. Forestry projects
 1. Logging
 2. Major wood processing projects
 3. Introduction of fauna (exotic-animals) in public/private forests
 4. Forest occupancy
 5. Extraction of mangrove products
 6. Grazing
- c. Fishery Projects
 1. Dikes for fishpond development projects

III. Infrastructure Projects

- a. Major dams
- b. Major power plants (fossil-fueled, nuclear fueled, hydroelectric or geothermal)
- c. Major reclamation projects
- d. Major roads and bridges.

B. Environmentally Critical Areas

1. All areas declared by law as national parks, watershed reserves, wildlife preserves and sanctuaries;

2. Areas set aside as aesthetic potential tourist spots;
3. Areas which constitute the habitat for any endangered or threatened species of indigenous Philippine Wildlife (flora and fauna);
4. Areas of unique historic, archaeological, or scientific interests;
5. Areas which are traditionally occupied by cultural communities or tribes;
6. Areas frequently visited and/or hard-hit by natural calamities geologic hazards, floods, typhoons, volcanic activity, etc.
7. Areas with critical slopes;
8. Areas classified as prime agricultural lands;
9. Recharged areas of aquifers;
10. Water bodies characterized by one or any combination of the following conditions;
 - a. tapped for domestic purposes;;
 - b. within the controlled and/or protected areas declared by appropriate authorities;
 - c. which support wildlife and fishery activities.
11. Mangrove areas characterized by one or any combination or the following conditions:
 - a. with primary pristine and dense young growth;
 - b. adjoining mouth of major river systems;
 - c. near or adjacent to traditional productive fry or fishing grounds;
 - d. which act as natural buffers against shore erosion, strong winds and storm floods;
 - e. on which people are dependent for their livelihood.
12. Coral reef characterized by one or any combination of the following conditions:
 - a. with 50% and above live coralline cover;
 - b. Spawning and nursery grounds for fish;
 - c. Which act as natural breakwater of coastlines.

This Proclamation shall take effect immediately.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the Republic of the Philippines to be affixed.

Done in the City of Manila, this 14th day of December, in the year of Our Lord, nineteen hundred and eighty one.

(SGD.) FERDINAND E. MARCOS
President of the Philippines

By the President:

JUAN C. TUVERA
Presidential Executive Assistant

REPUBLIC ACT No. 7160

AN ACT PROVIDING FOR A LOCAL GOVERNMENT CODE OF 1991

BOOK I
GENERAL PROVISIONS

TITLE I
BASIC PRINCIPLES

CHAPTER I
The Code: Policy and Application

Section 1. Title. - This Act shall be known and cited as the "*Local Government Code of 1991*".

Section 2. Declaration of Policy. -

(a) It is hereby declared the policy of the State that the territorial and political subdivisions of the State shall enjoy genuine and meaningful local autonomy to enable them to attain their fullest development as self-reliant communities and make them more effective partners in the attainment of national goals. Toward this end, the State shall provide for a more responsive and accountable local government structure instituted through a system of decentralization whereby local government units shall be given more powers, authority, responsibilities, and resources. The process of decentralization shall proceed from the national government to the local government units.

(b) It is also the policy of the State to ensure the accountability of local government units through the institution of effective mechanisms of recall, initiative and referendum.

(c) It is likewise the policy of the State to require all national agencies and offices to conduct periodic consultations with appropriate local government units, nongovernmental and people's organizations, and other concerned sectors of the community before any project or program is implemented in their respective jurisdictions. *1awphil.net*

Section 3. Operative Principles of Decentralization. - The formulation and implementation of policies and measures on local autonomy shall be guided by the following operative principles:

(a) There shall be an effective allocation among the different local government units of their respective powers, functions, responsibilities, and resources;

(b) There shall be established in every local government unit an accountable, efficient, and dynamic organizational structure and operating mechanism that will meet the priority needs and service requirements of its communities;

(c) Subject to civil service law, rules and regulations, local officials and employees paid wholly or mainly from local funds shall be appointed or removed, according to merit and fitness, by the appropriate appointing authority;

(d) The vesting of duty, responsibility, and accountability in local government units shall be accompanied with provision for reasonably adequate resources to discharge their powers and effectively carry out their functions: hence, they shall have the power to create and broaden their own sources of revenue and the right to a just share in national taxes and an equitable share in

the proceeds of the utilization and development of the national wealth within their respective areas;

(e) Provinces with respect to component cities and municipalities, and cities and municipalities with respect to component barangays, shall ensure that the acts of their component units are within the scope of their prescribed powers and functions;

(f) Local government units may group themselves, consolidate or coordinate their efforts, services, and resources commonly beneficial to them;

(g) The capabilities of local government units, especially the municipalities and barangays, shall be enhanced by providing them with opportunities to participate actively in the implementation of national programs and projects;

(h) There shall be a continuing mechanism to enhance local autonomy not only by legislative enabling acts but also by administrative and organizational reforms;

(i) Local government units shall share with the national government the responsibility in the management and maintenance of ecological balance within their territorial jurisdiction, subject to the provisions of this Code and national policies;

(j) Effective mechanisms for ensuring the accountability of local government units to their respective constituents shall be strengthened in order to upgrade continually the quality of local leadership;

(k) The realization of local autonomy shall be facilitated through improved coordination of national government policies and programs an extension of adequate technical and material assistance to less developed and deserving local government units;

(l) The participation of the private sector in local governance, particularly in the delivery of basic services, shall be encouraged to ensure the viability of local autonomy as an alternative strategy for sustainable development; and

(m) The national government shall ensure that decentralization contributes to the continuing improvement of the performance of local government units and the quality of community life.

Section 4. *Scope of Application.* - This Code shall apply to all provinces, cities, municipalities, barangays, and other political subdivisions as may be created by law, and, to the extent herein provided, to officials, offices, or agencies of the national government.

Section 5. *Rules of Interpretation.* - In the interpretation of the provisions of this Code, the following rules shall apply:

(a) Any provision on a power of a local government unit shall be liberally interpreted in its favor, and in case of doubt, any question thereon shall be resolved in favor of devolution of powers and of the lower local government unit. Any fair and reasonable doubt as to the existence of the power shall be interpreted in favor of the local government unit concerned;

(b) In case of doubt, any tax ordinance or revenue measure shall be construed strictly against the local government unit enacting it, and liberally in favor of the taxpayer. Any tax exemption, incentive or relief granted by any local government unit pursuant to the provisions of this Code shall be construed strictly against the person claiming it.

(c) The general welfare provisions in this Code shall be liberally interpreted to give more powers to local government units in accelerating economic development and upgrading the quality of life for the people in the community;

(d) Rights and obligations existing on the date of effectivity of this Code and arising out of contracts or any other source of presentation involving a local government unit shall be governed by the original terms and conditions of said contracts or the law in force at the time such rights were vested; and

(e) In the resolution of controversies arising under this Code where no legal provision or jurisprudence applies, resort may be had to the customs and traditions in the place where the controversies take place.

CHAPTER II

General Powers and Attributes of Local Government Units

Section 6. Authority to Create Local Government Units. - A local government unit may be created, divided, merged, abolished, or its boundaries substantially altered either by law enacted by Congress in the case of a province, city, municipality, or any other political subdivision, or by ordinance passed by the sangguniang panlalawigan or sangguniang panlungsod concerned in the case of a barangay located within its territorial jurisdiction, subject to such limitations and requirements prescribed in this Code.

Section 7. Creation and Conversion. - As a general rule, the creation of a local government unit or its conversion from one level to another level shall be based on verifiable indicators of viability and projected capacity to provide services, to wit:

(a) Income. - It must be sufficient, based on acceptable standards, to provide for all essential government facilities and services and special functions commensurate with the size of its population, as expected of the local government unit concerned;

(b) Population. - It shall be determined as the total number of inhabitants within the territorial jurisdiction of the local government unit concerned; and

(c) Land Area. - It must be contiguous, unless it comprises two or more islands or is separated by a local government unit independent of the others; properly identified by metes and bounds with technical descriptions; and sufficient to provide for such basic services and facilities to meet the requirements of its populace.

Compliance with the foregoing indicators shall be attested to by the Department of Finance (DOF), the National Statistics Office (NSO), and the Lands Management Bureau (LMB) of the Department of Environment and Natural Resources (DENR).

Section 8. Division and Merger. - Division and merger of existing local government units shall comply with the same requirements herein prescribed for their creation: Provided, however, That such division shall not reduce the income, population, or land area of the local government unit or units concerned to less than the minimum requirements prescribed in this Code: Provided, further, That the income classification of the original local government unit or units shall not fall below its current classification prior to such division.

The income classification of local government units shall be updated within six (6) months from the effectivity of this Code to reflect the changes in their financial position resulting from the increased revenues as provided herein.

Section 9. *Abolition of Local Government Units.* - A local government unit may be abolished when its income, population, or land area has been irreversibly reduced to less than the minimum standards prescribed for its creation under Book III of this Code, as certified by the national agencies mentioned in Section 7 hereof to Congress or to the sangguniang concerned, as the case may be.

The law or ordinance abolishing a local government unit shall specify the province, city, municipality, or barangay with which the local government unit sought to be abolished will be incorporated or merged.

Section 10. *Plebiscite Requirement.* - No creation, division, merger, abolition, or substantial alteration of boundaries of local government units shall take effect unless approved by a majority of the votes cast in a plebiscite called for the purpose in the political unit or units directly affected. Said plebiscite shall be conducted by the Commission on Elections (COMELEC) within one hundred twenty (120) days from the date of effectivity of the law or ordinance effecting such action, unless said law or ordinance fixes another date.

Section 11. *Selection and Transfer of Local Government Site, Offices and Facilities.* -

(a) The law or ordinance creating or merging local government units shall specify the seat of government from where governmental and corporate services shall be delivered. In selecting said site, factors relating to geographical centrality, accessibility, availability of transportation and communication facilities, drainage and sanitation, development and economic progress, and other relevant considerations shall be taken into account.

(b) When conditions and developments in the local government unit concerned have significantly changed subsequent to the establishment of the seat of government, its sanggunian may, after public hearing and by a vote of two-thirds (2/3) of all its members, transfer the same to a site better suited to its needs. Provided, however, That no such transfer shall be made outside the territorial boundaries of the local government unit concerned.

The old site, together with the improvements thereon, may be disposed of by the sale or lease or converted to such other use as the sangguniang concerned may deem beneficial to the local government unit concerned and its inhabitants.

(c) Local government offices and facilities shall not be transferred, relocated, or converted to other uses unless public hearings are first conducted for the purpose and the concurrence of the majority of all the members of the sanggunian concerned is obtained.

Section 12. *Government Centers.* - Provinces, cities, and municipalities shall endeavor to establish a government center where offices, agencies, or branches of the national government, local government units, or government-owned or controlled corporations may, as far as practicable, be located. In designating such a center, the local government unit concerned shall take into account the existing facilities of national and local agencies and offices which may serve as the government center as contemplated under this Section. The national government, local government unit or government-owned or controlled corporation concerned shall bear the expenses for the construction of its buildings and facilities in the government center.

Section 13. *Naming of Local Government Units and Public Places, Streets and Structures.* -

(a) The sangguniang panlalawigan may, in consultation with the Philippine Historical Commission (PHC), change the name of the following within its territorial jurisdiction:

(1) Component cities and municipalities, upon the recommendation of the sanggunian concerned;

- (2) Provincial roads, avenues, boulevards, thoroughfares, and bridges;
- (3) Public vocational or technical schools and other post-secondary and tertiary schools;
- (4) Provincial hospitals, health centers, and other health facilities; and
- (5) Any other public place or building owned by the provincial government.

(b) The sanggunian of highly urbanized cities and of component cities whose charters prohibit their voters from voting for provincial elective officials, hereinafter referred to in this Code as independent component cities, may, in consultation with the Philippine Historical Commission, change the name of the following within its territorial jurisdiction:

- (1) City barangays, upon the recommendation of the sangguniang barangay concerned;
- (2) City roads, avenues, boulevards, thoroughfares, and bridges;
- (3) Public elementary, secondary and vocational or technical schools, community colleges and non-chartered colleges;
- (4) City hospitals, health centers and other health facilities; and
- (5) Any other public place or building owned by the city government.

(c) The sanggunians of component cities and municipalities may, in consultation with the Philippine Historical Commission, change the name of the following within its territorial jurisdiction:

- (1) City and municipal barangays, upon recommendation of the sangguniang barangay concerned;
- (2) City, municipal and barangay roads, avenues, boulevards, thoroughfares, and bridges;
- (3) City and municipal public elementary, secondary and vocational or technical schools, post-secondary and other tertiary schools;
- (4) City and municipal hospitals, health centers and other health facilities; and
- (5) Any other public place or building owned by the municipal government.

(d) None of the foregoing local government units, institutions, places, or buildings shall be named after a living person, nor may a change of name be made unless for a justifiable reason and, in any case, not oftener than once every ten (10) years. The name of a local government unit or a public place, street or structure with historical, cultural, or ethnic significance shall not be changed, unless by a unanimous vote of the sanggunian concerned and in consultation with the PHC.

(e) A change of name of a public school shall be made only upon the recommendation of the local school board concerned.

(f) A change of name of public hospitals, health centers, and other health facilities shall be made only upon the recommendation of the local health board concerned.

(g) The change of name of any local government unit shall be effective only upon ratification in a plebiscite conducted for the purpose in the political unit directly affected.

(h) In any change of name, the Office of the President, the representative of the legislative district concerned, and the Bureau of Posts shall be notified.

Section 14. *Beginning of Corporate Existence.* - When a new local government unit is created, its corporate existence shall commence upon the election and qualification of its chief executive and a majority of the members of its sanggunian, unless some other time is fixed therefor by the law or ordinance creating it.

Section 15. *Political and Corporate Nature of Local Government Units.* - Every local government unit created or recognized under this Code is a body politic and corporate endowed with powers to be exercised by it in conformity with law. As such, it shall exercise powers as a political subdivision of the national government and as a corporate entity representing the inhabitants of its territory.

Section 16. *General Welfare.* - Every local government unit shall exercise the powers expressly granted, those necessarily implied therefrom, as well as powers necessary, appropriate, or incidental for its efficient and effective governance, and those which are essential to the promotion of the general welfare. Within their respective territorial jurisdictions, local government units shall ensure and support, among other things, the preservation and enrichment of culture, promote health and safety, enhance the right of the people to a balanced ecology, encourage and support the development of appropriate and self-reliant scientific and technological capabilities, improve public morals, enhance economic prosperity and social justice, promote full employment among their residents, maintain peace and order, and preserve the comfort and convenience of their inhabitants.

Section 17. *Basic Services and Facilities.* -

(a) Local government units shall endeavor to be self-reliant and shall continue exercising the powers and discharging the duties and functions currently vested upon them. They shall also discharge the functions and responsibilities of national agencies and offices devolved to them pursuant to this Code. Local government units shall likewise exercise such other powers and discharge such other functions and responsibilities as are necessary, appropriate, or incidental to efficient and effective provisions of the basic services and facilities enumerated herein.

(b) Such basic services and facilities include, but are not limited to, the following:

(1) For Barangay:

(i) Agricultural support services which include planting materials distribution system and operation of farm produce collection and buying stations;

(ii) Health and social welfare services which include maintenance of barangay health center and day-care center;

(iii) Services and facilities related to general hygiene and sanitation, beautification, and solid waste collection;

(iv) Maintenance of katarungang pambarangay;

(v) Maintenance of barangay roads and bridges and water supply systems;

(vi) Infrastructure facilities such as multi-purpose hall, multipurpose pavement, plaza, sports center, and other similar facilities;

(vii) Information and reading center; and

(viii) Satellite or public market, where viable;

(2) For a Municipality:

(i) Extension and on-site research services and facilities related to agriculture and fishery activities which include dispersal of livestock and poultry, fingerlings, and other seedling materials for aquaculture; palay, corn, and vegetable seed farms; medicinal plant gardens; fruit tree, coconut, and other kinds of seedling nurseries; demonstration farms; quality control of copra and improvement and development of local distribution channels, preferably through cooperatives; interbarangay irrigation system; water and soil resource utilization and conservation projects; and enforcement of fishery laws in municipal waters including the conservation of mangroves;

(ii) Pursuant to national policies and subject to supervision, control and review of the DENR, implementation of community-based forestry projects which include integrated social forestry programs and similar projects; management and control of communal forests with an area not exceeding fifty (50) square kilometers; establishment of tree parks, greenbelts, and similar forest development projects;

(iii) Subject to the provisions of Title Five, Book I of this Code, health services which include the implementation of programs and projects on primary health care, maternal and child care, and communicable and non-communicable disease control services, access to secondary and tertiary health services; purchase of medicines, medical supplies, and equipment needed to carry out the services herein enumerated;

(iv) Social welfare services which include programs and projects on child and youth welfare, family and community welfare, women's welfare, welfare of the elderly and disabled persons; community-based rehabilitation programs for vagrants, beggars, street children, scavengers, juvenile delinquents, and victims of drug abuse; livelihood and other pro-poor projects; nutrition services; and family planning services;

(v) Information services which include investments and job placement information systems, tax and marketing information systems, and maintenance of a public library;

(vi) Solid waste disposal system or environmental management system and services or facilities related to general hygiene and sanitation;

(vii) Municipal buildings, cultural centers, public parks including freedom parks, playgrounds, and other sports facilities and equipment, and other similar facilities;

(viii) Infrastructure facilities intended primarily to service the needs of the residents of the municipality and which are funded out of municipal funds including but not limited to, municipal roads and bridges; school buildings and other facilities for public elementary and secondary schools; clinics, health centers and other health facilities necessary to carry out health services; communal irrigation, small water impounding projects and other similar projects; fish ports; artesian wells, spring development, rainwater collectors and water supply systems; seawalls, dikes, drainage and sewerage, and flood control; traffic signals and road signs; and similar facilities;

(ix) Public markets, slaughterhouses and other municipal enterprises;

(x) Public cemetery;

(xi) Tourism facilities and other tourist attractions, including the acquisition of equipment, regulation and supervision of business concessions, and security services for such facilities; and

(xii) Sites for police and fire stations and substations and municipal jail;

(3) For a Province:

(i) Agricultural extension and on-site research services and facilities which include the prevention and control of plant and animal pests and diseases; dairy farms, livestock markets, animal breeding stations, and artificial insemination centers; and assistance in the organization of farmers and fishermen's cooperatives, and other collective organizations, as well as the transfer of appropriate technology;

(ii) Industrial research and development services, as well as the transfer of appropriate technology;

(iii) Pursuant to national policies and subject to supervision, control and review of the DENR, enforcement of forestry laws limited to community-based forestry projects, pollution control law, small-scale mining law, and other laws on the protection of the environment; and mini-hydroelectric projects for local purposes;

(iv) Subject to the provisions of Title Five, Book I of this Code, health services which include hospitals and other tertiary health services;

(v) Social welfare services which include programs and projects on rebel returnees and evacuees; relief operations; and population development services;

(vi) Provincial buildings, provincial jails, freedom parks and other public assembly areas and similar facilities;

(vii) Infrastructure facilities intended to service the needs of the residence of the province and which are funded out of provincial funds including, but not limited to, provincial roads and bridges; inter-municipal waterworks, drainage and sewerage, flood control, and irrigation systems; reclamation projects; and similar facilities;

(viii) Programs and projects for low-cost housing and other mass dwellings, except those funded by the Social Security System (SSS), Government Service Insurance System p. 172 (GSIS), and the Home Development Mutual Fund (HDMF): Provided, That national funds for these programs and projects shall be equitably allocated among the regions in proportion to the ratio of the homeless to the population;

(ix) Investment support services, including access to credit financing;

(x) Upgrading and modernization of tax information and collection services through the use of computer hardware and software and other means;

(xi) Inter-municipal telecommunications services, subject to national policy guidelines; and

(xii) Tourism development and promotion programs;

(4) For a City:

All the services and facilities of the municipality and province, and in addition thereto, the following:

(1) Adequate communication and transportation facilities;

(c) Notwithstanding the provisions of subsection (b) hereof, public works and infrastructure projects and other facilities, programs and services funded by the national government under the annual General Appropriations Act, other special laws, pertinent executive orders, and those wholly or partially funded from foreign sources, are not covered under this Section, except in those cases where the local government unit concerned is duly designated as the implementing agency for such projects, facilities, programs, and services.

(d) The designs, plans, specifications, testing of materials, and the procurement of equipment and materials at P170 from both foreign and local sources necessary for the provision of the foregoing services and facilities shall be undertaken by the local government unit concerned, based on national policies, standards and guidelines.

(e) National agencies or offices concerned shall devolve to local government units the responsibility for the provision of basic services and facilities enumerated in this Section within six (6) months after the effectivity of this Code.

As used in this Code, the term "devolution" refers to the act by which the national government confers power and authority upon the various local government units to perform specific functions and responsibilities.

(f) The national government or the next higher level of local government unit may provide or augment the basic services and facilities assigned to a lower level of local government unit when such services or facilities are not made available or, if made available, are inadequate to meet the requirements of its inhabitants.

(g) The basic services and facilities hereinabove enumerated shall be funded from the share of local government units in the proceeds of national taxes and other local revenues and funding support from the national government, its instrumentalities and government-owned or controlled corporations which are tasked by law to establish and maintain such services or facilities. Any

fund or resource available for the use of local government units shall be first allocated for the provision of basic services or facilities enumerated in subsection (b) hereof before applying the same for other purposes, unless otherwise provided in this Code.

(h) Regional offices of national agencies or offices whose functions are devolved to local government units as provided herein shall be phased out within one (1) year from the approval of this Code. Said national agencies and offices may establish such field units as may be necessary for monitoring purposes and providing technical assistance to local government units. The properties, equipment, and other assets of these regional offices shall be distributed to the local government units in the region in accordance with the rules and regulations issued by the oversight committee created under this Code.

(i) The devolution contemplated in this Code shall include the transfer to local government units of the records, equipment, and other assets and personnel of national agencies and offices corresponding to the devolved powers, functions, and responsibilities.

Personnel of said national agencies or offices shall be absorbed by the local government units to which they belong or in whose areas they are assigned to the extent that it is administratively viable as determined by the said oversight committee: Provided, That the rights accorded to such personnel pursuant to civil service law, rules and regulations shall not be impaired: Provided, further, That regional directors who are career executive service officers and other officers of similar rank in the said regional offices who cannot be absorbed by the local government unit shall be retained by the national government, without any diminution of rank, salary or tenure.

(j) To ensure the active participation of the private sector in local governance, local government units may, by ordinance, sell, lease, encumber, or otherwise dispose of public economic enterprises owned by them in their proprietary capacity.

Costs may also be charged for the delivery of basic services or facilities enumerated in this Section.

Section 18. *Power to Generate and Apply Resources.* - Local government units shall have the power and authority to establish an organization that shall be responsible for the efficient and effective implementation of their development plans, program objectives and priorities; to create their own sources of revenues and to levy taxes, fees, and charges which shall accrue exclusively for their use and disposition and which shall be retained by them; to have a just share in national taxes which shall be automatically and directly released to them without need of any further action; to have an equitable share in the proceeds from the utilization and development of the national wealth and resources within their respective territorial jurisdictions including sharing the same with the inhabitants by way of direct benefits; to acquire, develop, lease, encumber, alienate, or otherwise dispose of real or personal property held by them in their proprietary capacity and to apply their resources and assets for productive, developmental, or welfare purposes, in the exercise or furtherance of their governmental or proprietary powers and functions and thereby ensure their development into self-reliant communities and active participants in the attainment of national goals.

Section 19. *Eminent Domain.* - A local government unit may, through its chief executive and acting pursuant to an ordinance, exercise the power of eminent domain for public use, or purpose or welfare for the benefit of the poor and the landless, upon payment of just compensation, pursuant to the provisions of the Constitution and pertinent laws: Provided, however, That the power of eminent domain may not be exercised unless a valid and definite offer has been previously made to the owner, and such offer was not accepted: Provided, further, That the local government unit may immediately take possession of the property upon the filing of the expropriation proceedings and upon making a deposit with the proper court of at least fifteen percent (15%) of the fair market value of the property based on the current tax declaration of the property to be expropriated: Provided, finally, That, the amount to be paid for the

expropriated property shall be determined by the proper court, based on the fair market value at the time of the taking of the property.

Section 20. *Reclassification of Lands.* -

(a) A city or municipality may, through an ordinance passed by the sanggunian after conducting public hearings for the purpose, authorize the reclassification of agricultural lands and provide for the manner of their utilization or disposition in the following cases: (1) when the land ceases to be economically feasible and sound for agricultural purposes as determined by the Department of Agriculture or (2) where the land shall have substantially greater economic value for residential, commercial, or industrial purposes, as determined by the sanggunian concerned: Provided, That such reclassification shall be limited to the following percentage of the total agricultural land area at the time of the passage of the ordinance:

(1) For highly urbanized and independent component cities, fifteen percent (15%);

(2) For component cities and first to the third class municipalities, ten percent (10%); and

(3) For fourth to sixth class municipalities, five percent (5%): Provided, further, That agricultural lands distributed to agrarian reform beneficiaries pursuant to Republic Act Numbered Sixty-six hundred fifty-seven (R.A. No. 6657), otherwise known as "The Comprehensive Agrarian Reform Law", shall not be affected by the said reclassification and the conversion of such lands into other purposes shall be governed by Section 65 of said Act.

(b) The President may, when public interest so requires and upon recommendation of the National Economic and Development Authority, authorize a city or municipality to reclassify lands in excess of the limits set in the next preceding paragraph.

(c) The local government units shall, in conformity with existing laws, continue to prepare their respective comprehensive land use plans enacted through zoning ordinances which shall be the primary and dominant bases for the future use of land resources: Provided. That the requirements for food production, human settlements, and industrial expansion shall be taken into consideration in the preparation of such plans.

(d) Where approval by a national agency is required for reclassification, such approval shall not be unreasonably withheld. Failure to act on a proper and complete application for reclassification within three (3) months from receipt of the same shall be deemed as approval thereof.

(e) Nothing in this Section shall be construed as repealing, amending, or modifying in any manner the provisions of R.A. No. 6657.

Section 21. *Closure and Opening of Roads.* -

(a) A local government unit may, pursuant to an ordinance, permanently or temporarily close or open any local road, alley, park, or square falling within its jurisdiction: Provided, however, That in case of permanent closure, such ordinance must be approved by at least two-thirds (2/3) of all the members of the sanggunian, and when necessary, an adequate substitute for the public facility that is subject to closure is provided.

(b) No such way or place or any part thereof shall be permanently closed without making provisions for the maintenance of public safety therein. A property thus permanently withdrawn from public use may be used or conveyed for any purpose for which other real property belonging

to the local government unit concerned may be lawfully used or conveyed: Provided, however, That no freedom park shall be closed permanently without provision for its transfer or relocation to a new site.

(c) Any national or local road, alley, park, or square may be temporarily closed during an actual emergency, or fiesta celebrations, public rallies, agricultural or industrial fairs, or an undertaking of public works and highways, telecommunications, and waterworks projects, the duration of which shall be specified by the local chief executive concerned in a written order: Provided, however, That no national or local road, alley, park, or square shall be temporarily closed for athletic, cultural, or civic activities not officially sponsored, recognized, or approved by the local government unit concerned.

(d) Any city, municipality, or barangay may, by a duly enacted ordinance, temporarily close and regulate the use of any local street, road, thoroughfare, or any other public place where shopping malls, Sunday, flea or night markets, or shopping areas may be established and where goods, merchandise, foodstuffs, commodities, or articles of commerce may be sold and dispensed to the general public.

Section 22. Corporate Powers. -

(a) Every local government unit, as a corporation, shall have the following powers:

(1) To have continuous succession in its corporate name;

(2) To sue and be sued;

(3) To have and use a corporate seal;

(4) To acquire and convey real or personal property;

(5) To enter into contracts; and

(6) To exercise such other powers as are granted to corporations, subject to the limitations provided in this Code and other laws.

(b) Local government units may continue using, modify, or change their existing corporate seals: Provided, That newly established local government units or those without corporate seals may create their own corporate seals which shall be registered with the Department of the Interior and Local Government: Provided, further, That any change of corporate seal shall also be registered as provided hereon.

(c) Unless otherwise provided in this Code, no contract may be entered into by the local chief executive in behalf of the local government unit without prior authorization by the sanggunian concerned. A legible copy of such contract shall be posted at a conspicuous place in the provincial capitol or the city, municipal or barangay hall.

(d) Local government units shall enjoy full autonomy in the exercise of their proprietary functions and in the limitations provided in this Code and other applicable laws,

Section 23. Authority to Negotiate and Secure Grants. - Local chief executives may, upon authority of the sanggunian, negotiate and secure financial grants or donations in kind, in support of the basic services or facilities enumerated under Section 17 hereof, from local and foreign assistance agencies without necessity of securing clearance or approval therefor from any department, agency, or office of the

national government or from any higher local government unit: Provided, That projects financed by such grants or assistance with national security implications shall be approved by the national agency concerned: Provided, further, That when such national agency fails to act on the request for approval within thirty (30) days from receipt thereof, the same shall be deemed approved.

The local chief executive shall, within thirty (30) days upon signing of such grant agreement or deed of donation, report the nature, amount, and terms of such assistance to both Houses of Congress and the President.

Section 24. *Liability for Damages.* - Local government units and their officials are not exempt from liability for death or injury to persons or damage to property.

CHAPTER III

Intergovernmental Relations

ARTICLE I

National Government and Local Government Units

Section 25. *National Supervision over Local Government Units.* -

(a) Consistent with the basic policy on local autonomy, the President shall exercise general supervision over local government units to ensure that their acts are within the scope of their prescribed powers and functions.

The President shall exercise supervisory authority directly over provinces, highly urbanized cities, and independent component cities; through the province with respect to component cities and municipalities; and through the city and municipality with respect to barangays.

(b) National agencies and offices with project implementation functions shall coordinate with one another and with the local government units concerned in the discharge of these functions. They shall ensure the participation of local government units both in the planning and implementation of said national projects.

(c) The President may, upon request of the local government unit concerned, direct the appropriate national agency to provide financial, technical, or other forms of assistance to the local government unit. Such assistance shall be extended at no extra cost to the local government unit concerned.

(d) National agencies and offices including government-owned or controlled corporations with field units or branches in a province, city, or municipality shall furnish the local chief executive concerned, for his information and guidance, monthly reports including duly certified budgetary allocations and expenditures.

Section 26. *Duty of National Government Agencies in the Maintenance of Ecological Balance.* - **It shall be the duty of every national agency or government-owned or controlled corporation authorizing or involved in the planning and implementation of any project or program that may cause pollution, climatic change, depletion of non-renewable resources, loss of crop land, rangeland, or forest cover, and extinction of animal or plant species, to consult with the local government units, nongovernmental organizations, and other sectors concerned and explain the goals and objectives of the project or program, its impact upon the people and the community in terms of environmental or ecological balance, and the measures that will be undertaken to prevent or minimize the adverse effects thereof.**

Section 27. Prior Consultations Required. - No project or program shall be implemented by government authorities unless the consultations mentioned in Sections 2 (c) and 26 hereof are complied with, and prior approval of the sanggunian concerned is obtained: Provided, That occupants in areas where such projects are to be implemented shall not be evicted unless appropriate relocation sites have been provided, in accordance with the provisions of the Constitution.

ARTICLE II

Relations with the Philippine National Police

Section 28. Powers of Local Chief Executives over the Units of the Philippine National Police. - The extent of operational supervision and control of local chief executives over the police force, fire protection unit, and jail management personnel assigned in their respective jurisdictions shall be governed by the provisions of Republic Act Numbered Sixty-nine hundred seventy-five (R.A. No. 6975), otherwise known as "The Department of the Interior and Local Government Act of 1990", and the rules and regulations issued pursuant thereto.

ARTICLE III

Inter-Local Government Relations

Section 29. Provincial Relations with Component Cities and Municipalities. - The province, through the governor, shall ensure that every component city and municipality within its territorial jurisdiction acts within the scope of its prescribed powers and functions. Highly urbanized cities and independent component cities shall be independent of the province.

Section 30. Review of Executive Orders. -

(a) Except as otherwise provided under the Constitution and special statutes, the governor shall review all executive orders promulgated by the component city or municipal mayor within his jurisdiction. The city or municipal mayor shall review all executive orders promulgated by the punong barangay within his jurisdiction. Copies of such orders shall be forwarded to the governor or the city or municipal mayor, as the case may be, within three (3) days from their issuance. In all instances of review, the local chief executive concerned shall ensure that such executive orders are within the powers granted by law and in conformity with provincial, city, or municipal ordinances.

(b) If the governor or the city or municipal mayor fails to act on said executive orders within thirty (30) days after their submission, the same shall be deemed consistent with law and therefore valid.

Section 31. Submission of Municipal Questions to the Provincial Legal Officer or Prosecutor. - In the absence of a municipal legal officer, the municipal government may secure the opinion of the provincial legal officer, and in the absence of the latter, that of the provincial prosecutor on any legal question affecting the municipality.

Section 32. City and Municipal Supervision over Their Respective Barangays. - The city or municipality, through the city or municipal mayor concerned, shall exercise general supervision over component barangays to ensure that said barangays act within the scope of their prescribed powers and functions.

Section 33. Cooperative Undertakings Among Local Government Units. - Local government units may, through appropriate ordinances, group themselves, consolidate, or coordinate their efforts, services, and resources for purposes commonly beneficial to them. In support of such undertakings, the local government units involved may, upon approval by the sanggunian concerned after a public hearing conducted for the purpose, contribute funds, real estate, equipment, and other kinds of property and

appoint or assign personnel under such terms and conditions as may be agreed upon by the participating local units through Memoranda of Agreement.

CHAPTER IV

Relations With People's and Non-Governmental Organizations

Section 34. *Role of People's and Non-governmental Organizations.* - Local government units shall promote the establishment and operation of people's and non-governmental organizations to become active partners in the pursuit of local autonomy.

Section 35. *Linkages with People's and Non-governmental Organizations.* - Local government units may enter into joint ventures and such other cooperative arrangements with people's and non-governmental organizations to engage in the delivery of certain basic services, capability-building and livelihood projects, and to develop local enterprises designed to improve productivity and income, diversity agriculture, spur rural industrialization, promote ecological balance, and enhance the economic and social well-being of the people.

Section 36. *Assistance to People's and Non-governmental Organizations.* - A local government unit may, through its local chief executive and with the concurrence of the sanggunian concerned, provide assistance, financial or otherwise, to such people's and non-governmental organizations for economic, socially-oriented, environmental, or cultural projects to be implemented within its territorial jurisdiction.

CHAPTER V

Local Prequalification, Bids and Awards Committee

Section 37. *Local Prequalification, Bids and Awards Committee (Local PBAC).* -

(a) There is hereby created a local prequalification, bids and awards committee in every province, city, and municipality, which shall be primarily responsible for the conduct of prequalification of contractors, bidding, evaluation of bids, and the recommendation of awards concerning local infrastructure projects. The governor or the city or municipal mayor shall act as the chairman with the following as members:

- (1) The chairman of the appropriations committee of the sanggunian concerned;
- (2) A representative of the minority party in the sanggunian concerned, if any, or if there be none, one (1) chosen by said sanggunian from among its members;
- (3) The local treasurer;
- (4) Two (2) representatives of non-governmental organizations that are represented in the local development council concerned, to be chosen by the organizations themselves; and
- (5) Any practicing certified public accountant from the private sector, to be designated by the local chapter of the Philippine Institute of Certified Public Accountants, if any.

Representatives of the Commission on Audit shall observe the proceedings of such committee and shall certify that the rules and procedures for prequalification, bids and awards have been complied with.

(b) The agenda and other information relevant to the meetings of such committee shall be deliberated upon by the committee at least one (1) week before the holding of such meetings.

(c) All meetings of the committee shall be held in the provincial capitol or the city or municipal hall. The minutes of such meetings of the committee and any decision made therein shall be duly recorded, posted at a prominent place in the provincial capitol or the city or municipal hall, and delivered by the most expedient means to elective local officials concerned.

Section 38. Local Technical Committee. -

(a) There is hereby created a local technical committee in every province, city and municipality to provide technical assistance to the local prequalification, bids and awards committees. It shall be composed of the provincial, city or municipal engineer, the local planning and development coordinator, and such other officials designated by the local prequalification, bids and awards committee.

(b) The chairman of the local technical committee shall be designated by the local prequalification, bids and awards committee and shall attend its meeting in order to present the reports and recommendations of the local technical committee.

**TITLE II
ELECTIVE OFFICIALS**

**CHAPTER I
Qualifications and Election**

Section 39. Qualifications. -

(a) An elective local official must be a citizen of the Philippines; a registered voter in the barangay, municipality, city, or province or, in the case of a member of the sangguniang panlalawigan, sangguniang panlungsod, or sangguniang bayan, the district where he intends to be elected; a resident therein for at least one (1) year immediately preceding the day of the election; and able to read and write Filipino or any other local language or dialect.

(b) Candidates for the position of governor, vice-governor, or member of the sangguniang panlalawigan, or mayor, vice-mayor or member of the sangguniang panlungsod of highly urbanized cities must be at least twenty-one (21) years of age on election day.

(c) Candidates for the position of mayor or vice-mayor of independent component cities, component cities, or municipalities must be at least twenty-one (21) years of age on election day.

(d) Candidates for the position of member of the sangguniang panlungsod or sangguniang bayan must be at least eighteen (18) years of age on election day.

(e) Candidates for the position of punong barangay or member of the sangguniang barangay must be at least eighteen (18) years of age on election day.

(f) Candidates for the sangguniang kabataan must be at least fifteen (15) years of age but not more than twenty-one (21) years of age on election day.

Section 40. Disqualifications. - The following persons are disqualified from running for any elective local position:

(a) Those sentenced by final judgment for an offense involving moral turpitude or for an offense punishable by one (1) year or more of imprisonment, within two (2) years after serving sentence;

- (b) Those removed from office as a result of an administrative case;
- (c) Those convicted by final judgment for violating the oath of allegiance to the Republic;
- (d) Those with dual citizenship;
- (e) Fugitives from justice in criminal or non-political cases here or abroad;
- (f) Permanent residents in a foreign country or those who have acquired the right to reside abroad and continue to avail of the same right after the effectivity of this Code; and
- (g) The insane or feeble-minded.

Section 41. *Manner of Election.* -

- (a) The governor, vice-governor, city mayor, city vice-mayor, municipal mayor, municipal vice-mayor, and punong barangay shall be elected at large in their respective units by the qualified voters therein. However, the sangguniang kabataan chairman for each barangay shall be elected by the registered voters of the katipunan ng kabataan, as provided in this Code.
- (b) The regular members of the sangguniang panlalawigan, sangguniang panlungsod, and sangguniang bayan shall be elected by district, as may be provided for by law. Sangguniang barangay members shall be elected at large. The presidents of the leagues of sanggunian members of component cities and municipalities shall serve as ex officio members of the sangguniang panlalawigan concerned. The presidents of the "liga ng mga barangay and the pederasyon ng mga sangguniang kabataan" elected by their respective chapters, as provided in this Code, shall serve as ex officio members of the sangguniang panlalawigan, sangguniang panlungsod, and sangguniang bayan.
- (c) In addition thereto, there shall be one (1) sectoral representative from the women, one (1) from the workers, and one (1) from any of the following sectors: the urban poor, indigenous cultural communities, disabled persons, or any other sector as may be determined by the sanggunian concerned within ninety (90) days prior to the holding of the next local elections as may be provided for by law. The COMELEC shall promulgate the rules and regulations to effectively provide for the election of such sectoral representatives.

Section 42. *Date of Election.* - Unless otherwise provided by law, the elections for local officials shall be held every three (3) years on the second Monday of May.

Section 43. *Term of Office.* -

- (a) The term of office of all local elective officials elected after the effectivity of this Code shall be three (3) years, starting from noon of June 30, 1992 or such date as may be provided for by law, except that of elective barangay officials: Provided, That all local officials first elected during the local elections immediately following the ratification of the 1987 Constitution shall serve until noon of June 30, 1992.
- (b) No local elective official shall serve for more than three (3) consecutive terms in the same position. Voluntary renunciation of the office for any length of time shall not be considered as an interruption in the continuity of service for the full term for which the elective official concerned was elected.

(c) The term of office of barangay officials and members of the sangguniang kabataan shall be for three (3) years, which shall begin after the regular election of barangay officials on the second Monday of May 1994.

CHAPTER II

Vacancies and Succession

Section 44. *Permanent Vacancies in the Offices of the Governor, Vice-Governor, Mayor, and Vice-Mayor.* - If a permanent vacancy occurs in the office of the governor or mayor, the vice-governor or vice-mayor concerned shall become the governor or mayor. If a permanent vacancy occurs in the offices of the governor, vice-governor, mayor, or vice-mayor, the highest ranking sanggunian member or, in case of his permanent inability, the second highest ranking sanggunian member, shall become the governor, vice-governor, mayor or vice-mayor, as the case may be. Subsequent vacancies in the said office shall be filled automatically by the other sanggunian members according to their ranking as defined herein.

(b) If a permanent vacancy occurs in the office of the punong barangay, the highest ranking sanggunian barangay member or, in case of his permanent inability, the second highest ranking sanggunian member, shall become the punong barangay.

(c) A tie between or among the highest ranking sanggunian members shall be resolved by the drawing of lots.

(d) The successors as defined herein shall serve only the unexpired terms of their predecessors.

For purposes of this Chapter, a permanent vacancy arises when an elective local official fills a higher vacant office, refuses to assume office, fails to qualify, dies, is removed from office, voluntarily resigns, or is otherwise permanently incapacitated to discharge the functions of his office.

For purposes of succession as provided in the Chapter, ranking in the sanggunian shall be determined on the basis of the proportion of votes obtained by each winning candidate to the total number of registered voters in each district in the immediately preceding local election.

Section 45. *Permanent Vacancies in the Sanggunian.* -

(a) Permanent vacancies in the sanggunian where automatic succession provided above do not apply shall be filled by appointment in the following manner:

(1) The President, through the Executive Secretary, in the case of the sangguniang panlalawigan and the sangguniang panlungsod of highly urbanized cities and independent component cities;

(2) The governor, in the case of the sangguniang panlungsod of component cities and the sangguniang bayan;

(3) The city or municipal mayor, in the case of sangguniang barangay, upon recommendation of the sangguniang barangay concerned.

(b) Except for the sangguniang barangay, only the nominee of the political party under which the sanggunian member concerned had been elected and whose elevation to the position next higher in rank created the last vacancy in the sanggunian shall be appointed in the manner hereinabove provided. The appointee shall come from the same political party as that of the sanggunian member who caused the vacancy and shall serve the unexpired term of the vacant office. In the

appointment herein mentioned, a nomination and a certificate of membership of the appointee from the highest official of the political party concerned are conditions sine qua non, and any appointment without such nomination and certification shall be null and void ab initio and shall be a ground for administrative action against the official responsible therefore.

(c) In case or permanent vacancy is caused by a sanggunian member who does not belong to any political party, the local chief executive shall, upon recommendation of the sanggunian concerned, appoint a qualified person to fill the vacancy.

(d) In case of vacancy in the representation of the youth and the barangay in the sanggunian, said vacancy shall be filled automatically by the official next in rank of the organization concerned.

Section 46. *Temporary Vacancy in the Office of the Local Chief Executive.* -

(a) When the governor, city or municipal mayor, or punong barangay is temporarily incapacitated to perform his duties for physical or legal reasons such as, but not limited to, leave of absence, travel abroad, and suspension from office, the vice-governor, city or municipal vice-mayor, or the highest ranking sangguniang barangay member shall automatically exercise the powers and perform the duties and functions of the local chief executive concerned, except the power to appoint, suspend, or dismiss employees which can only be exercised if the period of temporary incapacity exceeds thirty (30) working days.

(b) Said temporary incapacity shall terminate upon submission to the appropriate sanggunian of a written declaration by the local chief executive concerned that he has reported back to office. In cases where the temporary incapacity is due to legal causes, the local chief executive concerned shall also submit necessary documents showing that said legal causes no longer exist.

(c) When the incumbent local chief executive is traveling within the country but outside his territorial jurisdiction for a period not exceeding three (3) consecutive days, he may designate in writing the officer-in-charge of the said office. Such authorization shall specify the powers and functions that the local official concerned shall exercise in the absence of the local chief executive except the power to appoint, suspend, or dismiss employees.

(d) In the event, however, that the local chief executive concerned fails or refuses to issue such authorization, the vice-governor, the city or municipal vice-mayor, or the highest ranking sangguniang barangay member, as the case may be, shall have the right to assume the powers, duties, and functions of the said office on the fourth (4th) day of absence of the said local chief executive, subject to the limitations provided in subsection (c) hereof.

(e) Except as provided above, the local chief executive shall in no case authorize any local official to assume the powers, duties, and functions of the office, other than the vice-governor, the city or municipal vice-mayor, or the highest ranking sangguniang barangay member, as the case may be.

Section 47. *Approval of Leaves of Absence.* -

(a) Leaves of absence of local elective officials shall be approved as follows:

(1) Leaves of absence of the governor and the mayor of a highly urbanized city or an independent component city shall be approved by the President or his duly authorized representative;

(2) Leaves of absence of vice-governor or a city or municipal vice-mayor shall be approved by the local chief executive concerned: Provided, That the leaves of absence of the members of the sanggunian and its employees shall be approved by the vice-governor or city or municipal vice-mayor concerned;

(3) Leaves of absence of the component city or municipal mayor shall be approved by the governor; and

(4) Leaves of absence of a punong barangay shall be approved by the city or municipal mayor: Provided, That leaves of absence of sangguniang barangay members shall be approved by the punong barangay.

(b) Whenever the application for leave of absence hereinabove specified is not acted upon within five (5) working days after receipt thereof, the application for leave of absence shall be deemed approved.

CHAPTER III

Local Legislation

Section 48. *Local Legislative Power.* - Local legislative power shall be exercised by the sangguniang panlalawigan for the province; the sangguniang panlungsod for the city; the sangguniang bayan for the municipality; and the sangguniang barangay for the barangay.

Section 49. *Presiding Officer.* -

(a) The vice-governor shall be the presiding officer of the sangguniang panlalawigan; the city vice-mayor, of the sangguniang panlungsod; the municipal vice-mayor, of the sangguniang bayan; and the punong barangay, of the sangguniang barangay. The presiding officer shall vote only to break a tie.

(b) In the event of the inability of the regular presiding officer to preside at a sanggunian session, the members present and constituting a quorum shall elect from among themselves a temporary presiding officer. He shall certify within ten (10) days from the passage of ordinances enacted and resolutions adopted by the sanggunian in the session over which he temporarily presided.

Section 50. *Internal Rules of Procedure.* -

(a) On the first regular session following the election of its members and within ninety (90) days thereafter, the sanggunian concerned shall adopt or update its existing rules of procedure.

(b) The rules of procedure shall provided for the following:

(1) The organization of the sanggunian and the election of its officers as well as the creation of standing committees which shall include, but shall not be limited to, the committees on appropriations, women and family, human rights, youth and sports development, environmental protection, and cooperatives; the general jurisdiction of each committee; and the election of the chairman and members of each committee;

(2) The order and calendar of business for each session;

(3) The legislative process;

(4) The parliamentary procedures which include the conduct of members during sessions;

(5) The discipline of members for disorderly behavior and absences without justifiable cause for four (4) consecutive sessions, for which they may be censured, reprimanded, or excluded from the session, suspended for not more than sixty (60) days, or expelled: Provided, That the penalty of suspension or expulsion shall require the concurrence of at least two-thirds (2/3) vote of all the sanggunian members: Provided, further, That a member convicted by final judgment to imprisonment of at least one (1) year for any crime involving moral turpitude shall be automatically expelled from the sanggunian; and

(6) Such other rules as the sanggunian may adopt.*lawphil*TM

Section 51. Full Disclosure of Financial and Business Interests of Sanggunian Members. -

(a) Every sanggunian member shall, upon assumption to office, make a full disclosure of his business and financial interests, or professional relationship or any relation by affinity or consanguinity within the fourth civil degree, which he may have with any person, firm, or entity affected by any ordinance or resolution under consideration by the sanggunian of which he is a member, which relationship may result in conflict of interest. Such relationship shall include:

(1) Ownership of stock or capital, or investment, in the entity or firm to which the ordinance or resolution may apply; and

(2) Contracts or agreements with any person or entity which the ordinance or resolution under consideration may affect.

In the absence of a specific constitutional or statutory provision applicable to this situation, "conflict of interest" refers in general to one where it may be reasonably deduced that a member of a sanggunian may not act in the public interest due to some private, pecuniary, or other personal considerations that may tend to affect his judgment to the prejudice of the service or the public.

(b) The disclosure required under this Act shall be made in writing and submitted to the secretary of the sanggunian or the secretary of the committee of which he is a member. The disclosure shall, in all cases, form part of the record of the proceedings and shall be made in the following manner:

(1) Disclosure shall be made before the member participates in the deliberations on the ordinance or resolution under consideration: Provided, That, if the member did not participate during the deliberations, the disclosure shall be made before voting on the ordinance or resolution on second and third readings; and

(2) Disclosure shall be made when a member takes a position or makes a privilege speech on a matter that may affect the business interest, financial connection, or professional relationship described herein.

Section 52. Sessions. -

(a) On the first day of the session immediately following the election of its members, the sanggunian shall, by resolution, fix the day, time, and place of its regular sessions. The minimum numbers of regular sessions shall be once a week for the sangguniang panlalawigan,

sangguniang panlungsod, and sangguniang bayan, and twice a month for the sangguniang barangay.

(b) When public interest so demands, special sessions may be called by the local chief executive or by a majority of the members of the sanggunian.

(c) All sanggunian sessions shall be open to the public unless a closed-door session is ordered by an affirmative vote of a majority of the members present, there being a quorum, in the public interest or for reasons of security, decency, or morality. No two (2) sessions, regular or special, may be held in a single day.

(d) In the case of special sessions of the sanggunian, a written notice to the members shall be served personally at the member's usual place of residence at least twenty-four (24) hours before the special session is held.

Unless otherwise concurred in by two-thirds (2/3) vote of the sanggunian members present, there being a quorum, no other matters may be considered at a special session except those stated in the notice.

(e) Each sanggunian shall keep a journal and record of its proceedings which may be published upon resolution of the sanggunian concerned.

Section 53. Quorum. -

(a) A majority of all the members of the sanggunian who have been elected and qualified shall constitute a quorum to transact official business. Should a question of quorum be raised during a session, the presiding officer shall immediately proceed to call the roll of the members and thereafter announce the results.

(b) Where there is no quorum, the presiding officer may declare a recess until such time as a quorum is constituted, or a majority of the members present may adjourn from day to day and may compel the immediate attendance of any member absent without justifiable cause by designating a member of the sanggunian to be assisted by a member or members of the police force assigned in the territorial jurisdiction of the local government unit concerned, to arrest the absent member and present him at the session.

(c) If there is still no quorum despite the enforcement of the immediately preceding subsection, no business shall be transacted. The presiding officer, upon proper motion duly approved by the members present, shall then declare the session adjourned for lack of quorum.

Section 54. Approval of Ordinances. -

(a) Every ordinance enacted by the sangguniang panlalawigan, sangguniang panlungsod, or sangguniang bayan shall be presented to the provincial governor or city or municipal mayor, as the case may be. If the local chief executive concerned approves the same, he shall affix his signature on each and every page thereof; otherwise, he shall veto it and return the same with his objections to the sanggunian, which may proceed to reconsider the same. The sanggunian concerned may override the veto of the local chief executive by two-thirds (2/3) vote of all its members, thereby making the ordinance or resolution effective for all legal intents and purposes.

(b) The veto shall be communicated by the local chief executive concerned to the sanggunian within fifteen (15) days in the case of a province, and ten (10) days in the case of a city or a municipality; otherwise, the ordinance shall be deemed approved as if he had signed it.

(c) Ordinances enacted by the sangguniang barangay shall, upon approval by the majority of all its members, be signed by the punong barangay.

Section 55. *Veto Power of the Local Chief Executive.* -

(a) The local chief executive may veto any ordinance of the sanggunian panlalawigan, sangguniang panlungsod, or sanggunian bayan on the ground that it is ultra vires or prejudicial to the public welfare, stating his reasons therefor in writing.

(b) The local chief executive, except the punong barangay, shall have the power to veto any particular item or items of an appropriations ordinance, an ordinance or resolution adopting a local development plan and public investment program, or an ordinance directing the payment of money or creating liability. In such a case, the veto shall not affect the item or items which are not objected to. The vetoed item or items shall not take effect unless the sanggunian overrides the veto in the manner herein provided; otherwise, the item or items in the appropriations ordinance of the previous year corresponding to those vetoed, if any, shall be deemed reenacted.

(c) The local chief executive may veto an ordinance or resolution only once. The sanggunian may override the veto of the local chief executive concerned by two-thirds (2/3) vote of all its members, thereby making the ordinance effective even without the approval of the local chief executive concerned.

Section 56. *Review of Component City and Municipal Ordinances or Resolutions by the Sangguniang Panlalawigan.*

(a) Within three (3) days after approval, the secretary to the sanggunian panlungsod or sangguniang bayan shall forward to the sangguniang panlalawigan for review, copies of approved ordinances and the resolutions approving the local development plans and public investment programs formulated by the local development councils.

(b) Within thirty (30) days after the receipt of copies of such ordinances and resolutions, the sangguniang panlalawigan shall examine the documents or transmit them to the provincial attorney, or if there be none, to the provincial prosecutor for prompt examination. The provincial attorney or provincial prosecutor shall, within a period of ten (10) days from receipt of the documents, inform the sangguniang panlalawigan in writing of his comments or recommendations, which may be considered by the sangguniang panlalawigan in making its decision.

(c) If the sangguniang panlalawigan finds that such an ordinance or resolution is beyond the power conferred upon the sangguniang panlungsod or sangguniang bayan concerned, it shall declare such ordinance or resolution invalid in whole or in part. The sangguniang panlalawigan shall enter its action in the minutes and shall advise the corresponding city or municipal authorities of the action it has taken.

(d) If no action has been taken by the sangguniang panlalawigan within thirty (30) days after submission of such an ordinance or resolution, the same shall be presumed consistent with law and therefore valid.

Section 57. *Review of Barangay Ordinances by the Sangguniang Panlungsod or Sangguniang Bayan.* -

(a) Within ten (10) days after its enactment, the sangguniang barangay shall furnish copies of all barangay ordinances to the sangguniang panlungsod or sangguniang bayan concerned for review as to whether the ordinance is consistent with law and city or municipal ordinances.

(b) If the sangguniang panlungsod or sangguniang bayan, as the case may be, fails to take action on barangay ordinances within thirty (30) days from receipt thereof, the same shall be deemed approved.

(c) If the sangguniang panlungsod or sangguniang bayan, as the case may be, finds the barangay ordinances inconsistent with law or city or municipal ordinances, the sanggunian concerned shall, within thirty (30) days from receipt thereof, return the same with its comments and recommendations to the sangguniang barangay concerned for adjustment, amendment, or modification; in which case, the effectivity of the barangay ordinance is suspended until such time as the revision called for is effected.

Section 58. *Enforcement of Disapproved Ordinances or Resolutions.* - Any attempt to enforce any ordinance or any resolution approving the local development plan and public investment program, after the disapproval thereof, shall be sufficient ground for the suspension or dismissal of the official or employee concerned.

Section 59. *Effectivity of Ordinances or Resolutions.* -

(a) Unless otherwise stated in the ordinance or the resolution approving the local development plan and public investment program, the same shall take effect after ten (10) days from the date a copy thereof is posted in a bulletin board at the entrance of the provincial capitol or city, municipal, or barangay hall, as the case may be, and in at least two (2) other conspicuous places in the local government unit concerned.

(b) The secretary to the sanggunian concerned shall cause the posting of an ordinance or resolution in the bulletin board at the entrance of the provincial capitol and the city, municipal, or barangay hall in at least two (2) conspicuous places in the local government unit concerned not later than five (5) days after approval thereof.

The text of the ordinance or resolution shall be disseminated and posted in Filipino or English and in the language understood by the majority of the people in the local government unit concerned, and the secretary to the sanggunian shall record such fact in a book kept for the purpose, stating the dates of approval and posting.

(c) The gist of all ordinances with penal sanctions shall be published in a newspaper of general circulation within the province where the local legislative body concerned belongs. In the absence of any newspaper of general circulation within the province, posting of such ordinances shall be made in all municipalities and cities of the province where the sanggunian of origin is situated.

(d) In the case of highly urbanized and independent component cities, the main features of the ordinance or resolution duly enacted or adopted shall, in addition to being posted, be published once in a local newspaper of general circulation within the city: Provided, That in the absence thereof the ordinance or resolution shall be published in any newspaper of general circulation.

CHAPTER IV Disciplinary Actions

Section 60. *Grounds for Disciplinary Actions.* - An elective local official may be disciplined, suspended, or removed from office on any of the following grounds:

(a) Disloyalty to the Republic of the Philippines;

(b) Culpable violation of the Constitution;

- (c) Dishonesty, oppression, misconduct in office, gross negligence, or dereliction of duty;
- (d) Commission of any offense involving moral turpitude or an offense punishable by at least prison mayor;
- (e) Abuse of authority;
- (f) Unauthorized absence for fifteen (15) consecutive working days, except in the case of members of the sangguniang panlalawigan, sangguniang panlungsod, sangguniang bayan, and sangguniang barangay;
- (g) Application for, or acquisition of, foreign citizenship or residence or the status of an immigrant of another country; and
- (h) Such other grounds as may be provided in this Code and other laws.

An elective local official may be removed from office on the grounds enumerated above by order of the proper court.

Section 61. *Form and Filing of Administrative Complaints.* - A verified complaint against any erring local elective official shall be prepared as follows:

- (a) A complaint against any elective official of a province, a highly urbanized city, an independent component city or component city shall be filed before the Office of the President;
- (b) A complaint against any elective official of a municipality shall be filed before the sangguniang panlalawigan whose decision may be appealed to the Office of the President; and
- (c) A complaint against any elective barangay official shall be filed before the sangguniang panlungsod or sangguniang bayan concerned whose decision shall be final and executory.

Section 62. *Notice of hearing.* -

- (a) Within seven (7) days after the administrative complaint is filed, the Office of the President or the sanggunian concerned, as the case may be, shall require the respondent to submit his verified answer within fifteen (15) days from receipt thereof, and commence the investigation of the case within ten (10) days after receipt of such answer of the respondent.
- (b) When the respondent is an elective official of a province or highly urbanized city, such hearing and investigation shall be conducted in the place where he renders or holds office. For all other local elective officials, the venue shall be the place where the sanggunian concerned is located.
- (c) However, no investigation shall be held within ninety (90) days immediately prior to any local election, and no preventive suspension shall be imposed within the said period. If preventive suspension has been imposed prior to the 90-day period immediately preceding local election, it shall be deemed automatically lifted upon the start of aforesaid period.

Section 63. *Preventive Suspension.* -

- (a) Preventive suspension may be imposed:

(1) By the President, if the respondent is an elective official of a province, a highly urbanized or an independent component city;

(2) By the governor, if the respondent is an elective official of a component city or municipality; or

(3) By the mayor, if the respondent is an elective official of the barangay.

(b) Preventive suspension may be imposed at any time after the issues are joined, when the evidence of guilt is strong, and given the gravity of the offense, there is great probability that the continuance in office of the respondent could influence the witnesses or pose a threat to the safety and integrity of the records and other evidence: Provided, That, any single preventive suspension of local elective officials shall not extend beyond sixty (60) days: Provided, further, That in the event that several administrative cases are filed against an elective official, he cannot be preventively suspended for more than ninety (90) days within a single year on the same ground or grounds existing and known at the time of the first suspension.

(c) Upon expiration of the preventive suspension, the suspended elective official shall be deemed reinstated in office without prejudice to the continuation of the proceedings against him, which shall be terminated within one hundred twenty (120) days from the time he was formally notified of the case against him. However, if the delay in the proceedings of the case is due to his fault, neglect, or request, other than the appeal duly filed, the duration of such delay shall not be counted in computing the time of termination of the case.

(d) Any abuse of the exercise of the power of preventive suspension shall be penalized as abuse of authority.

Section 64. *Salary of Respondent Pending Suspension.* - The respondent official preventively suspended from office shall receive no salary or compensation during such suspension; but upon subsequent exoneration and reinstatement, he shall be paid full salary or compensation including such emoluments accruing during such suspension.

Section 65. *Rights of Respondent.* - The respondent shall be accorded full opportunity to appear and defend himself in person or by counsel, to confront and cross-examine the witnesses against him, and to require the attendance of witnesses and the production of documentary process of subpoena or subpoena duces tecum.

Section 66. *Form and Notice of Decision.* -

(a) The investigation of the case shall be terminated within ninety (90) days from the start thereof. Within thirty (30) days after the end of the investigation, the Office of the President or the sanggunian concerned shall render a decision in writing stating clearly and distinctly the facts and the reasons for such decision. Copies of said decision shall immediately be furnished the respondent and all interested parties.

(b) The penalty of suspension shall not exceed the unexpired term of the respondent or a period of six (6) months for every administrative offense, nor shall said penalty be a bar to the candidacy of the respondent so suspended as long as he meets the qualifications required for the office.

(c) The penalty of removal from office as a result of an administrative investigation shall be considered a bar to the candidacy of the respondent for any elective position.

Section 67. *Administrative Appeals.* - Decisions in administrative cases may, within thirty (30) days from receipt thereof, be appealed to the following:

- (a) The sangguniang panlalawigan, in the case of decisions of the sangguniang panlungsod of component cities and the sangguniang bayan; and
- (b) The Office of the President, in the case of decisions of the sangguniang panlalawigan and the sangguniang panlungsod of highly urbanized cities and independent component cities.

Decisions of the Office of the President shall be final and executory.

Section 68. *Execution Pending Appeal.* - An appeal shall not prevent a decision from becoming final or executory. The respondent shall be considered as having been placed under preventive suspension during the pendency of an appeal in the event he wins such appeal. In the event the appeal results in an exoneration, he shall be paid his salary and such other emoluments during the pendency of the appeal.

CHAPTER V

Recall

Section 69. *By Whom Exercised.* - The power of recall for loss of confidence shall be exercised by the registered voters of a local government unit to which the local elective official subject to such recall belongs.

Section 70. *Initiation of the Recall Process.* -

(a) Recall may be initiated by a preparatory recall assembly or by the registered voters of the local government unit to which the local elective official subject to such recall belongs.

(b) There shall be a preparatory recall assembly in every province, city, district, and municipality which shall be composed of the following:

- (1) Provincial level. - All mayors, vice-mayors, and sanggunian members of the municipalities and component cities;
- (2) City level. - All punong barangay and sanggunian barangay members in the city;
- (3) Legislative District level. - In case where sangguniang panlalawigan members are elected by district, all elective municipal officials in the district; and in cases where sangguniang panlungsod members are elected by district, all elective barangay officials in the district; and
- (4) Municipal level. - All punong barangay and sangguniang barangay members in the municipality.

(c) A majority of all the preparatory recall assembly members may convene in session in a public place and initiate a recall proceedings against any elective official in the local government unit concerned. Recall of provincial, city, or municipal officials shall be validly initiated through a resolution adopted by a majority of all the members of the preparatory recall assembly concerned during its session called for the purpose.

(d) Recall of any elective provincial, city, municipal, or barangay official may also be validly initiated upon petition of at least twenty-five percent (25%) of the total number of registered voters

in the local government unit concerned during the election in which the local official sought to be recalled was elected.

(1) A written petition for recall duly signed before the election registrar or his representative, and in the presence of a representative of the petitioner and a representative of the official sought to be recalled and, and in a public place in the province, city, municipality, or barangay, as the case may be, shall be filed with the COMELEC through its office in the local government unit concerned. The COMELEC or its duly authorized representative shall cause the publication of the petition in a public and conspicuous place for a period of not less than ten (10) days nor more than twenty (20) days, for the purpose of verifying the authenticity and genuineness of the petition and the required percentage of voters.

(2) Upon the lapse of the aforesaid period, the COMELEC or its duly authorized representative shall announce the acceptance of candidates to the position and thereafter prepare the list of candidates which shall include the name of the official sought to be recalled.

Section 71. *Election on Recall.* - Upon the filing of a valid resolution or petition for recall with the appropriate local office of the COMELEC, the Commission or its duly authorized representative shall set the date of the election on recall, which shall not be later than thirty (30) days after the filing of the resolution or petition for recall in the case of the barangay, city, or municipal officials. and forty-five (45) days in the case of provincial officials. The official or officials sought to be recalled shall automatically be considered as duly registered candidate or candidates to the pertinent positions and, like other candidates, shall be entitled to be voted upon.

Section 72. *Effectivity of Recall.* - The recall of an elective local official shall be effective only upon the election and proclamation of a successor in the person of the candidate receiving the highest number of votes cast during the election on recall. Should the official sought to be recalled receive the highest number of votes, confidence in him is thereby affirmed, and he shall continue in office.

Section 73. *Prohibition from Resignation.* - The elective local official sought to be recalled shall not be allowed to resign while the recall process is in progress.

Section 74. *Limitations on Recall.* -

(a) Any elective local official may be the subject of a recall election only once during his term of office for loss of confidence.

(b) No recall shall take place within one (1) year from the date of the official's assumption to office or one (1) year immediately preceding a regular local election.

Section 75. *Expenses Incident to Recall Elections.* - All expenses incident to recall elections shall be borne by the COMELEC. For this purpose, there shall be included in the annual General Appropriations Act a contingency fund at the disposal of the COMELEC for the conduct of recall elections.

TITLE III. HUMAN RESOURCES AND DEVELOPMENT

Section 76. *Organizational Structure and Staffing Pattern.* - Every local government unit shall design and implement its own organizational structure and staffing pattern taking into consideration its service requirements and financial capability, subject to the minimum standards and guidelines prescribed by the Civil Service Commission.

Section 77. Responsibility for Human Resources and Development. - The chief executive of every local government unit shall be responsible for human resources and development in his unit and shall take all personnel actions in accordance with the Constitutional provisions on civil service, pertinent laws, and rules and regulations thereon, including such policies, guidelines and standards as the Civil Service Commission may establish: Provided, That the local chief executive may employ emergency or casual employees or laborers paid on a daily wage or piecework basis and hired through job orders for local projects authorized by the sanggunian concerned, without need of approval or attestation by the Civil Service Commission: Provided, further, That the period of employment of emergency or casual laborers as provided in this Section shall not exceed six (6) months.

The Joint Commission on Local Government Personnel Administration organized pursuant to Presidential Decree Numbered Eleven Hundred thirty-six (P.D. No. 1136) is hereby abolished and its personnel, records, equipment and other assets transferred to the appropriate office in the Civil Service Commission.

Section 78. Civil Service Law, Rules and Regulations, and Other Related Issuances. - All matters pertinent to human resources and development in local government units shall be governed by the civil service law and such rules and regulations and other issuances promulgated pursuant thereto, unless otherwise specified in this Code.

Section 79. Limitation to Appointments. - No person shall be appointed in the career service of the local government if he is related within the fourth civil degree of consanguinity or affinity to the appointing or recommending authority.

Section 80. Public Notice of Vacancy; Personnel Selection Board. -

(a) Whenever a local executive decides to fill a vacant career position, there shall be posted notices of the vacancy in at least three (3) conspicuous public places in the local government unit concerned for a period of not less than fifteen (15) days.

(b) There shall be established in every province, city or municipality a personnel selection board to assist the local chief executive in the judicious and objective selection or personnel for employment as well as for promotion, and in the formulation of such policies as would contribute to employee welfare.

(c) The personnel selection board shall be headed by the local chief executive, and its members shall be determined by resolution of the sanggunian concerned. A representative of the Civil Service Commission, if any, and the personnel officer of the local government unit concerned shall be ex officio members of the board.

Section 81. Compensation of Local Officials and Employees. - The compensation of local officials and personnel shall be determined by the sanggunian concerned: Provided, That the increase in compensation of elective local officials shall take effect only after the terms of office of those approving such increase shall have expired: Provided, further, That the increase in compensation of the appointive officials and employees shall take effect as provided in the ordinance authorizing such increase: Provided, however, That said increases shall not exceed the limitations on budgetary allocations for personal services provided under Title Five, Book II of this Code: Provided, finally, That such compensation may be based upon the pertinent provisions of Republic Act Numbered Sixty-seven fifty-eight (R.A. No 6758), otherwise known as the "Compensation and Position Classification Act of 1989".

The punong barangay, the sangguniang barangay member, the sangguniang kabataan chairman, the barangay treasurer, and the barangay secretary shall be entitled to such compensation, allowances, emoluments, and such other privileges as provided under Title One Book III of this Code.

Elective local officials shall be entitled to the same leave privileges as those enjoyed by appointive local officials, including the cumulation and commutation thereof.

Section 82. Resignation of Elective Local Officials. -

(a) Resignations by elective local officials shall be deemed effective only upon acceptance by the following authorities:

(1) The President, in the case of governors, vice-governors, and mayors and vice-mayors of highly urbanized cities and independent component cities;

(2) The governor, in the case of municipal mayors, municipal vice-mayors, city mayors and city vice-mayors of component cities;

(3) The sanggunian concerned, in the case of sanggunian members; and

(4) The city or municipal mayor, in the case of barangay officials.

(b) Copies of the resignation letters of elective local officials, together with the action taken by the aforesaid authorities, shall be furnished the Department of the Interior and Local Government.

(c) The resignation shall be deemed accepted if not acted upon by the authority concerned within fifteen (15) days from receipt thereof.

(d) Irrevocable resignations by sanggunian members shall be deemed accepted upon presentation before an open session of the sanggunian concerned and duly entered in its records: Provided, however, That this subsection does not apply to sanggunian members who are subject to recall elections or to cases where existing laws prescribed the manner of acting upon such resignations.

Section 83. Grievance Procedure. - In every local government unit, the local chief executive shall establish a procedure to inquire into, act upon, resolve or settle complaints and grievances presented by local government employees.

Section 84. Administrative Discipline. - Investigation and adjudication of administrative complaints against appointive local officials and employees as well as their suspension and removal shall be in accordance with the civil service law and rules and other pertinent laws. The results of such administrative investigations shall be reported to the Civil Service Commission.

Section 85. Preventive Suspension of Appointive Local Officials and Employees. -

(a) The local chief executives may preventively suspend for a period not exceeding sixty (60) days and subordinate official or employee under his authority pending investigation if the charge against such official or employee involves dishonesty, oppression or grave misconduct or neglect in the performance of duty, or if there is reason to believe that the respondent is guilty of the charges which would warrant his removal from the service.

(b) Upon expiration of the preventive suspension, the suspended official or employee shall be automatically reinstated in office without prejudice to the continuation of the administrative proceedings against him until its termination. If the delay in the proceedings of the case is due to the fault, neglect or request of the respondent, the time of the delay shall not be counted in computing the period of suspension herein provided.

Section 86. *Administrative Investigation.* - In any local government unit, administrative investigation may be conducted by a person or a committee duly authorized by the local chief executive. Said person or committee shall conduct hearings on the cases brought against appointive local officials and employees and submit their findings and recommendations to the local chief executive concerned within fifteen (15) days from the conclusion of the hearings. The administrative cases herein mentioned shall be decided within ninety (90) days from the time the respondent is formally notified of the charges.

Section 87. *Disciplinary Jurisdiction.* - Except as otherwise provided by law, the local chief executive may impose the penalty of removal from service, demotion in rank, suspension for not more than one (1) year without pay, fine in an amount not exceeding six (6) months salary, or reprimand and otherwise discipline subordinate officials and employees under his jurisdiction. If the penalty imposed is suspension without pay for not more than thirty (30) days, his decision shall be final. If the penalty imposed is heavier than suspension of thirty (30) days, the decision shall be appealable to the Civil Service Commission, which shall decide the appeal within thirty (30) days from receipt thereof.

Section 88. *Execution Pending Appeal.* - An appeal shall not prevent the execution of a decision of removal or suspension of a respondent-appellant. In case the respondent-appellant is exonerated, he shall be reinstated to his position with all the rights and privileges appurtenant thereto from the time he had been deprived thereof.

Section 89. *Prohibited Business and Pecuniary Interest.* -

(a) It shall be unlawful for any local government official or employee, directly or indirectly, to:

(1) Engage in any business transaction with the local government unit in which he is an official or employee or over which he has the power of supervision, or with any of its authorized boards, officials, agents, or attorneys, whereby money is to be paid, or property or any other thing of value is to be transferred, directly or indirectly, out of the resources of the local government unit to such person or firm;

(2) Hold such interests in any cockpit or other games licensed by a local government unit;

(3) Purchase any real estate or other property forfeited in favor of such local government unit for unpaid taxes or assessment, or by virtue of a legal process at the instance of the said local government unit;

(4) Be a surety for any person contracting or doing business with the local government unit for which a surety is required; and

(5) Possess or use any public property of the local government unit for private purposes.

(b) All other prohibitions governing the conduct of national public officers relating to prohibited business and pecuniary interest so provided for under Republic Act Numbered Sixty-seven thirteen (R.A. No. 6713) otherwise known as the "Code of Conduct and Ethical Standards for Public Officials and Employees" and other laws shall also be applicable to local government officials and employees.

Section 90. *Practice of Profession.* -

(a) All governors, city and municipal mayors are prohibited from practicing their profession or engaging in any occupation other than the exercise of their functions as local chief executives.

(b) Sanggunian members may practice their professions, engage in any occupation, or teach in schools except during session hours: Provided, That sanggunian members who are also members of the Bar shall not:

(1) Appear as counsel before any court in any civil case wherein a local government unit or any office, agency, or instrumentality of the government is the adverse party;

(2) Appear as counsel in any criminal case wherein an officer or employee of the national or local government is accused of an offense committed in relation to his office.

(3) Collect any fee for their appearance in administrative proceedings involving the local government unit of which he is an official; and

(4) Use property and personnel of the government except when the sanggunian member concerned is defending the interest of the government.

(c) Doctors of medicine may practice their profession even during official hours of work only on occasions of emergency: Provided, That the officials concerned do not derive monetary compensation therefrom.

Section 91. *Statement of Assets and Liabilities.* - (a) Officials and employees of local government units shall file sworn statements of assets, liabilities and net worth, lists of relatives within the fourth civil degree of consanguinity or affinity in government service, financial and business interests, and personnel data sheets as required by law.

Section 92. *Oath of Office.* - (a) All elective and appointive local officials and employees shall, upon assumption to office, subscribe to an oath or affirmation of office in the prescribed form. The oath or affirmation of office shall be filed with the office of the local chief executive concerned. A copy of the oath or affirmation of office of all elective and appointive local officials and employees shall be preserved in the individual personal records file under the custody of the personnel office, division, or section of the local government unit concerned.

Section 93. *Partisan Political Activity.* - No local official or employee in the career civil service shall engage directly or indirectly in any partisan political activity or take part in any election, initiative, referendum, plebiscite, or recall, except to vote, nor shall he use his official authority or influence to cause the performance of any political activity by any person or body. He may, however, express his views on current issues, or mention the names of certain candidates for public office whom he supports. Elective local officials may take part in partisan political and electoral activities, but it shall be unlawful for them to solicit contributions from their subordinates or subject these subordinates to any of the prohibited acts under the Omnibus Election Code.

Section 94. *Appointment of Elective and Appointive Local Officials; Candidates Who Lost in an Election.* - (a) No elective or appointive local official shall be eligible for appointment or designation in any capacity to any public office or position during his tenure.

Unless otherwise allowed by law or by the primary functions of his position, no elective or appointive local official shall hold any other office or employment in the government or any subdivision, agency or instrumentality thereof, including government-owned or controlled corporations or their subsidiaries.

Section 95. *Additional or Double Compensation.* - No elective or appointive local official or employee shall receive additional, double, or indirect compensation, unless specifically authorized by law, nor accept without the consent of Congress, any present, emoluments, office, or title of any kind from any foreign government. Pensions or gratuities shall not be considered as additional, double, or indirect compensation.

Section 96. *Permission to Leave Station.* -

(a) Provincial, city, municipal, and barangay appointive officials going on official travel shall apply and secure written permission from their respective local chief executives before departure. The application shall specify the reasons for such travel, and the permission shall be given or withheld based on considerations of public interest, financial capability of the local government unit concerned and urgency of the travel.

Should the local chief executive concerned fail to act upon such application within four (4) working days from receipt thereof, it shall be deemed approved.

(b) Mayors of component cities and municipalities shall secure the permission of the governor concerned for any travel outside the province.

(c) Local government officials traveling abroad shall notify their respective sanggunian: Provided, That when the period of travel extends to more than three (3) months, during periods of emergency or crisis or when the travel involves the use of public funds, permission from the Office of the President shall be secured.

(d) Field officers of national agencies or offices assigned in provinces, cities, and municipalities shall not leave their official stations without giving prior written notice to the local chief executive concerned. Such notice shall state the duration of travel and the name of the officer whom he shall designate to act for and in his behalf during his absence.

Section 97. *Annual Report.* - On or before March 31 of each year, every local chief executive shall submit an annual report to the sanggunian concerned on the socio-economic, political and peace and order conditions, and other matters concerning the local government unit, which shall cover the immediately preceding calendar year. A copy of the report shall be forwarded to the Department of the Interior and Local Government. Component cities and municipalities shall likewise provide the sangguniang panlalawigan copies of their respective annual reports.

**TITLE IV
LOCAL SCHOOL BOARDS**

Section 98. *Creation, Composition, and Compensation.* -

(a) There shall be established in every province, city, or municipality a provincial, city, or municipal school board, respectively.

(b) The composition of local school boards shall be as follows:

(1) The provincial school board shall be composed of the governor and the division superintendent of schools as co-chairman; the chairman of the education committee of the sangguniang panlalawigan, the provincial treasurer, the representative of the "pederasyon ng mga sangguniang kabataan" in the sangguniang panlalawigan, the duly elected president of the provincial federation of parents-teachers associations, the duly elected representative of the teachers' organizations in the province, and the duly elected representative of the non-academic personnel of public schools in the province, as members;

(2) The city school board shall be composed of the city mayor and the city superintendent of schools as co-chairmen; the chairman of the education committee of the sangguniang panlungsod, the city treasurer, the representative of the "pederasyon ng mga

sangguniang kabataan" in the sangguniang panlungsod, the duly elected president of the city federation of parents- teachers associations, the duly elected representative of the teachers' organizations in the city, and the duly elected representative of the non-academic personnel of public schools in the city, as members; and

(3) The municipal school board shall be composed of the municipal mayor and the district supervisor of schools as co-chairmen; the chairman of the education committee of the sangguniang bayan, the municipal treasurer, the representative of the "pederasyon ng mga sangguniang kabataan" in the sangguniang bayan, the duly elected president of the municipal federation of parent-teacher associations, the duly elected representative of the teachers' organizations in the municipality, and the duly elected representative of the non-academic personnel of public schools in the municipality, as members.

(c) In the event that a province or city has two (2) or more school superintendents, and in the event that a municipality has two (2) or more district supervisors, the co-chairman of the local school board shall be determined as follows:

(1) The Department of Education, Culture and Sports shall designate the co-chairman for the provincial and city school boards; and

(2) The division superintendent of schools shall designate the district supervisor who shall serve as co-chairman of the municipal school board.

(d) The performance of the duties and responsibilities of the abovementioned officials in their respective local school boards shall not be delegated.

Section 99. Functions of Local School Boards. - The provincial, city or municipal school board shall:

(a) Determine, in accordance with the criteria set by the Department of Education, Culture and Sports, the annual supplementary budgetary needs for the operation and maintenance of public schools within the province, city, or municipality, as the case may be, and the supplementary local cost of meeting such as needs, which shall be reflected in the form of an annual school board budget corresponding to its share of the proceeds of the special levy on real property constituting the Special Education Fund and such other sources of revenue as this Code and other laws or ordinances may provide;

(b) Authorize the provincial, city or municipal treasurer, as the case may be, to disburse funds from the Special Education Fund pursuant to the budget prepared and in accordance with existing rules and regulations;

(c) Serve as an advisory committee to the sanggunian concerned on educational matters such as, but not limited to, the necessity for and the uses of local appropriations for educational purposes; and

(d) Recommend changes in the names of public schools within the territorial jurisdiction of the local government unit for enactment by the sanggunian concerned.

The Department of Education, Culture and Sports shall consult the local school board on the appointment of division superintendents, district supervisors, school principals, and other school officials.

Section 100. Meetings and Quorum; Budget. -

(a) The local school board shall meet at least once a month or as often as may be necessary.

(b) Any of the co-chairmen may call a meeting. A majority of all its members shall constitute a quorum. However, when both co-chairmen are present in a meeting, the local chief executive concerned, as a matter of protocol, shall be given preference to preside over the meeting. The division superintendent, city superintendent or district supervisor, as the case may be, shall prepare the budget of the school board concerned. Such budget shall be supported by programs, projects, and activities of the school board for the ensuing fiscal year. The affirmative vote of the majority of all the members shall be necessary to approve the budget.

(c) The annual school board budget shall give priority to the following:

- (1) Construction, repair, and maintenance of school buildings and other facilities of public elementary and secondary schools;
- (2) Establishment and maintenance of extension classes where necessary; and
- (3) Sports activities at the division, district, municipal, and barangay levels.

Section 101. Compensation and Remuneration. - The co-chairmen and members of the provincial, city or municipal school board shall perform their duties as such without compensation or remuneration. Members thereof who are not government officials or employees shall be entitled to necessary traveling expenses and allowances chargeable against the funds of the local school board concerned, subject to existing accounting and auditing rules and regulations.

TITLE V LOCAL HEALTH BOARDS

Section 102. Creation and Composition. -

(a) There shall be established a local health board in every province, city, or municipality. The composition of the local health boards shall be as follows:

- (1) The provincial health board shall be headed by the governor as chairman, the provincial health officer as vice-chairman, and the chairman of the committee on health of the sangguniang panlalawigan, a representative from the private sector or non-governmental organizations involved in health services, and a representative of the Department of Health in the province, as members;
- (2) The city health board shall be headed by the city mayor as chairman, the city health officer as vice-chairman, and the chairman of the committee on health of the sangguniang panlungsod, a representative from the private sector or non-governmental organizations involved in health services, and a representative of the Department of Health in the city, as members; and
- (3) The municipal health board shall be headed by the municipal mayor as chairman, the municipal health officer as vice-chairman, and the chairman of the committee on health of the sangguniang bayan, a representative from the private sector or non-governmental organizations involved in health services, and a representative of the Department of Health in the municipality, as members.

(b) The functions of the local health board shall be:

- (1) To propose to the sanggunian concerned, in accordance with standards and criteria set by the Department of Health, annual budgetary allocations for the operation and

maintenance of health facilities and services within the municipality, city or province, as the case may be;

(2) To serve as an advisory committee to the sanggunian concerned on health matters such as, but not limited to, the necessity for, and application of local appropriations for public health purposes; and

(3) Consistent with the technical and administrative standards of the Department of Health, create committees which shall advise local health agencies on matters such as, but not limited to, personnel selection and promotion, bids and awards, grievance and complaints, personnel discipline, budget review, operations review and similar functions.

Section 103. Meetings and Quorum. -

(a) The board shall meet at least once a month or as may be necessary.

(b) A majority of the members of the board shall constitute a quorum, but the chairman or the vice- chairman must be present during meetings where budgetary proposals are being prepared or considered. The affirmative vote of all the majority of the members shall be necessary to approve such proposals.

Section 104. Compensation and Remuneration. - The chairman, vice-chairman, and members of the provincial, city or municipal health board shall perform their duties as such without compensation or remuneration. Members thereof who are not government officials or employees shall be entitled to necessary traveling expenses and allowances chargeable against the funds of the local health board concerned, subject to existing accounting and auditing rules and regulations.

Section 105. Direct National Supervision and Control by the Secretary of Health. - In cases of epidemics, pestilence, and other widespread public health dangers, the Secretary of Health may, upon the direction of the President and in consultation with the local government unit concerned, temporarily assume direct supervision and control over health operations in any local government unit for the duration of the emergency, but in no case exceeding a cumulative period of six (6) months. With the concurrence of the government unit concerned, the period for such direct national control and supervision may be further extended.

**TITLE VI
LOCAL DEVELOPMENT COUNCILS**

Section 106. Local Development Councils. - (a) Each local government unit shall have a comprehensive multi-sectoral development plan to be initiated by its development council and approved by its sanggunian. For this purpose, the development council at the provincial, city, municipal, or barangay level, shall assist the corresponding sanggunian in setting the direction of economic and social development, and coordinating development efforts within its territorial jurisdiction.

Section 107. Composition of Local Development Councils. - The composition of the local development council shall be as follows:

(1) Members of the sangguniang barangay;

(2) Representatives of non-governmental organizations operating in the barangay who shall constitute not less than one fourth (¼) of the members of the fully organized council;

(3) A representative of the congressman.

(b) The city or municipal development council shall be headed by the mayor and shall be composed of the following members:

(1) All punong barangays in the city or municipality;

(2) The chairman of the committee on appropriations of the sangguniang panlungsod or sangguniang bayan concerned;

(3) The congressman or his representative; and

(4) Representatives of non-governmental organizations operating in the city or municipality, as the case may be, who shall constitute not less than one-fourth (¼) of the members of the fully organized council.

(c) The provincial development council shall be headed by the governor and shall be composed of the following members:

(1) All mayors of component cities and municipalities;

(2) The chairman of the committee on appropriations of the sangguniang panlalawigan;

(3) The congressman or his representative; and

(4) Representatives of non-governmental organizations operating in the province, who shall constitute not less than one-fourth (¼) of the members of the fully organized council.

(d) The local development councils may call upon any local official concerned or any official of national agencies or offices in the local government unit to assist in the formulation of their respective development plans and public investment programs.

Section 108. Representation of Non-governmental Organizations. - Within a period of sixty (60) days from the start of organization of local development councils, the non-governmental organizations shall choose from among themselves their representatives to said councils. The local sanggunian concerned shall accredit non-governmental organizations subject to such criteria as may be provided by law.

Section 109. Functions of Local Development Councils. -

(a) The provincial, city, and municipal development councils shall exercise the following functions:

(1) Formulate long-term, medium-term, and annual socio-economic development plans and policies;

(2) Formulate the medium-term and annual public investment programs;

(3) Appraise and prioritize socio-economic development programs and projects;

(4) Formulate local investment incentives to promote the inflow and direction of private investment capital;

(5) Coordinate, monitor, and evaluate the implementation of development programs and projects; and

(6) Perform such other functions as may be provided by law or component authority.

(b) The barangay development council shall exercise the following functions:

(1) Mobilize people's participation in local development efforts;

(2) Prepare barangay development plans based on local requirements;

(3) Monitor and evaluate the implementation of national or local programs and projects;
and

(4) Perform such other functions as may be provided by law or competent authority.

Section 110. *Meetings and Quorum.* - The local development council shall meet at least once every six (6) months or as often as may be necessary.

Section 111. *Executive Committee.* - The local development council shall create an executive committee to represent it and act in its behalf when it is not in session. The composition of the executive committee shall be as follows:

(1) The executive committee of the provincial development council shall be composed of the governor as chairman, the representative of component city and municipal mayors to be chosen from among themselves, the chairman of the committee on appropriations of the sangguniang panlalawigan, the president of the provincial league of barangays, and a representative of non-governmental organizations that are represented in the council, as members;

(2) The executive committee of the city or municipal development council shall be composed of the mayor as chairman, the chairman of the committee on appropriations of the sangguniang panlalawigan, the president of the city or municipal league of barangays, and a representative of non-governmental organizations that are represented in the council, as members; and

(3) The executive committee of the barangay development council shall be composed of the punong barangay as chairman, a representative of the sangguniang barangay to be chosen from among its members, and a representative of non-governmental organizations that are represented in the council, as members.

(b) The executive committee shall exercise the following powers and functions:

(1) Ensure that the decision of the council are faithfully carried out and implemented;

(2) Act on matters requiring immediate attention or action by the council;

(3) Formulate policies, plans, and programs based on the general principles laid down by the council; and

(4) Act on other matters that may be authorized by the council.

Section 112. *Sectoral or Functional Committees.* - The local development councils may form sectoral or functional committees to assist them in the performance of their functions.

Section 113. Secretariat. - There is hereby constituted for each local development council a secretariat which shall be responsible for providing technical support, documentation of proceedings, preparation of reports and such other assistance as may be required in the discharge of its functions. The local development council may avail of the services of any non-governmental organization or educational or research institution for this purpose.

The secretariats of the provincial, city, and municipal development councils shall be headed by their respective planning and development coordinators. The secretariat of the barangay development council shall be headed by the barangay secretary who shall be assisted by the city or municipal planning and development coordinator concerned.

Section 114. Relation of Local Development Councils to the Sanggunian and the Regional Development Council. -

(a) The policies, programs, and projects proposed by local development councils shall be submitted to the sanggunian concerned for appropriate action.

(b) The approved development plans of provinces, highly-urbanized cities, and independent component cities shall be submitted to the regional development council, which shall be integrated into the regional development plan for submission to the National Economic and Development Authority, in accordance with existing laws.

Section 115. Budget Information. - The Department of Budget and Management shall furnish the various local development councils information on financial resources and budgetary allocations applicable to their respective jurisdictions to guide them in their planning functions.

TITLE VII LOCAL PEACE AND ORDER COUNCIL

Section 116. Organization. - There is hereby established in every province, city and municipality a local peace and order council, pursuant to Executive Order Numbered Three hundred nine (E.O. No. 309), as amended, Series of 1988. The local peace and order councils shall have the same composition and functions as those prescribed by said executive order.

TITLE VIII AUTONOMOUS SPECIAL ECONOMIC ZONES

Section 117. Establishment of Autonomous Special Economic Zones. - The establishment by law of autonomous special economic zones in selected areas of the country shall be subject to concurrence by the local government units included therein.

TITLE IX OTHER PROVISIONS APPLICABLE TO LOCAL GOVERNMENT UNITS

CHAPTER Settlement of Boundary Disputes

Section 118. Jurisdictional Responsibility for Settlement of Boundary Dispute. - Boundary disputes between and among local government units shall, as much as possible, be settled amicably. To this end:

(a) Boundary disputes involving two (2) or more barangays in the same city or municipality shall be referred for settlement to the sangguniang panlungsod or sangguniang bayan concerned.

(b) Boundary disputes involving two (2) or more municipalities within the same province shall be referred for settlement to the sangguniang panlalawigan concerned.

(c) Boundary disputes involving municipalities or component cities of different provinces shall be jointly referred for settlement to the sanggunians of the province concerned.

(d) Boundary disputes involving a component city or municipality on the one hand and a highly urbanized city on the other, or two (2) or more highly urbanized cities, shall be jointly referred for settlement to the respective sanggunians of the parties.

(e) In the event the sanggunian fails to effect an amicable settlement within sixty (60) days from the date the dispute was referred thereto, it shall issue a certification to that effect. Thereafter, the dispute shall be formally tried by the sanggunian concerned which shall decide the issue within sixty (60) days from the date of the certification referred to above.

Section 119. *Appeal.* - Within the time and manner prescribed by the Rules of Court, any party may elevate the decision of the sanggunian concerned to the proper Regional Trial Court having jurisdiction over the area in dispute. The Regional Trial Court shall decide the appeal within one (1) year from the filing thereof. Pending final resolution of the disputed area prior to the dispute shall be maintained and continued for all legal purposes.

CHAPTER II

Local Initiative and Referendum

Section 120. *Local Initiative Defined.* - Local initiative is the legal process whereby the registered voters of a local government unit may directly propose, enact, or amend any ordinance.

Section 121. *Who May Exercise.* - The power of local initiative and referendum may be exercised by all registered voters of the provinces, cities, municipalities, and barangays.

Section 122. *Procedure in Local Initiative.* -

(a) Not less than one thousand (1,000) registered voters in case of provinces and cities, one hundred (100) in case of municipalities, and fifty (50) in case of barangays, may file a petition with the sanggunian concerned proposing the adoption, enactment, repeal, or amendment of an ordinance.

(b) If no favorable action thereon is taken by the sanggunian concerned within thirty (30) days from its presentation, the proponents, through their duly authorized and registered representatives, may invoke their power of initiative, giving notice thereof to the sanggunian concerned.

(c) The proposition shall be numbered serially starting from Roman numeral I. The COMELEC or its designated representative shall extend assistance in the formulation of the proposition.

(d) Two (2) or more propositions may be submitted in an initiative.

(e) Proponents shall have ninety (90) days in case of provinces and cities, sixty (60) days in case of municipalities, and thirty (30) days in case of barangays, from notice mentioned in subsection (b) hereof to collect the required number of signatures. (f) The petition shall be signed before the election registrar, or his designated representatives, in the presence of a representative of the proponent, and a representative of the sanggunian concerned in a public place in the local

government unit, as the case may be. Stations for collecting signatures may be established in as many places as may be warranted.

(g) Upon the lapse of the period herein provided, the COMELEC, through its office in the local government unit concerned, shall certify as to whether or not the required number of signatures has been obtained. Failure to obtain the required number defeats the proposition.

(h) If the required number of signatures is obtained, the COMELEC shall then set a date for the initiative during which the proposition shall be submitted to the registered voters in the local government unit concerned for their approval within sixty (60) days from the date of certification by the COMELEC, as provided in subsection (g) hereof, in case of provinces and cities, forty-five (45) days in case of municipalities, and thirty (30) days in case of barangays. The initiative shall then be held on the date set, after which the results thereof shall be certified and proclaimed by the COMELEC.

Section 123. Effectivity of Local Propositions. - If the proposition is approved by a majority of the votes cast, it shall take effect fifteen (15) days after certification by the COMELEC as if affirmative action thereon had been made by the sanggunian and local chief executive concerned. If it fails to obtain said number of votes, the proposition is considered defeated.

Section 124. Limitations on Local Initiative. -

(a) The power of local initiative shall not be exercised more than once a year.

(b) Initiative shall extend only to subjects or matters which are within the legal powers of the sanggunian to enact.

(c) If at any time before the initiative is held, the sanggunian concerned adopts in toto the proposition presented and the local chief executive approves the same, the initiative shall be cancelled. However, those against such action may, if they so desire, apply for initiative in the manner herein provided.

Section 125. Limitations upon Sanggunians. - Any proposition or ordinance approved through the system of initiative and referendum as herein provided shall not be repealed, modified or amended by the sanggunian concerned within six (6) months from the date of the approval thereof, and may be amended, modified or repealed by the sanggunian within three (3) years thereafter by a vote of three-fourths (3/4) of all its members: Provided, That in case of barangays, the period shall be eighteen (18) months after the approval thereof.

Section 126. Local Referendum Defined. - Local referendum is the legal process whereby the registered voters of the local government units may approve, amend or reject any ordinance enacted by the sanggunian.

The local referendum shall be held under the control and direction of the COMELEC within sixty (60) days in case of provinces and cities, forty-five (45) days in case of municipalities and thirty (30) days in case of barangays.

The COMELEC shall certify and proclaim the results of the said referendum.

Section 127. Authority of Courts. - Nothing in this Chapter shall prevent or preclude the proper courts from declaring null and void any proposition approved pursuant to this Chapter for violation of the Constitution or want of capacity of the sanggunian concerned to enact the said measure.

**BOOK II
LOCAL TAXATION AND FISCAL MATTERS**

**TITLE I
LOCAL GOVERNMENT TAXATION**

**CHAPTER I
General Provisions**

Section 128. Scope. - The provisions herein shall govern the exercise by provinces, cities, municipalities, and barangays of their taxing and other revenue-raising powers.

Section 129. Power to Create Sources of Revenue. - Each local government unit shall exercise its power to create its own sources of revenue and to levy taxes, fees, and charges subject to the provisions herein, consistent with the basic policy of local autonomy. Such taxes, fees, and charges shall accrue exclusively to the local government units.

Section 130. Fundamental Principles. - The following fundamental principles shall govern the exercise of the taxing and other revenue-raising powers of local government units:

- (a) Taxation shall be uniform in each local government unit;
- (b) Taxes, fees, charges and other impositions shall:
 - (1) be equitable and based as far as practicable on the taxpayer's ability to pay;
 - (2) be levied and collected only for public purposes;
 - (3) not be unjust, excessive, oppressive, or confiscatory;
 - (4) not be contrary to law, public policy, national economic policy, or in the restraint of trade;
- (c) The collection of local taxes, fees, charges and other impositions shall in no case be let to any private person;
- (d) The revenue collected pursuant to the provisions of this Code shall inure solely to the benefit of, and be subject to the disposition by, the local government unit levying the tax, fee, charge or other imposition unless otherwise specifically provided herein; and,
- (e) Each local government unit shall, as far as practicable, evolve a progressive system of taxation.

Section 131. Definition of Terms. - When used in this Title, the term:

- (a) "Agricultural Product" includes the yield of the soil, such as corn, rice, wheat, rye, hay, coconuts, sugarcane, tobacco, root crops, vegetables, fruits, flowers, and their by-products; ordinary salt; all kinds of fish; poultry; and livestock and animal products, whether in their original form or not.

The phrase "whether in their original form or not" refers to the transformation of said products by the farmer, fisherman, producer or owner through the application of processes to preserve or

otherwise to prepare said products for market such as freezing, drying, salting, smoking, or stripping for purposes of preserving or otherwise preparing said products for market;

(b) "Amusement" is a pleasurable diversion and entertainment. It is synonymous to relaxation, avocation, pastime, or fun;

(c) "Amusement Places" include theaters, cinemas, concert halls, circuses and other places of amusement where one seeks admission to entertain oneself by seeing or viewing the show or performances;

(d) "Business" means trade or commercial activity regularly engaged in as a means of livelihood or with a view to profit;

(e) "Banks and other financial institutions" include non-bank financial intermediaries, lending investors, finance and investment companies, pawnshops, money shops, insurance companies, stock markets, stock brokers and dealers in securities and foreign exchange, as defined under applicable laws, or rules and regulations thereunder;

(f) "Capital Investment" is the capital which a person employs in any undertaking, or which he contributes to the capital of a partnership, corporation, or any other juridical entity or association in a particular taxing jurisdiction;

(g) "Charges" refers to pecuniary liability, as rents or fees against persons or property;

(h) "Contractor" includes persons, natural or juridical, not subject to professional tax under Section 139 of this Code, whose activity consists essentially of the sale of all kinds of services for a fee, regardless of whether or not the performance of the service calls for the exercise or use of the physical or mental faculties of such contractor or his employees.

As used in this Section, the term "contractor" shall include general engineering, general building and specialty contractors as defined under applicable laws; filling, demolition and salvage works contractors; proprietors or operators of mine drilling apparatus; proprietors or operators of dockyards; persons engaged in the installation of water system, and gas or electric light, heat, or power; proprietors or operators of smelting plants, engraving, plating, and plastic lamination establishments; proprietors or operators of establishments for repairing, repainting, upholstering, washing or greasing of vehicles, heavy equipment, vulcanizing, recapping and battery charging; proprietors or operators of furniture shops and establishments for planing or surfacing and recutting of lumber, and sawmills under contract to saw or cut logs belonging to others; proprietors or operators of dry cleaning or dyeing establishments, steam laundries, and laundries using washing machines; proprietors or owners of shops for the repair of any kind of mechanical and electrical devices, instruments, apparatus, or furniture and shoe repairing by machine or any mechanical contrivance; proprietors or operators of establishments or lots for parking purposes; proprietors or operators of tailor shops, dress shops, milliners and hatters, beauty parlors, barbershops, massage clinics, sauna, Turkish and Swedish baths, slenderizing and building salons and similar establishments; photographic studios; funeral parlors; proprietors or operators of hotels, motels, and lodging houses; proprietors or operators of arrastre and stevedoring, warehousing, or forwarding establishments; master plumbers, smiths, and house or sign painters; printers, bookbinders, lithographers; publishers except those engaged in the publication or printing of any newspaper, magazine, review or bulletin which appears at regular intervals with fixed prices for subscription and sale and which is not devoted principally to the publication and advertisements; business agents, private detective or watchman agencies, commercial and immigration brokers, and cinematographic film owners, lessors and distributors.

(i) "Corporation" includes partnerships, no matter how created or organized, joint-stock companies, joint accounts (cuentas en participacion), associations or insurance companies but does not include general professional partnerships and a joint venture or consortium formed for the purpose of undertaking construction projects or engaging in petroleum, coal, geothermal, and other energy operations pursuant to an operating or consortium agreement under a service contract with the government. General professional partnership are partnerships formed by persons for the sole purpose of exercising their common profession, no part of the income of which is derived from engaging in any trade or business.

The term "resident foreign" when applied to a corporation means a foreign corporation not otherwise organized under the laws of the Philippines but engaged in trade or business within the Philippines;

(j) "Countryside and Barangay Business Enterprise" refers to any business entity, association, or cooperative registered under the provisions of Republic Act Numbered Sixty-eight hundred ten (R.A. No. 6810), otherwise known as "Magna Carta For Countryside And Barangay Business Enterprises (Kalakalan 20)";

(k) "Dealer" means one whose business is to buy and sell merchandise, goods, and chattels as a merchant. He stands immediately between the producer or manufacturer and the consumer and depends for his profit not upon the labor he bestows upon his commodities but upon the skill and foresight with which he watches the market;

(l) "Fee" means a charge fixed by law or ordinance for the regulation or inspection of a business or activity;

(m) "Franchise" is a right or privilege, affected with public interest which is conferred upon private persons or corporations, under such terms and conditions as the government and its political subdivisions may impose in the interest of public welfare, security, and safety;

(n) "Gross Sales or Receipts" include the total amount of money or its equivalent representing the contract price, compensation or service fee, including the amount charged or materials supplied with the services and deposits or advance payments actually or constructively received during the taxable quarter for the services performed or to be performed for another person excluding discounts if determinable at the time of sales, sales return, excise tax, and value-added tax (VAT);

(o) "Manufacturer" includes every person who, by physical or chemical process, alters the exterior texture or form or inner substance of any raw material or manufactured or partially manufactured product in such manner as to have been put in its original condition, or who by any such process alters the quality of any such raw material or manufactured or partially manufactured products so as to reduce it to marketable shape or prepare it for any of the use of industry, or who by any such process combines any such raw material or manufactured or partially manufactured products with other materials or products of the same or of different kinds and in such manner that the finished products of such process or manufacture can be put to a special use or uses to which such raw material or manufactured or partially manufactured products in their original condition could not have been put, and who in addition alters such raw material or manufactured or partially manufactured products, or combines the same to produce such finished products for the purpose of their sale or distribution to others and not for his own use or consumption;

(p) "Marginal Farmer or Fisherman" refers to an individual engaged in subsistence farming or fishing which shall be limited to the sale, barter or exchange of agricultural or marine products produced by himself and his immediate family;

(q) "Motor Vehicle" means any vehicle propelled by any power other than muscular power using the public roads, but excluding road rollers, trolley cars, street-sweepers, sprinklers, lawn mowers, bulldozers, graders, fork-lifts, amphibian trucks, and cranes if not used on public roads, vehicles which run only on rails or tracks, and tractors, trailers, and traction engines of all kinds used exclusively for agricultural purposes;

(r) "Municipal Waters" includes not only streams, lakes, and tidal waters within the municipality, not being the subject of private ownership and not comprised within the national parks, public forest, timber lands, forest reserves or fishery reserves, but also marine waters included between two lines drawn perpendicularly to the general coastline from points where the boundary lines of the municipality or city touch the sea at low tide and a third line parallel with the general coastline and fifteen (15) kilometers from it. Where two (2) municipalities are so situated on the opposite shores that there is less than fifteen (15) kilometers of marine waters between them, the third line shall be equally distant from opposite shores of their respective municipalities;

(s) "Operator" includes the owner, manager, administrator, or any other person who operates or is responsible for the operation of a business establishment or undertaking;

(t) "Peddler" means any person who, either for himself or on commission, travels from place to place and sells his goods or offers to sell and deliver the same. Whether a peddler is a wholesale peddler or a retail peddler of a particular commodity shall be determined from the definition of wholesale dealer or retail dealer as provided in this Title;

(u) "Persons" means every natural or juridical being, susceptible of rights and obligations or of being the subject of legal relations;

(v) "Residents" refer to natural persons who have their habitual residence in the province, city, or municipality where they exercise their civil rights and fulfill their civil obligations, and to juridical persons for which the law or any other provisions creating or recognizing them fixes their residence in a particular province, city, or municipality. In the absence of such law, juridical persons are residents of the province, city, or municipality where they have their legal residence or principal place of business or where they conduct their principal business or occupation;

(w) "Retail" means a sale where the purchaser buys the commodity for his own consumption, irrespective of the quantity of the commodity sold;

(x) "Vessel" includes every type of boat, craft, or other artificial contrivance used, or capable of being used, as a means of transportation on water;

(y) "Wharfage" means a fee assessed against the cargo of a vessel engaged in foreign or domestic trade based on quantity, weight, or measure received and/or discharged by vessel; and

(z) "Wholesale" means a sale where the purchaser buys or imports the commodities for resale to persons other than the end user regardless of the quantity of the transaction.

Section 132. Local Taxing Authority. - The power to impose a tax, fee, or charge or to generate revenue under this Code shall be exercised by the sanggunian of the local government unit concerned through an appropriate ordinance.

Section 133. Common Limitations on the Taxing Powers of Local Government Units. - Unless otherwise provided herein, the exercise of the taxing powers of provinces, cities, municipalities, and barangays shall not extend to the levy of the following:

- (a) Income tax, except when levied on banks and other financial institutions;
- (b) Documentary stamp tax;
- (c) Taxes on estates, inheritance, gifts, legacies and other acquisitions mortis causa, except as otherwise provided herein;
- (d) Customs duties, registration fees of vessel and wharfage on wharves, tonnage dues, and all other kinds of customs fees, charges and dues except wharfage on wharves constructed and maintained by the local government unit concerned;
- (e) Taxes, fees, and charges and other impositions upon goods carried into or out of, or passing through, the territorial jurisdictions of local government units in the guise of charges for wharfage, tolls for bridges or otherwise, or other taxes, fees, or charges in any form whatsoever upon such goods or merchandise;
- (f) Taxes, fees or charges on agricultural and aquatic products when sold by marginal farmers or fishermen;
- (g) Taxes on business enterprises certified to by the Board of Investments as pioneer or non-pioneer for a period of six (6) and four (4) years, respectively from the date of registration;
- (h) Excise taxes on articles enumerated under the national Internal Revenue Code, as amended, and taxes, fees or charges on petroleum products;
- (i) Percentage or value-added tax (VAT) on sales, barter or exchanges or similar transactions on goods or services except as otherwise provided herein;
- (j) Taxes on the gross receipts of transportation contractors and persons engaged in the transportation of passengers or freight by hire and common carriers by air, land or water, except as provided in this Code;
- (k) Taxes on premiums paid by way of reinsurance or retrocession;
- (l) Taxes, fees or charges for the registration of motor vehicles and for the issuance of all kinds of licenses or permits for the driving thereof, except tricycles;
- (m) Taxes, fees, or other charges on Philippine products actually exported, except as otherwise provided herein;
- (n) Taxes, fees, or charges, on Countryside and Barangay Business Enterprises and cooperatives duly registered under R.A. No. 6810 and Republic Act Numbered Sixty-nine hundred thirty-eight (R.A. No. 6938) otherwise known as the "Cooperative Code of the Philippines" respectively; and
- (o) Taxes, fees or charges of any kind on the National Government, its agencies and instrumentalities, and local government units.

CHAPTER II
Specific Provisions on the Taxing and Other Revenue-Raising Powers of Local Government Units

ARTICLE I

Provinces

Section 134. *Scope of Taxing Powers.* - Except as otherwise provided in this Code, the province may levy only the taxes, fees, and charges as provided in this Article.

Section 135. *Tax on Transfer of Real Property Ownership.*

(a) The province may impose a tax on the sale, donation, barter, or on any other mode of transferring ownership or title of real property at the rate of not more than fifty percent (50%) of the one percent (1%) of the total consideration involved in the acquisition of the property or of the fair market value in case the monetary consideration involved in the transfer is not substantial, whichever is higher. The sale, transfer or other disposition of real property pursuant to R.A. No. 6657 shall be exempt from this tax.

(b) For this purpose, the Register of Deeds of the province concerned shall, before registering any deed, require the presentation of the evidence of payment of this tax. The provincial assessor shall likewise make the same requirement before cancelling an old tax declaration and issuing a new one in place thereof, Notaries public shall furnish the provincial treasurer with a copy of any deed transferring ownership or title to any real property within thirty (30) days from the date of notarization.

It shall be the duty of the seller, donor, transferor, executor or administrator to pay the tax herein imposed within sixty (60) days from the date of the execution of the deed or from the date of the decedent's death.

Section 136. *Tax on Business of Printing and Publication.* - The province may impose a tax on the business of persons engaged in the printing and/or publication of books, cards, posters, leaflets, handbills, certificates, receipts, pamphlets, and others of similar nature, at a rate not exceeding fifty percent (50%) of one percent (1%) of the gross annual receipts for the preceding calendar year.

In the case of a newly started business, the tax shall not exceed one-twentieth (1/20) of one percent (1%) of the capital investment. In the succeeding calendar year, regardless of when the business started to operate, the tax shall be based on the gross receipts for the preceding calendar year, or any fraction thereof, as provided herein.

The receipts from the printing and/or publishing of books or other reading materials prescribed by the Department of Education, Culture and Sports as school texts or references shall be exempt from the tax herein imposed.

Section 137. *Franchise Tax.* - Notwithstanding any exemption granted by any law or other special law, the province may impose a tax on businesses enjoying a franchise, at the rate not exceeding fifty percent (50%) of one percent (1%) of the gross annual receipts for the preceding calendar year based on the incoming receipt, or realized, within its territorial jurisdiction.

In the case of a newly started business, the tax shall not exceed one-twentieth (1/20) of one percent (1%) of the capital investment. In the succeeding calendar year, regardless of when the business started to operate, the tax shall be based on the gross receipts for the preceding calendar year, or any fraction thereon, as provided herein.

Section 138. *Tax on Sand, Gravel and Other Quarry Resources.* - The province may levy and collect not more than ten percent (10%) of fair market value in the locality per cubic meter of ordinary stones, sand, gravel, earth, and other quarry resources, as defined under the National Internal Revenue Code, as amended, extracted from public lands or from the beds of seas, lakes, rivers, streams, creeks, and other public waters within its territorial jurisdiction.

The permit to extract sand, gravel and other quarry resources shall be issued exclusively by the provincial governor, pursuant to the ordinance of the sangguniang panlalawigan.

The proceeds of the tax on sand, gravel and other quarry resources shall be distributed as follows:

- (1) Province - Thirty percent (30%);
- (2) Component City or Municipality where the sand, gravel, and other quarry resources are extracted - Thirty percent (30%); and
- (3) Barangay where the sand, gravel, and other quarry resources are extracted - Forty percent (40%).

Section 139. Professional Tax. -

(a) The province may levy an annual professional tax on each person engaged in the exercise or practice of his profession requiring government examination at such amount and reasonable classification as the sangguniang panlalawigan may determine but shall in no case exceed Three hundred pesos (P300.00).

(b) Every person legally authorized to practice his profession shall pay the professional tax to the province where he practices his profession or where he maintains his principal office in case he practices his profession in several places: Provided, however, That such person who has paid the corresponding professional tax shall be entitled to practice his profession in any part of the Philippines without being subjected to any other national or local tax, license, or fee for the practice of such profession.

(c) Any individual or corporation employing a person subject to professional tax shall require payment by that person of the tax on his profession before employment and annually thereafter.

(d) The professional tax shall be payable annually, on or before the thirty-first (31st) day of January. Any person first beginning to practice a profession after the month of January must, however, pay the full tax before engaging therein. A line of profession does not become exempt even if conducted with some other profession for which the tax has been paid. Professionals exclusively employed in the government shall be exempt from the payment of this tax.

(e) Any person subject to the professional tax shall write in deeds, receipts, prescriptions, reports, books of account, plans and designs, surveys and maps, as the case may be, the number of the official receipt issued to him.

Section 140. Amusement Tax. -

(a) The province may levy an amusement tax to be collected from the proprietors, lessees, or operators of theaters, cinemas, concert halls, circuses, boxing stadia, and other places of amusement at a rate of not more than thirty percent (30%) of the gross receipts from admission fees.

(b) In the case of theaters or cinemas, the tax shall first be deducted and withheld by their proprietors, lessees, or operators and paid to the provincial treasurer before the gross receipts are divided between said proprietors, lessees, or operators and the distributors of the cinematographic films.

(c) The holding of operas, concerts, dramas, recitals, painting and art exhibitions, flower shows, musical programs, literary and oratorical presentations, except pop, rock, or similar concerts shall be exempt from the payment of the tax hereon imposed.

(d) The sangguniang panlalawigan may prescribe the time, manner, terms and conditions for the payment of tax. In case of fraud or failure to pay the tax, the sangguniang panlalawigan may impose such surcharges, interest and penalties as it may deem appropriate.

(e) The proceeds from the amusement tax shall be shared equally by the province and the municipality where such amusement places are located.

Section 141. Annual Fixed Tax For Every Delivery Truck or Van of Manufacturers or Producers, Wholesalers of, Dealers, or Retailers in, Certain Products. -

(a) The province may levy an annual fixed tax for every truck, van or any vehicle used by manufacturers, producers, wholesalers, dealers or retailers in the delivery or distribution of distilled spirits, fermented liquors, soft drinks, cigars and cigarettes, and other products as may be determined by the sangguniang panlalawigan, to sales outlets, or consumers, whether directly or indirectly, within the province in an amount not exceeding Five hundred pesos (P500.00).

(b) The manufacturers, producers, wholesalers, dealers and retailers referred to in the immediately foregoing paragraph shall be exempt from the tax on peddlers prescribed elsewhere in this Code.

**ARTICLE II
Municipalities**

Section 142. Scope of Taxing Powers. - Except as otherwise provided in this Code, municipalities may levy taxes, fees, and charges not otherwise levied by provinces.

Section 143. Tax on Business. - The municipality may impose taxes on the following businesses:

(a) On manufacturers, assemblers, repackers, processors, brewers, distillers, rectifiers, and compounders of liquors, distilled spirits, and wines or manufacturers of any article of commerce of whatever kind or nature, in accordance with the following schedule:

With gross sales or receipts for the preceding calendar year in the amount of:	Amount of Tax Per Annum
Less than 10,000.00	165.00
P 10,000.00 or more but less than 15,000.00	220.00
15,000.00 or more but less than 20,000.00	202.00
20,000.00 or more but less than 30,000.00	440.00
30,000.00 or more but less than 40,000.00	660.00
40,000.00 or more but less than 50,000.00	825.00
50,000.00 or more but less than 75,000.00	1,320.00
75,000.00 or more but less than 100,000.00	1,650.00
100,000.00 or more but less than 150,000.00	2,200.00

150,000.00 or more but less than 200,000.00	2,750.00
200,000.00 or more but less than 300,000.00	3,850.00
300,000.00 or more but less than 500,000.00	5,500.00
500,000.00 or more but less than 750,000.00	8,000.00
750,000.00 or more but less than 1,000,000.00	10,000.00
1,000,000.00 or more but less than 2,000,000.00	13,750.00
2,000,000.00 or more but less than 3,000,000.00	16,500.00
3,000,000.00 or more but less than 4,000,000.00	19,000.00
4,000,000.00 or more but less than 5,000,000.00	23,100.00
5,000,000.00 or more but less than 6,500,000.00	24,375.00
6,000,000.00 or more at a rate not exceeding thirty-seven and a half percent (37½%) of one percent (1%)	

(b) On wholesalers, distributors, or dealers in any article of commerce of whatever kind or nature in accordance with the following schedule:

With gross sales or receipts for the preceding calendar year in the amount of:	Amount of Tax Per Annum
Less than 1,000.00	18.00
P 1,000.00 or more but less than 2,000.00	33.00
2,000.00 or more but less than 3,000.00	50.00
3,000.00 or more but less than 4,000.00	72.00
4,000.00 or more but less than 5,000.00	100.00
5,000.00 or more but less than 6,000.00	121.00
6,000.00 or more but less than 7,000.00	143.00
7,000.00 or more but less than 8,000.00	165.00
8,000.00 or more but less than 10,000.00	187.00
10,000.00 or more but less than 15,000.00	220.00
15,000.00 or more but less than 20,000.00	275.00
20,000.00 or more but less than 30,000.00	330.00
30,000.00 or more but less than 40,000.00	440.00
40,000.00 or more but less than 50,000.00	660.00
50,000.00 or more but less than 75,000.00	990.00
75,000.00 or more but less than 100,000.00	1,320.00
100,000.00 or more but less than 150,000.00	1,870.00
150,000.00 or more but less than 200,000.00	2,420.00

200,000.00 or more but less than 300,000.00	3,300.00
300,000.00 or more but less than 500,000.00	4,400.00
500,000.00 or more but less than 750,000.00	6,600.00
750,000.00 or more but less than 1,000,000.00	8,800.00
1,000,000.00 or more but less than 2,000,000.00	10,000.00
2,000,000.00 or more at a rate not exceeding fifty percent (50%) of one percent (1%).	

(c) On exporters, and on manufacturers, millers, producers, wholesalers, distributors, dealers or retailers of essential commodities enumerated hereunder at a rate not exceeding one-half (½) of the rates prescribed under subsection (a), (b) and (d) of this Section:

- (1) Rice and corn;
- (2) Wheat or cassava flour, meat, dairy products, locally manufactured, processed or preserved food, sugar, salt and other agricultural, marine, and fresh water products, whether in their original state or not;
- (3) Cooking oil and cooking gas;
- (4) Laundry soap, detergents, and medicine;
- (5) Agricultural implements, equipment and post-harvest facilities, fertilizers, pesticides, insecticides, herbicides and other farm inputs;
- (6) Poultry feeds and other animal feeds;
- (7) School supplies; and
- (8) Cement.

(d) On retailers.

With gross sales or receipts for the preceding calendar year in the amount of:	Rate of Tax Per Annum
P400,000.00 or less	2%
more than P400,000.00	1%

Provided, however, That barangays shall have the exclusive power to levy taxes, as provided under Section 152 hereof, on gross sales or receipts of the preceding calendar year of Fifty thousand pesos (P50,000.00) or less, in the case of cities, and Thirty thousand pesos (P30,000.00) or less, in the case of municipalities.

(e) On contractors and other independent contractors, in accordance with the following schedule:

With gross sales or receipts for the preceding calendar year in the amount of:	Amount of Tax Per Annum
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Less than 5,000.00	27.50
P 5,000.00 or more but less than P 10,000.00	61.60
10,000.00 or more but less than 15,000.00	104.50
15,000.00 or more but less than 20,000.00	165.00
20,000.00 or more but less than 30,000.00	275.00
30,000.00 or more but less than 40,000.00	385.00
40,000.00 or more but less than 50,000.00	550.00
50,000.00 or more but less than 75,000.00	880.00
75,000.00 or more but less than 100,000.00	1,320.00
100,000.00 or more but less than 150,000.00	1,980.00
150,000.00 or more but less than 200,000.00	2,640.00
200,000.00 or more but less than 250,000.00	3,630.00
250,000.00 or more but less than 300,000.00	4,620.00
300,000.00 or more but less than 400,000.00	6,160.00
400,000.00 or more but less than 500,000.00	8,250.00
500,000.00 or more but less than 750,000.00	9,250.00
750,000.00 or more but less than 1,000,000.00	10,250.00
1,000,000.00 or more but less than 2,000,000.00	11,500.00
2,000,000.00 or more at a rate not exceeding fifty percent (50%) of one percent (1%)	

(f) On banks and other financial institutions, at a rate not exceeding fifty percent (50%) of one percent (1%) on the gross receipts of the preceding calendar year derived from interest, commissions and discounts from lending activities, income from financial leasing, dividends, rentals on property and profit from exchange or sale of property, insurance premium.

(g) On peddlers engaged in the sale of any merchandise or article of commerce, at a rate not exceeding Fifty pesos (P50.00) per peddler annually.

(h) On any business, not otherwise specified in the preceding paragraphs, which the sanggunian concerned may deem proper to tax: Provided, That on any business subject to the excise, value-added or percentage tax under the National Internal Revenue Code, as amended, the rate of tax shall not exceed two percent (2%) of gross sales or receipts of the preceding calendar year.

The sanggunian concerned may prescribe a schedule of graduated tax rates but in no case to exceed the rates prescribed herein.

Section 144. *Rates of Tax within the Metropolitan Manila Area.* - The municipalities within the Metropolitan Manila Area may levy taxes at rates which shall not exceed by fifty percent (50%) the maximum rates prescribed in the preceding Section.

Section 145. *Retirement of Business.* - A business subject to tax pursuant to the preceding sections shall, upon termination thereof, submit a sworn statement of its gross sales or receipts for the current

year. If the tax paid during the year be less than the tax due on said gross sales or receipts of the current year, the difference shall be paid before the business is considered officially retired.

Section 146. *Payment of Business Taxes.* -

(a) The taxes imposed under Section 143 shall be payable for every separate or distinct establishment or place where business subject to the tax is conducted and one line of business does not become exempt by being conducted with some other business for which such tax has been paid. The tax on a business must be paid by the person conducting the same.

(b) In cases where a person conducts or operates two (2) or more of the businesses mentioned in Section 143 of this Code which are subject to the same rate of tax, the tax shall be computed on the combined total gross sales or receipts of the said two (2) or more related businesses.

(c) In cases where a person conducts or operates two (2) or more businesses mentioned in Section 143 of this Code which are subject to different rates of tax, the gross sales or receipts of each business shall be separately reported for the purpose of computing the tax due from each business.

Section 147. *Fees and Charges.* - The municipality may impose and collect such reasonable fees and charges on business and occupation and, except as reserved to the province in Section 139 of this Code, on the practice of any profession or calling, commensurate with the cost of regulation, inspection and licensing before any person may engage in such business or occupation, or practice such profession or calling.

Section 148. *Fees for Sealing and Licensing of Weights and Measures.* -

(a) The municipality may levy fees for the sealing and licensing of weights and measures at such reasonable rates as shall be prescribed by the sangguniang bayan.

(b) The sangguniang bayan shall prescribe the necessary regulations for the use of such weights and measures, subject to such guidelines as shall be prescribed by the Department of Science and Technology. The sanggunian concerned shall, by appropriate ordinance, penalize fraudulent practices and unlawful possession or use of instruments of weights and measures and prescribe the criminal penalty therefor in accordance with the provisions of this Code. Provided, however, That the sanggunian concerned may authorize the municipal treasurer to settle an offense not involving the commission of fraud before a case therefor is filed in court, upon payment of a compromise penalty of not less than Two hundred pesos (P200.00).

Section 149. *Fishery Rentals, Fees and Charges.* -

(a) Municipalities shall have the exclusive authority to grant fishery privileges in the municipal waters and impose rentals, fees or charges therefor in accordance with the provisions of this Section.

(b) The sangguniang bayan may:

(1) Grant fishery privileges to erect fish corrals, oysters, mussels or other aquatic beds or bangus fry areas, within a definite zone of the municipal waters, as determined by it: Provided, however, That duly registered organizations and cooperatives of marginal fishermen shall have the preferential right to such fishery privileges: Provided, further, That the sangguniang bayan may require a public bidding in conformity with and pursuant to an ordinance for the grant of such privileges: Provided, finally, That in the absence of

such organizations and cooperatives or their failure to exercise their preferential right, other parties may participate in the public bidding in conformity with the above cited procedure.

(2) Grant the privilege to gather, take or catch bangus fry, prawn fry or kawag-kawag or fry of other species and fish from the municipal waters by nets, traps or other fishing gears to marginal fishermen free of any rental, fee, charge or any other imposition whatsoever.

(3) Issue licenses for the operation of fishing vessels of three (3) tons or less for which purpose the sangguniang bayan shall promulgate rules and regulations regarding the issuances of such licenses to qualified applicants under existing laws.

Provided, however, That the sanggunian concerned shall, by appropriate ordinance, penalize the use of explosives, noxious or poisonous substances, electricity, muro-ami, and other deleterious methods of fishing and prescribe a criminal penalty therefor in accordance with the provisions of this Code: Provided, finally, That the sanggunian concerned shall have the authority to prosecute any violation of the provisions of applicable fishery laws.

Section 150. Situs of the Tax. -

(a) For purposes of collection of the taxes under Section 143 of this Code, manufacturers, assemblers, repackers, brewers, distillers, rectifiers and compounders of liquor, distilled spirits and wines, millers, producers, exporters, wholesalers, distributors, dealers, contractors, banks and other financial institutions, and other businesses, maintaining or operating branch or sales outlet elsewhere shall record the sale in the branch or sales outlet making the sale or transaction, and the tax thereon shall accrue and shall be paid to the municipality where such branch or sales outlet is located. In cases where there is no such branch or sales outlet in the city or municipality where the sale or transaction is made, the sale shall be duly recorded in the principal office and the taxes due shall accrue and shall be paid to such city or municipality.

(b) The following sales allocation shall apply to manufacturers, assemblers, contractors, producers, and exporters with factories, project offices, plants, and plantations in the pursuit of their business:

(1) Thirty percent (30%) of all sales recorded in the principal office shall be taxable by the city or municipality where the principal office is located; and

(2) Seventy percent (70%) of all sales recorded in the principal office shall be taxable by the city or municipality where the factory, project office, plant, or plantation is located.

(c) In case of a plantation located at a place other than the place where the factory is located, said seventy percent (70%) mentioned in subparagraph (b) of subsection (2) above shall be divided as follows:

(1) Sixty percent (60%) to the city or municipality where the factory is located; and

(2) Forty percent (40%) to the city or municipality where the plantation is located.

(d) In cases where a manufacturer, assembler, producer, exporter or contractor has two (2) or more factories, project offices, plants, or plantations located in different localities, the seventy percent (70%) sales allocation mentioned in subparagraph (b) of subsection (2) above shall be

prorated among the localities where the factories, project offices, plants, and plantations are located in proportion to their respective volumes of production during the period for which the tax is due.

(e) The foregoing sales allocation shall be applied irrespective of whether or not sales are made in the locality where the factory, project office, plant, or plantation is located.

ARTICLE III

Cities

Section 151. *Scope of Taxing Powers.* - Except as otherwise provided in this Code, the city, may levy the taxes, fees, and charges which the province or municipality may impose: Provided, however, That the taxes, fees and charges levied and collected by highly urbanized and independent component cities shall accrue to them and distributed in accordance with the provisions of this Code.

The rates of taxes that the city may levy may exceed the maximum rates allowed for the province or municipality by not more than fifty percent (50%) except the rates of professional and amusement taxes.

ARTICLE IV

Barangays

Section 152. *Scope of Taxing Powers.* - The barangays may levy taxes, fees, and charges, as provided in this Article, which shall exclusively accrue to them:

(a) Taxes - On stores or retailers with fixed business establishments with gross sales of receipts of the preceding calendar year of Fifty thousand pesos (P50,000.00) or less, in the case of cities and Thirty thousand pesos (P30,000.00) or less, in the case of municipalities, at a rate not exceeding one percent (1%) on such gross sales or receipts.

(b) Service Fees or Charges. - Barangays may collect reasonable fees or charges for services rendered in connection with the regulations or the use of barangay-owned properties or service facilities such as palay, copra, or tobacco dryers.

(c) Barangay Clearance. - No city or municipality may issue any license or permit for any business or activity unless a clearance is first obtained from the barangay where such business or activity is located or conducted. For such clearance, the sangguniang barangay may impose a reasonable fee. The application for clearance shall be acted upon within seven (7) working days from the filing thereof. In the event that the clearance is not issued within the said period, the city or municipality may issue the said license or permit.

(d) Other fees and Charges. - The barangay may levy reasonable fees and charges:

(1) On commercial breeding of fighting cocks, cockfights and cockpits;

(2) On places of recreation which charge admission fees; and

(3) On billboards, signboards, neon signs, and outdoor advertisements.

ARTICLE V

Common Revenue-Raising Powers

Section 153. *Service Fees and Charges.* - Local government units may impose and collect such reasonable fees and charges for services rendered.

Section 154. *Public Utility Charges.* - Local government units may fix the rates for the operation of public utilities owned, operated and maintained by them within their jurisdiction.

Section 155. *Toll Fees or Charges.* - The sanggunian concerned may prescribe the terms and conditions and fix the rates for the imposition of toll fees or charges for the use of any public road, pier, or wharf, waterway, bridge, ferry or telecommunication system funded and constructed by the local government unit concerned: Provided, That no such toll fees or charges shall be collected from officers and enlisted men of the Armed Forces of the Philippines and members of the Philippine National Police on mission, post office personnel delivering mail, physically-handicapped, and disabled citizens who are sixty-five (65) years or older.

When public safety and welfare so requires, the sanggunian concerned may discontinue the collection of the tolls, and thereafter the said facility shall be free and open for public use.

ARTICLE VI

Community Tax

Section 156. *Community Tax.* - Cities or municipalities may levy a community tax in accordance with the provisions of this Article.

Section 157. *Individuals Liable to Community Tax.* - Every inhabitant of the Philippines eighteen (18) years of age or over who has been regularly employed on a wage or salary basis for at least thirty (30) consecutive working days during any calendar year, or who is engaged in business or occupation, or who owns real property with an aggregate assessed value of One thousand pesos (P1,000.00) or more, or who is required by law to file an income tax return shall pay an annual additional tax of Five pesos (P5.00) and an annual additional tax of One peso (P1.00) for every One thousand pesos (P1,000.00) of income regardless of whether from business, exercise of profession or from property which in no case shall exceed Five thousand pesos (P5,000.00).

In the case of husband and wife, the additional tax herein imposed shall be based upon the total property owned by them and the total gross receipts or earnings derived by them.

Section 158. *Juridical Persons Liable to Community Tax.* - Every corporation no matter how created or organized, whether domestic or resident foreign, engaged in or doing business in the Philippines shall pay an annual community tax of Five hundred pesos (P500.00) and an annual additional tax, which, in no case, shall exceed Ten thousand pesos (P10,000.00) in accordance with the following schedule:

- (1) For every Five thousand pesos (P5,000.00) worth of real property in the Philippines owned by it during the preceding year based on the valuation used for the payment of real property tax under existing laws, found in the assessment rolls of the city or municipality where the real property is situated - Two pesos (P2.00); and
- (2) For every Five thousand pesos (P5,000.00) of gross receipts or earnings derived by it from its business in the Philippines during the preceding year - Two pesos (P2.00).

The dividends received by a corporation from another corporation however shall, for the purpose of the additional tax, be considered as part of the gross receipts or earnings of said corporation.

Section 159. *Exemptions.* - The following are exempt from the community tax:

- (1) Diplomatic and consular representatives; and
- (2) Transient visitors when their stay in the Philippines does not exceed three (3) months.

Section 160. *Place of Payment.* - The community tax shall be paid in the place of residence of the individual, or in the place where the principal office of the juridical entity is located.

Section 161. *Time for Payment; Penalties for Delinquency.* -

(a) The community tax shall accrue on the first (1st) day of January of each year which shall be paid not later than the last day of February of each year. If a person reaches the age of eighteen (18) years or otherwise loses the benefit of exemption on or before the last day of June, he shall be liable for the community tax on the day he reaches such age or upon the day the exemption ends. However, if a person reaches the age of eighteen (18) years or loses the benefit of exemption on or before the last day of March, he shall have twenty (20) days to pay the community tax without becoming delinquent.

Persons who come to reside in the Philippines or reach the age of eighteen (18) years on or after the first (1st) day of July of any year, or who cease to belong to an exempt class or after the same date, shall not be subject to the community tax for that year.

(b) Corporations established and organized on or before the last day of June shall be liable for the community tax for that year. But corporations established and organized on or before the last day of March shall have twenty (20) days within which to pay the community tax without becoming delinquent. Corporations established and organized on or after the first day of July shall not be subject to the community tax for that year.

If the tax is not paid within the time prescribed above, there shall be added to the unpaid amount an interest of twenty-four percent (24%) per annum from the due date until it is paid.

Section 162. *Community Tax Certificate.* - A community tax certificate shall be issued to every person or corporation upon payment of the community tax. A community tax certificate may also be issued to any person or corporation not subject to the community tax upon payment of One peso (P1.00).

Section 163. *Presentation of Community Tax Certificate On Certain Occasions.* -

(a) When an individual subject to the community tax acknowledges any document before a notary public, takes the oath of office upon election or appointment to any position in the government service; receives any license, certificate, or permit from any public authority; pays any tax or fee; receives any money from any public fund; transacts other official business; or receives any salary or wage from any person or corporation with whom such transaction is made or business done or from whom any salary or wage is received to require such individual to exhibit the community tax certificate.

The presentation of community tax certificate shall not be required in connection with the registration of a voter.

(b) When, through its authorized officers, any corporation subject to the community tax receives any license, certificate, or permit from any public authority, pays any tax or fee, receives money from public funds, or transacts other official business, it shall be the duty of the public official with whom such transaction is made or business done, to require such corporation to exhibit the community tax certificate.

(c) The community tax certificate required in the two preceding paragraphs shall be the one issued for the current year, except for the period from January until the fifteenth (15th) of April each year, in which case, the certificate issued for the preceding year shall suffice.

Section 164. *Printing of Community Tax Certificates and Distribution of Proceeds.* -

(a) The Bureau of Internal Revenue shall cause the printing of community tax certificates and distribute the same to the cities and municipalities through the city and municipal treasurers in accordance with prescribed regulations.

The proceeds of the tax shall accrue to the general funds of the cities, municipalities and barangays except a portion thereof which shall accrue to the general fund of the national government to cover the actual cost of printing and distribution of the forms and other related expenses. The city or municipal treasurer concerned shall remit to the national treasurer the said share of the national government in the proceeds of the tax within ten (10) days after the end of each quarter.

(b) The city or municipal treasurer shall deputize the barangay treasurer to collect the community tax in their respective jurisdictions: Provided, however, That said barangay treasurer shall be bonded in accordance with existing laws.

(c) The proceeds of the community tax actually and directly collected by the city or municipal treasurer shall accrue entirely to the general fund of the city or municipality concerned. However, proceeds of the community tax collected through the barangay treasurers shall be apportioned as follows:

- (1) Fifty percent (50%) shall accrue to the general fund of the city or municipality concerned; and
- (2) Fifty percent (50%) shall accrue to the barangay where the tax is collected.

**CHAPTER
Collection of Taxes**

III

Section 165. *Tax Period and Manner of Payment.* - Unless otherwise provided in this Code, the tax period of all local taxes, fees and charges shall be the calendar year. Such taxes, fees and charges may be paid in quarterly installments.

Section 166. *Accrual of Tax.* - Unless otherwise provided in this Code, all local taxes, fees, and charges shall accrue on the first (1st) day of January of each year. However, new taxes, fees or charges, or changes in the rates thereof, shall accrue on the first (1st) day of the quarter next following the effectivity of the ordinance imposing such new levies or rates.

Section 167. *Time of Payment.* - Unless otherwise provided in this Code, all local taxes, fees, and charges shall be paid within the first twenty (20) days of January or of each subsequent quarter, as the case may be. The sanggunian concerned may, for a justifiable reason or cause, extend the time for payment of such taxes, fees, or charges without surcharges or penalties, but only for a period not exceeding six (6) months.

Section 168. *Surcharges and Penalties on Unpaid Taxes, Fees, or Charges.* - The sanggunian may impose a surcharge not exceeding twenty-five (25%) of the amount of taxes, fees or charges not paid on time and an interest at the rate not exceeding two percent (2%) per month of the unpaid taxes, fees or charges including surcharges, until such amount is fully paid but in no case shall the total thirty-six (36%) months.

Section 169. *Interests on Other Unpaid Revenues.* - Where the amount of any other revenue due a local government unit, except voluntary contributions or donations, is not paid on the date fixed in the

ordinance, or in the contract, expressed or implied, or upon the occurrence of the event which has given rise to its collection, there shall be collected as part of that amount an interest thereon at the rate not exceeding two percent (2%) per month from the date it is due until it is paid, but in no case shall the total interest on the unpaid amount or a portion thereof exceed thirty-six (36) months.

Section 170. *Collection of Local Revenue by Treasurer.* - All local taxes, fees, and charges shall be collected by the provincial, city, municipal, or barangay treasurer, or their duly authorized deputies.

The provincial, city or municipal treasurer may designate the barangay treasurer as his deputy to collect local taxes, fees, or charges. In case a bond is required for the purpose, the provincial, city or municipal government shall pay the premiums thereon in addition to the premiums of bond that may be required under this Code.

Section 171. *Examination of Books of Accounts and Pertinent Records of Businessmen by Local Treasurer.* - The provincial, city, municipal or barangay treasurer may, by himself or through any of his deputies duly authorized in writing, examine the books, accounts, and other pertinent records of any person, partnership, corporation, or association subject to local taxes, fees and charges in order to ascertain, assess, and collect the correct amount of the tax, fee, or charge. Such examination shall be made during regular business hours, only once for every tax period, and shall be certified to by the examining official. Such certificate shall be made of record in the books of accounts of the taxpayer examined.

In case the examination herein authorized is made by a duly authorized deputy of the local treasurer, the written authority of the deputy concerned shall specifically state the name, address, and business of the taxpayer whose books, accounts, and pertinent records are to be examined, the date and place of such examination and the procedure to be followed in conducting the same.

For this purpose, the records of the revenue district office of the Bureau of Internal Revenue shall be made available to the local treasurer, his deputy or duly authorized representative.

CHAPTER IV

Civil Remedies for Collection of Revenues

Section 172. *Application of Chapter.* - The provisions of this Chapter and the remedies provided hereon may be availed of for the collection of any delinquent local tax, fee, charge, or other revenue.

Section 173. *Local Government's Lien.* - Local taxes, fees, charges and other revenues constitute a lien, superior to all liens, charges or encumbrances in favor of any person, enforceable by appropriate administrative or judicial action, not only upon any property or rights therein which may be subject to the lien but also upon property used in business, occupation, practice of profession or calling, or exercise of privilege with respect to which the lien is imposed. The lien may only be extinguished upon full payment of the delinquent local taxes fees and charges including related surcharges and interest.

Section 174. *Civil Remedies.* - The civil remedies for the collection of local taxes, fees, or charges, and related surcharges and interest resulting from delinquency shall be:

(a) By administrative action thru distraint of goods, chattels, or effects, and other personal property of whatever character, including stocks and other securities, debts, credits, bank accounts, and interest in and rights to personal property, and by levy upon real property and interest in or rights to real property;

(b) By judicial action.

Either of these remedies or all may be pursued concurrently or simultaneously at the discretion of the local government unit concerned.

Section 175. *Distrain of Personal Property.* - The remedy by distraint shall proceed as follows:

(a) Seizure - Upon failure of the person owing any local tax, fee, or charge to pay the same at the time required, the local treasurer or his deputy may, upon written notice, seize or confiscate any personal property belonging to that person or any personal property subject to the lien in sufficient quantity to satisfy the tax, fee, or charge in question, together with any increment thereto incident to delinquency and the expenses of seizure. In such case, the local treasurer or his deputy shall issue a duly authenticated certificate based upon the records of his office showing the fact of delinquency and the amounts of the tax, fee, or charge and penalty due. Such certificate shall serve as sufficient warrant for the distraint of personal property aforementioned, subject to the taxpayer's right to claim exemption under the provisions of existing laws. Distrained personal property shall be sold at public auction in the manner hereon provided for.

(b) Accounting of distrained goods. - The officer executing the distraint shall make or cause to be made an account of the goods, chattels or effects distrained, a copy of which signed by himself shall be left either with the owner or person from whose possession the goods, chattels or effects are taken, or at the dwelling or place or business of that person and with someone of suitable age and discretion, to which list shall be added a statement of the sum demanded and a note of the time and place of sale.

(c) Publication - The officer shall forthwith cause a notification to be exhibited in not less than three (3) public and conspicuous places in the territory of the local government unit where the distraint is made, specifying the time and place of sale, and the articles distrained. The time of sale shall not be less than twenty (20) days after the notice to the owner or possessor of the property as above specified and the publication or posting of the notice. One place for the posting of the notice shall be at the office of the chief executive of the local government unit in which the property is distrained.

(d) Release of distrained property upon payment prior to sale - If at any time prior to the consummation of the sale, all the proper charges are paid to the officer conducting the sale, the goods or effects distrained shall be restored to the owner.

(e) Procedure of sale - At the time and place fixed in the notice, the officer conducting the sale shall sell the goods or effects so distrained at public auction to the highest bidder for cash. Within five (5) days after the sale, the local treasurer shall make a report of the proceedings in writing to the local chief executive concerned.

Should the property distrained be not disposed of within one hundred and twenty (120) days from the date of distraint, the same shall be considered as sold to the local government unit concerned for the amount of the assessment made thereon by the Committee on Appraisal and to the extent of the same amount, the tax delinquencies shall be cancelled.

Said Committee on Appraisal shall be composed of the city or municipal treasurer as chairman, with a representative of the Commission on Audit and the city or municipal assessor as members.

(f) Disposition of proceeds - The proceeds of the sale shall be applied to satisfy the tax, including the surcharges, interest, and other penalties incident to delinquency, and the expenses of the distraint and sale. The balance over and above what is required to pay the entire claim shall be returned to the owner of the property sold. The expenses chargeable upon the seizure and sale shall embrace only the actual expenses of seizure and preservation of the property pending the sale, and no charge shall be imposed for the services of the local officer or his deputy. Where the

proceeds of the sale are insufficient to satisfy the claim, other property may, in like manner, be distrained until the full amount due, including all expenses, is collected.

Section 176. Levy on Real Property. - After the expiration of the time required to pay the delinquent tax, fee, or charge, real property may be levied on before, simultaneously, or after the distraint of personal property belonging to the delinquent taxpayer. To this end, the provincial, city or municipal treasurer, as the case may be, shall prepare a duly authenticated certificate showing the name of the taxpayer and the amount of the tax, fee, or charge, and penalty due from him. Said certificate shall operate with the force of a legal execution throughout the Philippines. Levy shall be effected by writing upon said certificate the description of the property upon which levy is made. At the same time, written notice of the levy shall be mailed to or served upon the assessor and the Register of Deeds of the province or city where the property is located who shall annotate the levy on the tax declaration and certificate of title of the property, respectively, and the delinquent taxpayer or, if he be absent from the Philippines, to his agent or the manager of the business in respect to which the liability arose, or if there be none, to the occupant of the property in question.

In case the levy on real property is not issued before or simultaneously with the warrant of distraint on personal property, and the personal property of the taxpayer is not sufficient to satisfy his delinquency, the provincial, city or municipal treasurer, as the case may be, shall within thirty (30) days after execution of the distraint, proceed with the levy on the taxpayer's real property.

A report on any levy shall, within ten (10) days after receipt of the warrant, be submitted by the levying officer to the sanggunian concerned.

Section 177. Penalty for Failure to Issue and Execute Warrant. - Without prejudice to criminal prosecution under the Revised Penal Code and other applicable laws, any local treasurer who fails to issue or execute the warrant of distraint or levy after the expiration of the time prescribed, or who is found guilty of abusing the exercise thereof by competent authority shall be automatically dismissed from the service after due notice and hearing.

Section 178. Advertisement and Sale. - Within thirty (30) days after the levy, the local treasurer shall proceed to publicly advertise for sale or auction the property or a usable portion thereof as may be necessary to satisfy the claim and cost of sale; and such advertisement shall cover a period of at least thirty (30) days. It shall be effected by posting a notice at the main entrance of the municipal building or city hall, and in a public and conspicuous place in the barangay where the real property is located, and by publication once a week for three (3) weeks in a newspaper of general circulation in the province, city or municipality where the property is located. The advertisement shall contain the amount of taxes, fees or charges, and penalties due thereon, and the time and place of sale, the name of the taxpayer against whom the taxes, fees, or charges are levied, and a short description of the property to be sold. At any time before the date fixed for the sale, the taxpayer may stay they proceedings by paying the taxes, fees, charges, penalties and interests. If he fails to do so, the sale shall proceed and shall be held either at the main entrance of the provincial, city or municipal building, or on the property to be sold, or at any other place as determined by the local treasurer conducting the sale and specified in the notice of sale.

Within thirty (30) days after the sale, the local treasurer or his deputy shall make a report of the sale to the sanggunian concerned, and which shall form part of his records. After consultation with the sanggunian, the local treasurer shall make and deliver to the purchaser a certificate of sale, showing the proceeding of the sale, describing the property sold, stating the name of the purchaser and setting out the exact amount of all taxes, fees, charges, and related surcharges, interests, or penalties: Provided, however, That any excess in the proceeds of the sale over the claim and cost of sales shall be turned over to the owner of the property.

The local treasurer may, by ordinance duly approved, advance an amount sufficient to defray the costs of collection by means of the remedies provided for in this Title, including the preservation or transportation

in case of personal property, and the advertisement and subsequent sale, in cases of personal and real property including improvements thereon.

Section 179. *Redemption of Property Sold.* - Within one (1) year from the date of sale, the delinquent taxpayer or his representative shall have the right to redeem the property upon payment to the local treasurer of the total amount of taxes, fees, or charges, and related surcharges, interests or penalties from the date of delinquency to the date of sale, plus interest of not more than two percent (2%) per month on the purchase price from the date of purchase to the date of redemption. Such payment shall invalidate the certificate of sale issued to the purchaser and the owner shall be entitled to a certificate of redemption from the provincial, city or municipal treasurer or his deputy.

The provincial, city or municipal treasurer or his deputy, upon surrender by the purchaser of the certificate of sale previously issued to him, shall forthwith return to the latter the entire purchase price paid by him plus the interest of not more than two percent (2%) per month herein provided for, the portion of the cost of sale and other legitimate expenses incurred by him, and said property thereafter shall be free from the lien of such taxes, fees, or charges, related surcharges, interests, and penalties.

The owner shall not, however, be deprived of the possession of said property and shall be entitled to the rentals and other income thereof until the expiration of the time allowed for its redemption.

Section 180. *Final Deed to Purchaser.* - In case the taxpayer fails to redeem the property as provided herein, the local treasurer shall execute a deed conveying to the purchaser so much of the property as has been sold, free from liens of any taxes, fees, charges, related surcharges, interests, and penalties. The deed shall succinctly recite all the proceedings upon which the validity of the sale depends.

Section 181. *Purchase of Property By the Local Government Units for Want of Bidder.* - In case there is no bidder for the real property advertised for sale as provided herein, or if the highest bid is for an amount insufficient to pay the taxes, fees, or charges, related surcharges, interests, penalties and costs, the local treasurer conducting the sale shall purchase the property in behalf of the local government unit concerned to satisfy the claim and within two (2) days thereafter shall make a report of his proceedings which shall be reflected upon the records of his office. It shall be the duty of the Registrar of Deeds concerned upon registration with his office of any such declaration of forfeiture to transfer the title of the forfeited property to the local government unit concerned without the necessity of an order from a competent court.

Within one (1) year from the date of such forfeiture, the taxpayer or any of his representative, may redeem the property by paying to the local treasurer the full amount of the taxes, fees, charges, and related surcharges, interests, or penalties, and the costs of sale. If the property is not redeemed as provided herein, the ownership thereof shall be fully vested on the local government unit concerned.

Section 182. *Resale of Real Estate Taken for Taxes, Fees, or Charges.* - The sanggunian concerned may, by ordinance duly approved, and upon notice of not less than twenty (20) days, sell and dispose of the real property acquired under the preceding section at public auction. The proceeds of the sale shall accrue to the general fund of the local government unit concerned.

Section 183. *Collection of Delinquent Taxes, Fees, Charges or other Revenues through Judicial Action.* - The local government unit concerned may enforce the collection of delinquent taxes, fees, charges or other revenues by civil action in any court of competent jurisdiction. The civil action shall be filed by the local treasurer within the period prescribed in Section 194 of this Code.

Section 184. *Further Distraint or Levy.* - The remedies by distraint and levy may be repeated if necessary until the full amount due, including all expenses, is collected.

Section 185. *Personal Property Exempt from Distraint or Levy.* - The following property shall be exempt from distraint and the levy, attachment or execution thereof for delinquency in the payment of any local tax, fee or charge, including the related surcharge and interest:

- (a) Tools and implements necessarily used by the delinquent taxpayer in his trade or employment;
- (b) One (1) horse, cow, carabao, or other beast of burden, such as the delinquent taxpayer may select, and necessarily used by him in his ordinary occupation;
- (c) His necessary clothing, and that of all his family;
- (d) Household furniture and utensils necessary for housekeeping and used for that purpose by the delinquent taxpayer, such as he may select, of a value not exceeding Ten thousand pesos (P10,000.00);
- (e) Provisions, including crops, actually provided for individual or family use sufficient for four (4) months;
- (f) The professional libraries of doctors, engineers, lawyers and judges;
- (g) One fishing boat and net, not exceeding the total value of Ten thousand pesos (P10,000.00), by the lawful use of which a fisherman earns his livelihood; and
- (h) Any material or article forming part of a house or improvement of any real property.

**CHAPTER
Miscellaneous Provisions**

V

Section 186. *Power To Levy Other Taxes, Fees or Charges.* - Local government units may exercise the power to levy taxes, fees or charges on any base or subject not otherwise specifically enumerated herein or taxed under the provisions of the National Internal Revenue Code, as amended, or other applicable laws: Provided, That the taxes, fees, or charges shall not be unjust, excessive, oppressive, confiscatory or contrary to declared national policy: Provided, further, That the ordinance levying such taxes, fees or charges shall not be enacted without any prior public hearing conducted for the purpose.

Section 187. *Procedure for Approval and Effectivity of Tax, Ordinances and Revenue Measures; Mandatory Public Hearings.* - The procedure for approval of local tax ordinances and revenue measures shall be in accordance with the provisions of this Code: Provided, That public hearings shall be conducted for the purpose prior to the enactment thereof: Provided, further, That any question on the constitutionality or legality of tax ordinances or revenue measures may be raised on appeal within thirty (30) days from the effectivity thereof to the Secretary of Justice who shall render a decision within sixty (60) days from the date of receipt of the appeal: Provided, however, That such appeal shall not have the effect of suspending the effectivity of the ordinance and the accrual and payment of the tax, fee, or charge levied therein: Provided, finally, That within thirty (30) days after receipt of the decision or the lapse of the sixty-day period without the Secretary of Justice acting upon the appeal, the aggrieved party may file appropriate proceedings with a court of competent jurisdiction.

Section 188. *Publication of Tax Ordinances and Revenue Measures.* - Within ten (10) days after their approval, certified true copies of all provincial, city, and municipal tax ordinances or revenue measures shall be published in full for three (3) consecutive days in a newspaper of local circulation: Provided, however, That in provinces, cities and municipalities where there are no newspapers of local circulation, the same may be posted in at least two (2) conspicuous and publicly accessible places.

Section 189. *Furnishing of Copies of Tax Ordinances and Revenue Measures.* - Copies of all provincial, city, and municipal and barangay tax ordinances and revenue measures shall be furnished the respective local treasurers for public dissemination.

Section 190. *Attempt to Enforce Void or Suspended Tax Ordinances and revenue measures.* - The enforcement of any tax ordinance or revenue measure after due notice of the disapproval or suspension thereof shall be sufficient ground for administrative disciplinary action against the local officials and employees responsible therefor.

Section 191. *Authority of Local Government Units to Adjust Rates of Tax Ordinances.* - Local government units shall have the authority to adjust the tax rates as prescribed herein not oftener than once every five (5) years, but in no case shall such adjustment exceed ten percent (10%) of the rates fixed under this Code.

Section 192. *Authority to Grant Tax Exemption Privileges.* - Local government units may, through ordinances duly approved, grant tax exemptions, incentives or reliefs under such terms and conditions as they may deem necessary.

Section 193. *Withdrawal of Tax Exemption Privileges.* - Unless otherwise provided in this Code, tax exemptions or incentives granted to, or presently enjoyed by all persons, whether natural or juridical, including government-owned or controlled corporations, except local water districts, cooperatives duly registered under R.A. No. 6938, non-stock and non-profit hospitals and educational institutions, are hereby withdrawn upon the effectivity of this Code.

CHAPTER Taxpayer's Remedies

VI

Section 194. *Periods of Assessment and Collection.* -

(a) Local taxes, fees, or charges shall be assessed within five (5) years from the date they became due. No action for the collection of such taxes, fees, or charges, whether administrative or judicial, shall be instituted after the expiration of such period: Provided, That, taxes, fees or charges which have accrued before the effectivity of this Code may be assessed within a period of three (3) years from the date they became due.

(b) In case of fraud or intent to evade the payment of taxes, fees, or charges, the same may be assessed within ten (10) years from discovery of the fraud or intent to evade payment.

(c) Local taxes, fees, or charges may be collected within five (5) years from the date of assessment by administrative or judicial action. No such action shall be instituted after the expiration of said period: Provided, however, That, taxes, fees or charges assessed before the effectivity of this Code may be collected within a period of three (3) years from the date of assessment.

(d) The running of the periods of prescription provided in the preceding paragraphs shall be suspended for the time during which:

(1) The treasurer is legally prevented from making the assessment of collection;

(2) The taxpayer requests for a reinvestigation and executes a waiver in writing before expiration of the period within which to assess or collect; and

(3) The taxpayer is out of the country or otherwise cannot be located.

Section 195. *Protest of Assessment.* - When the local treasurer or his duly authorized representative finds that correct taxes, fees, or charges have not been paid, he shall issue a notice of assessment stating the nature of the tax, fee, or charge, the amount of deficiency, the surcharges, interests and penalties. Within sixty (60) days from the receipt of the notice of assessment, the taxpayer may file a written protest with the local treasurer contesting the assessment; otherwise, the assessment shall become final and executory. The local treasurer shall decide the protest within sixty (60) days from the time of its filing. If the local treasurer finds the protest to be wholly or partly meritorious, he shall issue a notice cancelling wholly or partially the assessment. However, if the local treasurer finds the assessment to be wholly or partly correct, he shall deny the protest wholly or partly with notice to the taxpayer. The taxpayer shall have thirty (30) days from the receipt of the denial of the protest or from the lapse of the sixty (60) day period prescribed herein within which to appeal with the court of competent jurisdiction otherwise the assessment becomes conclusive and unappealable.

Section 196. *Claim for Refund of Tax Credit.* - No case or proceeding shall be maintained in any court for the recovery of any tax, fee, or charge erroneously or illegally collected until a written claim for refund or credit has been filed with the local treasurer. No case or proceeding shall be entertained in any court after the expiration of two (2) years from the date of the payment of such tax, fee, or charge, or from the date the taxpayer is entitled to a refund or credit.

TITLE **II**
REAL PROPERTY TAXATION

CHAPTER **I**
General Provisions

Section 197. *Scope.* - This Title shall govern the administration, appraisal, assessment, levy and collection of real property tax.

Section 198. *Fundamental Principles.* - The appraisal, assessment, levy and collection of real property tax shall be guided by the following fundamental principles:

- (a) Real property shall be appraised at its current and fair market value;
- (b) Real property shall be classified for assessment purposes on the basis of its actual use;
- (c) Real property shall be assessed on the basis of a uniform classification within each local government unit;
- (d) The appraisal, assessment, levy and collection of real property tax shall not be let to any private person; and
- (e) The appraisal and assessment of real property shall be equitable.

Section 199. *Definitions.* - When used in this Title:

- (a) "Acquisition Cost" for newly-acquired machinery not yet depreciated and appraised within the year of its purchase, refers to the actual cost of the machinery to its present owner, plus the cost of transportation, handling, and installation at the present site;
- (b) "Actual Use" refers to the purpose for which the property is principally or predominantly utilized by the person in possession thereof;

(c) "Ad Valorem Tax" is a levy on real property determined on the basis of a fixed proportion of the value of the property;

(d) "Agricultural Land" is land devoted principally to the planting of trees, raising of crops, livestock and poultry, dairying, salt making, inland fishing and similar aquacultural activities, and other agricultural activities, and is not classified as mineral, timber, residential, commercial or industrial land;

(e) "Appraisal" is the act or process of determining the value of property as of a specified date for a specific purpose;

(f) "Assessment" is the act or process of determining the value of a property, or proportion thereof subject to tax, including the discovery, listing, classification, and appraisal of properties;

(g) "Assessment Level" is the percentage applied to the fair market value to determine the taxable value of the property;

(h) "Assessed Value" is the fair market value of the real property multiplied by the assessment level. It is synonymous to taxable value;

(i) "Commercial Land" is land devoted principally for the object of profit and is not classified as agricultural, industrial, mineral, timber, or residential land;

(j) "Depreciated Value" is the value remaining after deducting depreciation from the acquisition cost;

(k) "Economic Life" is the estimated period over which it is anticipated that a machinery or equipment may be profitably utilized;

(l) "Fair Market Value" is the price at which a property may be sold by a seller who is not compelled to sell and bought by a buyer who is not compelled to buy;

(m) "Improvement" is a valuable addition made to a property or an amelioration in its condition, amounting to more than a mere repair or replacement of parts involving capital expenditures and labor, which is intended to enhance its value, beauty or utility or to adapt it for new or further purposes;

(n) "Industrial Land" is land devoted principally to industrial activity as capital investment and is not classified as agricultural, commercial, timber, mineral or residential land;

(o) "Machinery" embraces machines, equipment, mechanical contrivances, instruments, appliances or apparatus which may or may not be attached, permanently or temporarily, to the real property. It includes the physical facilities for production, the installations and appurtenant service facilities, those which are mobile, self-powered or self-propelled, and those not permanently attached to the real property which are actually, directly, and exclusively used to meet the needs of the particular industry, business or activity and which by their very nature and purpose are designed for, or necessary to its manufacturing, mining, logging, commercial, industrial or agricultural purposes;

(p) "Mineral Lands" are lands in which minerals, metallic or non-metallic, exist in sufficient quantity or grade to justify the necessary expenditures to extract and utilize such materials;

(q) "Reassessment" is the assigning of new assessed values to property, particularly real estate, as the result of a general, partial, or individual reappraisal of the property;

(r) "Remaining Economic Life" is the period of time expressed in years from the date of appraisal to the date when the machinery becomes valueless;

(s) "Remaining Value" is the value corresponding to the remaining useful life of the machinery;

(t) "Replacement or Reproduction Cost" is the cost that would be incurred on the basis of current prices, in acquiring an equally desirable substitute property, or the cost of reproducing a new replica of the property on the basis of current prices with the same or closely similar material; and

(u) "Residential Land" is land principally devoted to habitation.

Section 200. *Administration of the Real Property Tax.* - The provinces and cities, including the municipalities within the Metropolitan Manila Area, shall be primarily responsible for the proper, efficient and effective administration of the real property tax.

CHAPTER **Appraisal and Assessment of Real Property**

II

Section 201. *Appraisal of Real Property.* - All real property, whether taxable or exempt, shall be appraised at the current and fair market value prevailing in the locality where the property is situated. The Department of Finance shall promulgate the necessary rules and regulations for the classification, appraisal, and assessment of real property pursuant to the provisions of this Code.

Section 202. *Declaration of real Property by the Owner or Administrator.* - It shall be the duty of all persons, natural or juridical, owning or administering real property, including the improvements therein, within a city or municipality, or their duly authorized representative, to prepare, or cause to be prepared, and file with the provincial, city or municipal assessor, a sworn statement declaring the true value of their property, whether previously declared or undeclared, taxable or exempt, which shall be the current and fair market value of the property, as determined by the declarant. Such declaration shall contain a description of the property sufficient in detail to enable the assessor or his deputy to identify the same for assessment purposes. The sworn declaration of real property herein referred to shall be filed with the assessor concerned once every three (3) years during the period from January first (1st) to June thirtieth (30th) commencing with the calendar year 1992.

Section 203. *Duty of Person Acquiring Real Property or Making Improvement Thereon.* - It shall also be the duty of any person, or his authorized representative, acquiring at any time real property in any municipality or city or making any improvement on real property, to prepare, or cause to be prepared, and file with the provincial, city or municipal assessor, a sworn statement declaring the true value of subject property, within sixty (60) days after the acquisition of such property or upon completion or occupancy of the improvement, whichever comes earlier.

Section 204. *Declaration of Real Property by the Assessor.* - When any person, natural or juridical, by whom real property is required to be declared under Section 202 hereof, refuses or fails for any reason to make such declaration within the time prescribed, the provincial, city or municipal assessor shall himself declare the property in the name of the defaulting owner, if known, or against an unknown owner, as the case may be, and shall assess the property for taxation in accordance with the provision of this Title. No oath shall be required of a declaration thus made by the provincial, city or municipal assessor.

Section 205. *Listing of Real Property in the Assessment Rolls.* -

(a) In every province and city, including the municipalities within the Metropolitan Manila Area, there shall be prepared and maintained by the provincial, city or municipal assessor an assessment roll wherein shall be listed all real property, whether taxable or exempt, located within the territorial jurisdiction of the local government unit concerned. Real property shall be listed, valued and assessed in the name of the owner or administrator, or anyone having legal interest in the property.

(b) The undivided real property of a deceased person may be listed, valued and assessed in the name of the estate or of the heirs and devisees without designating them individually; and undivided real property other than that owned by a deceased may be listed, valued and assessed in the name of one or more co-owners: Provided, however, That such heir, devisee, or co-owner shall be liable severally and proportionately for all obligations imposed by this Title and the payment of the real property tax with respect to the undivided property.

(c) The real property of a corporation, partnership, or association shall be listed, valued and assessed in the same manner as that of an individual.

(d) Real property owned by the Republic of the Philippines, its instrumentalities and political subdivisions, the beneficial use of which has been granted, for consideration or otherwise, to a taxable person, shall be listed, valued and assessed in the name of the possessor, grantee or of the public entity if such property has been acquired or held for resale or lease.

Section 206. *Proof of Exemption of Real Property from Taxation.* - Every person by or for whom real property is declared, who shall claim tax exemption for such property under this Title shall file with the provincial, city or municipal assessor within thirty (30) days from the date of the declaration of real property sufficient documentary evidence in support of such claim including corporate charters, title of ownership, articles of incorporation, by-laws, contracts, affidavits, certifications and mortgage deeds, and similar documents.

If the required evidence is not submitted within the period herein prescribed, the property shall be listed as taxable in the assessment roll. However, if the property shall be proven to be tax exempt, the same shall be dropped from the assessment roll.

Section 207. *Real Property Identification System.* - All declarations of real property made under the provisions of this Title shall be kept and filed under a uniform classification system to be established by the provincial, city or municipal assessor.

Section 208. *Notification of Transfer of Real Property Ownership.* - Any person who shall transfer real property ownership to another shall notify the provincial, city or municipal assessor concerned within sixty (60) days from the date of such transfer. The notification shall include the mode of transfer, the description of the property alienated, the name and address of the transferee.

Section 209. *Duty of Registrar of Deeds to Appraise Assessor of Real Property Listed in Registry.* -

(a) To ascertain whether or not any real property entered in the Registry of Property has escaped discovery and listing for the purpose of taxation, the Registrar of Deeds shall prepare and submit to the provincial, city or municipal assessor, within six (6) months from the date of effectivity of this Code and every year thereafter, an abstract of his registry, which shall include brief but sufficient description of the real properties entered therein, their present owners, and the dates of their most recent transfer or alienation accompanied by copies of corresponding deeds of sale, donation, or partition or other forms of alienation.

(b) It shall also be the duty of the Registrar of Deeds to require every person who shall present for registration a document of transfer, alienation, or encumbrance of real property to accompany the

same with a certificate to the effect that the real property subject of the transfer, alienation, or encumbrance, as the case may be, has been fully paid of all real property taxes due thereon. Failure to provide such certificate shall be a valid cause for the Registrar of Deeds to refuse the registration of the document.

Section 210. *Duty of Official Issuing Building Permit or Certificate of Registration of Machinery to Transmit Copy to Assessor.* - Any public official or employee who may now or hereafter be required by law or regulation to issue to any person a permit for the construction, addition, repair, or renovation of a building, or permanent improvement on land, or a certificate of registration for any machinery, including machines, mechanical contrivances, and apparatus attached or affixed on land or to another real property, shall transmit a copy of such permit or certificate within thirty (30) days of its issuance, to the assessor of the province, city or municipality where the property is situated.

Section 211. *Duty of Geodetic Engineers to Furnish Copy of Plans to Assessor.* - It shall be the duty of all geodetic engineers, public or private, to furnish free of charge to the assessor of the province, city or municipality where the land is located with a white or blue print copy of each of all approved original or subdivision plans or maps of surveys executed by them within thirty (30) days from receipt of such plans from the Lands Management Bureau, the Land Registration Authority, or the Housing and Land Use Regulatory Board, as the case may be.

Section 212. *Preparation of Schedule of Fair Market Values.* - Before any general revision of property assessment is made pursuant to the provisions of this Title, there shall be prepared a schedule of fair market values by the provincial, city and municipal assessor of the municipalities within the Metropolitan Manila Area for the different classes of real property situated in their respective local government units for enactment by ordinance of the sanggunian concerned. The schedule of fair market values shall be published in a newspaper of general circulation in the province, city or municipality concerned or in the absence thereof, shall be posted in the provincial capitol, city or municipal hall and in two other conspicuous public places therein.

Section 213. *Authority of Assessor to Take Evidence.* - For the purpose of obtaining information on which to base the market value of any real property, the assessor of the province, city or municipality or his deputy may summon the owners of the properties to be affected or persons having legal interest therein and witnesses, administer oaths, and take deposition concerning the property, its ownership, amount, nature, and value.

Section 214. *Amendment of Schedule of Fair Market Values.* - The provincial, city or municipal assessor may recommend to the sanggunian concerned amendments to correct errors in valuation in the schedule of fair market values. The sanggunian concerned shall, by ordinance, act upon the recommendation within ninety (90) days from receipt thereof.

Section 215. *Classes of Real Property for Assessment Purposes.* - For purposes of assessment, real property shall be classified as residential, agricultural, commercial, industrial, mineral, timberland or special.

The city or municipality within the Metropolitan Manila Area, through their respective sanggunian, shall have the power to classify lands as residential, agricultural, commercial, industrial, mineral, timberland, or special in accordance with their zoning ordinances.

Section 216. *Special Classes of Real Property.* - All lands, buildings, and other improvements thereon actually, directly and exclusively used for hospitals, cultural, or scientific purposes, and those owned and used by local water districts, and government-owned or controlled corporations rendering essential public services in the supply and distribution of water and/or generation and transmission of electric power shall be classified as special.

Section 217. Actual Use of Real Property as Basis for Assessment. - Real property shall be classified, valued and assessed on the basis of its actual use regardless of where located, whoever owns it, and whoever uses it.

Section 218. Assessment Levels. - The assessment levels to be applied to the fair market value of real property to determine its assessed value shall be fixed by ordinances of the sangguniang panlalawigan, sangguniang panlungsod or sangguniang bayan of a municipality within the Metropolitan Manila Area, at the rates not exceeding the following:

(a) On Lands:

CLASS	ASSESSMENT LEVELS
Residential	20%
Agricultural	40%
Commercial	50%
Industrial	50%
Mineral	50%
Timberland	20%

(b) On Buildings and Other Structures:

(1) Residential
Fair market Value

Over	Not Over	Assessment Levels
	P175,000.00	0%
P175,000.00	300,000.00	10%
300,000.00	500,000.00	20%
500,000.00	750,000.00	25%
750,000.00	1,000,000.00	30%
1,000,000.00	2,000,000.00	35%
2,000,000.00	5,000,000.00	40%
5,000,000.00	10,000,000.00	50%
10,000,000.00		60%

(2) Agricultural
Fair Market Value

Over	Not Over	Assessment Levels
P300,000.00		25%
P300,000.00	500,000.00	30%
500,000.00	750,000.00	35%

750,000.00	1,000,000.00	40%
1,000,000.00	2,000,000.00	45%
2,000,000.00		50%

(3) Commercial / Industrial
Fair Market Value

Over	Not Over	Assessment Levels
P300,000.00		30%
P300,000.00	500,000.00	35%
500,000.00	750,000.00	40%
750,000.00	1,000,000.00	50%
1,000,000.00	2,000,000.00	60%
2,000,000.00	5,000,000.00	70%
5,000,000.00	10,000,000.00	75%
10,000,000.00		80%

(4) Timberland
Fair Market Value

Over	Not Over	Assessment Levels
P300,000.00	45%	
P300,000.00	500,000.00	50%
500,000.00	750,000.00	55%
750,000.00	1,000,000.00	60%
5,000,000.00	2,000,000.00	65%
2,000,000.00		70%

(c) On Machineries

Class	Assessment Levels
Agricultural	40%
Residential	50%
Commercial	80%
Industrial	80%

(d) On Special Classes: The assessment levels for all lands buildings, machineries and other improvements;

Actual Use	Assessment Level
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Cultural	15%
Scientific	15%
Hospital	15%
Local water districts	10%
Government-owned or controlled corporations engaged in the supply and distribution of water and/or generation and transmission of electric power	10%

Section 219. *General Revision of Assessment and Property Classification.* - The provincial, city or municipal assessor shall undertake a general revision of real property assessments within two (2) years after the effectivity of this Code and every three (3) years thereafter.

Section 220. *Valuation of Real Property.* - In cases where (a) real property is declared and listed for taxation purposes for the first time; (b) there is an ongoing general revision of property classification and assessment; or (c) a request is made by the person in whose name the property is declared, the provincial, city or municipal assessor or his duly authorized deputy shall, in accordance with the provisions of this Chapter, make a classification, appraisal and assessment or taxpayer's valuation thereon: Provided, however, That the assessment of real property shall not be increased oftener than once every three (3) years except in case of new improvements substantially increasing the value of said property or of any change in its actual use.

Section 221. *Date of Effectivity of Assessment or Reassessment.* - All assessments or reassessments made after the first (1st) day of January of any year shall take effect on the first (1st) day of January of the succeeding year: Provided, however, That the reassessment of real property due to its partial or total destruction, or to a major change in its actual use, or to any great and sudden inflation or deflation of real property values, or to the gross illegality of the assessment when made or to any other abnormal cause, shall be made within ninety (90) days from the date any such cause or causes occurred, and shall take effect at the beginning of the quarter next following the reassessment.

Section 222. *Assessment of Property Subject to Back Taxes.* - Real property declared for the first time shall be assessed for taxes for the period during which it would have been liable but in no case of more than ten (10) years prior to the date of initial assessment: Provided, however, That such taxes shall be computed on the basis of the applicable schedule of values in force during the corresponding period.

If such taxes are paid on or before the end of the quarter following the date the notice of assessment was received by the owner or his representative, no interest for delinquency shall be imposed thereon; otherwise, such taxes shall be subject to an interest at the rate of two percent (2%) per month or a fraction thereof from the date of the receipt of the assessment until such taxes are fully paid.

Section 223. *Notification of New or Revised Assessment.* - When real property is assessed for the first time or when an existing assessment is increased or decreased, the provincial, city or municipal assessor shall within thirty (30) days give written notice of such new or revised assessment to the person in whose name the property is declared. The notice may be delivered personally or by registered mail or through the assistance of the punong barangay to the last known address of the person to be served.

Section 224. *Appraisal and Assessment of Machinery.* -

(a) The fair market value of a brand-new machinery shall be the acquisition cost. In all other cases, the fair market value shall be determined by dividing the remaining economic life of the machinery by its estimated economic life and multiplied by the replacement or reproduction cost.

(b) If the machinery is imported, the acquisition cost includes freight, insurance, bank and other charges, brokerage, arrastre and handling, duties and taxes, plus charges at the present site. The cost in foreign currency of imported machinery shall be converted to peso cost on the basis of foreign currency exchange rates as fixed by the Central Bank.

Section 225. Depreciation Allowance for Machinery. - For purposes of assessment, a depreciation allowance shall be made for machinery at a rate not exceeding five percent (5%) of its original cost or its replacement or reproduction cost, as the case may be, for each year of use: Provided, however, That the remaining value for all kinds of machinery shall be fixed at not less than twenty percent (20%) of such original, replacement, or reproduction cost for so long as the machinery is useful and in operation.

CHAPTER III

Assessment Appeals

Section 226. Local Board of Assessment Appeals. - Any owner or person having legal interest in the property who is not satisfied with the action of the provincial, city or municipal assessor in the assessment of his property may, within sixty (60) days from the date of receipt of the written notice of assessment, appeal to the Board of Assessment Appeals of the provincial or city by filing a petition under oath in the form prescribed for the purpose, together with copies of the tax declarations and such affidavits or documents submitted in support of the appeal.

Section 227. Organization, Powers, Duties, and Functions of the Local Board of Assessment Appeals. -

(a) The Board of Assessment Appeals of the province or city shall be composed of the Registrar of Deeds, as Chairman, the provincial or city prosecutor and the provincial, or city engineer as members, who shall serve as such in an ex officio capacity without additional compensation.

(b) The chairman of the Board shall have the power to designate any employee of the province or city to serve as secretary to the Board also without additional compensation.

(c) The chairman and members of the Board of Assessment Appeals of the province or city shall assume their respective positions without need of further appointment or special designations immediately upon effectivity of this Code. They shall take oath or affirmation of office in the prescribed form.

(d) In provinces and cities without a provincial or city engineer, the district engineer shall serve as member of the Board. In the absence of the Registrar of Deeds, or the provincial or city prosecutor, or the provincial or city engineer, or the district engineer, the persons performing their duties, whether in an acting capacity or as a duly designated officer-in-charge, shall automatically become the chairman or member, respectively, of the said Board, as the case may be.

Section 228. Meetings and Expenses of the Local Board of Assessment Appeals. -

(a) The Board of Assessment Appeals of the province or city shall meet once a month and as often as may be necessary for the prompt disposition of appealed cases. No member of the Board shall be entitled to per diems or traveling expenses for his attendance in Board meetings, except when conducting an ocular inspection in connection with a case under appeal.

(b) All expenses of the Board shall be charged against the general fund of the province or city, as the case may be. The sanggunian concerned shall appropriate the necessary funds to enable the Board in their respective localities to operate effectively.

Section 229. Action by the Local Board of Assessment Appeals. -

(a) The Board shall decide the appeal within one hundred twenty (120) days from the date of receipt of such appeal. The Board, after hearing, shall render its decision based on substantial evidence or such relevant evidence on record as a reasonable mind might accept as adequate to support the conclusion.

(b) In the exercise of its appellate jurisdiction, the Board shall have the power to summon witnesses, administer oaths, conduct ocular inspection, take depositions, and issue subpoena and subpoena duces tecum. The proceedings of the Board shall be conducted solely for the purpose of ascertaining the facts without necessarily adhering to technical rules applicable in judicial proceedings.

(c) The secretary of the Board shall furnish the owner of the property or the person having legal interest therein and the provincial or city assessor with a copy of the decision of the Board. In case the provincial or city assessor concurs in the revision or the assessment, it shall be his duty to notify the owner of the property or the person having legal interest therein of such fact using the form prescribed for the purpose. The owner of the property or the person having legal interest therein or the assessor who is not satisfied with the decision of the Board, may, within thirty (30) days after receipt of the decision of said Board, appeal to the Central Board of Assessment Appeals, as herein provided. The decision of the Central Board shall be final and executory.

Section 230. Central Board of Assessment Appeals. - The Central Board of Assessment Appeals shall be composed of a chairman, and two (2) members to be appointed by the President, who shall serve for a term of seven (7) years, without reappointment. Of those first appointed, the chairman shall hold office for seven (7) years, one member for five (5) years, and the other member for three (3) years. Appointment to any vacancy shall be only for the unexpired portion of the term of the predecessor. In no case shall any member be appointed or designated in a temporary or acting capacity. The chairman and the members of the Board shall be Filipino citizens, at least forty (40) years old at the time of their appointment, and members of the Bar or Certified Public Accountants for at least ten (10) years immediately preceding their appointment. The chairman of the Board of Assessment Appeals shall have the salary grade equivalent to the rank of Director III under the Salary Standardization Law exclusive of allowances and other emoluments. The members of the Board shall have the salary grade equivalent to the rank of Director II under the Salary Standardization Law exclusive of allowances and other emoluments. The Board shall have appellate jurisdiction over all assessment cases decided by the Local Board of Assessment Appeals.

There shall be Hearing Officers to be appointed by the Central Board of Assessment Appeals pursuant to civil service laws, rules and regulations, one each for Luzon, Visayas and Mindanao, who shall hold office in Manila, Cebu City and Cagayan de Oro City, respectively, and who shall serve for a term of six (6) years, without reappointment until their successors have been appointed and qualified. The Hearing Officers shall have the same qualifications as that of the Judges of the Municipal Trial Courts.

The Central Board Assessment Appeals, in the performance of its powers and duties, may establish and organize staffs, offices, units, prescribe the titles, functions and duties of their members and adopt its own rules and regulations.

Unless otherwise provided by law, the annual appropriations for the Central Board of Assessment Appeals shall be included in the budget of the Department of Finance in the corresponding General Appropriations Act.

Section 231. *Effect of Appeal on the Payment of Real Property Tax.* - Appeal on assessments of real property made under the provisions of this Code shall, in no case, suspend the collection of the corresponding realty taxes on the property involved as assessed by the provincial or city assessor, without prejudice to subsequent adjustment depending upon the final outcome of the appeal.

CHAPTER IV **Imposition of Real Property Tax**

Section 232. *Power to Levy Real Property Tax.* - A province or city or a municipality within the Metropolitan Manila Area may levy an annual ad valorem tax on real property such as land, building, machinery, and other improvement not hereinafter specifically exempted.

Section 233. *Rates of Levy.* - A province or city or a municipality within the Metropolitan Manila Area shall fix a uniform rate of basic real property tax applicable to their respective localities as follows:

- (a) In the case of a province, at the rate not exceeding one percent (1%) of the assessed value of real property; and
- (b) In the case of a city or a municipality within the Metropolitan Manila Area, at the rate not exceeding two percent (2%) of the assessed value of real property.

Section 234. *Exemptions from Real Property Tax.* - The following are exempted from payment of the real property tax:

- (a) Real property owned by the Republic of the Philippines or any of its political subdivisions except when the beneficial use thereof has been granted, for consideration or otherwise, to a taxable person;
- (b) Charitable institutions, churches, parsonages or convents appurtenant thereto, mosques, non-profit or religious cemeteries and all lands, buildings, and improvements actually, directly, and exclusively used for religious, charitable or educational purposes;
- (c) All machineries and equipment that are actually, directly and exclusively used by local water districts and government owned or controlled corporations engaged in the supply and distribution of water and/or generation and transmission of electric power;
- (d) All real property owned by duly registered cooperatives as provided for under R.A. No. 6938; and
- (e) Machinery and equipment used for pollution control and environmental protection.

Except as provided herein, any exemption from payment of real property tax previously granted to, or presently enjoyed by, all persons, whether natural or juridical, including all government-owned or controlled corporations are hereby withdrawn upon the effectivity of this Code.

CHAPTER V **Special Levies on Real Property**

Section 235. *Additional Levy on Real Property for the Special Education Fund.* - A province or city, or a municipality within the Metropolitan Manila Area, may levy and collect an annual tax of one percent (1%) on the assessed value of real property which shall be in addition to the basic real property tax. The proceeds thereof shall exclusively accrue to the Special Education Fund (SEF).

Section 236. *Additional Ad Valorem Tax on Idle Lands.* - A province or city, or a municipality within the Metropolitan Manila Area, may levy an annual tax on idle lands at the rate not exceeding five percent (5%) of the assessed value of the property which shall be in addition to the basic real property tax.

Section 237. *Idle Lands, Coverage.* - For purposes of real property taxation, idle lands shall include the following:

(a) Agricultural lands, more than one (1) hectare in area, suitable for cultivation, dairying, inland fishery, and other agricultural uses, one-half (1/2) of which remain uncultivated or unimproved by the owner of the property or person having legal interest therein. Agricultural lands planted to permanent or perennial crops with at least fifty (50) trees to a hectare shall not be considered idle lands. Lands actually used for grazing purposes shall likewise not be considered idle lands.

(b) Lands, other than agricultural, located in a city or municipality, more than one thousand (1,000) square meters in area one-half (1/2) of which remain unutilized or unimproved by the owner of the property or person having legal interest therein.

Regardless of land area, this Section shall likewise apply to residential lots in subdivisions duly approved by proper authorities, the ownership of which has been transferred to individual owners, who shall be liable for the additional tax: Provided, however, That individual lots of such subdivisions, the ownership of which has not been transferred to the buyer shall be considered as part of the subdivision, and shall be subject to the additional tax payable by subdivision owner or operator.

Section 238. *Idle Lands Exempt from Tax.* - A province or city or a municipality within the Metropolitan Manila Area may exempt idle lands from the additional levy by reason of force majeure, civil disturbance, natural calamity or any cause or circumstance which physically or legally prevents the owner of the property or person having legal interest therein from improving, utilizing or cultivating the same.

Section 239. *Listing of Idle Lands by the Assessor.* - The provincial, city or municipal assessor shall make and keep an updated record of all idle lands located within his area of jurisdiction. For purposes of collection, the provincial, city or municipal assessor shall furnish a copy thereof to the provincial or city treasurer who shall notify, on the basis of such record, the owner of the property or person having legal interest therein of the imposition of the additional tax.

Section 240. *Special Levy by Local Government Units.* - A province, city or municipality may impose a special levy on the lands comprised within its territorial jurisdiction specially benefited by public works projects or improvements funded by the local government unit concerned: Provided, however, That the special levy shall not exceed sixty percent (60%) of the actual cost of such projects and improvements, including the costs of acquiring land and such other real property in connection therewith: Provided, further, That the special levy shall not apply to lands exempt from basic real property tax and the remainder of the land portions of which have been donated to the local government unit concerned for the construction of such projects or improvements.

Section 241. *Ordinance Imposing a Special Levy.* - A tax ordinance imposing a special levy shall describe with reasonable accuracy the nature, extent, and location of the public works projects or improvements to be undertaken, state the estimated cost thereof, specify the metes and bounds by monuments and lines and the number of annual installments for the payment of the special levy which in no case shall be less than five (5) nor more than ten (10) years. The sanggunian concerned shall not be obliged, in the apportionment and computation of the special levy, to establish a uniform percentage of all lands subject to the payment of the tax for the entire district, but it may fix different rates for different parts or sections thereof, depending on whether such land is more or less benefited by proposed work.

Section 242. *Publication of Proposed Ordinance Imposing a Special Levy.* - Before the enactment of an ordinance imposing a special levy, the sanggunian concerned shall conduct a public hearing thereon;

notify in writing the owners of the real property to be affected or the persons having legal interest therein as to the date and place thereof and afford the latter the opportunity to express their positions or objections relative to the proposed ordinance.

Section 243. *Fixing the Amount of Special Levy.* - The special levy authorized herein shall be apportioned, computed, and assessed according to the assessed valuation of the lands affected as shown by the books of the assessor concerned, or its current assessed value as fixed by said assessor if the property does not appear of record in his books. Upon the effectivity of the ordinance imposing special levy, the assessor concerned shall forthwith proceed to determine the annual amount of special levy assessed against each parcel of land comprised within the area especially benefited and shall send to each landowner a written notice thereof by mail, personal service or publication in appropriate cases.

Section 244. *Taxpayer's Remedies Against Special Levy.* - Any owner of real property affected by a special levy or any person having a legal interest therein may, upon receipt of the written notice of assessment of the special levy, avail of the remedies provided for in Chapter 3, Title Two, Book II of this Code.

Section 245. *Accrual of Special Levy.* - The special levy shall accrue on the first day of the quarter next following the effectivity of the ordinance imposing such levy.*lawphil.net*

CHAPTER VI

Collection of Real Property Tax

Section 246. *Date of Accrual of Tax.* - The real property tax for any year shall accrue on the first day of January and from that date it shall constitute a lien on the property which shall be superior to any other lien, mortgage, or encumbrance of any kind whatsoever, and shall be extinguished only upon the payment of the delinquent tax.

Section 247. *Collection of Tax.* - The collection of the real property tax with interest thereon and related expenses, and the enforcement of the remedies provided for in this Title or any applicable laws, shall be the responsibility of the city or municipal treasurer concerned.

The city or municipal treasurer may deputize the barangay treasurer to collect all taxes on real property located in the barangay: Provided, That the barangay treasurer is properly bonded for the purpose: Provided, further, That the premium on the bond shall be paid by the city or municipal government concerned.

Section 248. *Assessor to Furnish Local Treasurer with Assessment Roll.* - The provincial, city or municipal assessor shall prepare and submit to the treasurer of the local government unit, on or before the thirty-first (31st) day of December each year, an assessment roll containing a list of all persons whose real properties have been newly assessed or reassessed and the values of such properties.

Section 249. *Notice of Time for Collection of Tax.* - The city or municipal treasurer shall, on or before the thirty-first (31st) day of January each year, in the case of the basic real property tax and the additional tax for the Special Education Fund (SEF) or any other date to be prescribed by the sanggunian concerned in the case of any other tax levied under this title, post the notice of the dates when the tax may be paid without interest at a conspicuous and publicly accessible place at the city or municipal hall. Said notice shall likewise be published in a newspaper of general circulation in the locality once a week for two (2) consecutive weeks.

Section 250. *Payment of Real Property Taxes in Installments.* - The owner of the real property or the person having legal interest therein may pay the basic real property tax and the additional tax for Special Education Fund (SEF) due thereon without interest in four (4) equal installments; the first installment to be due and payable on or before March Thirty-first (31st); the second installment, on or before June Thirty

(30); the third installment, on or before September Thirty (30); and the last installment on or before December Thirty-first (31st), except the special levy the payment of which shall be governed by ordinance of the sanggunian concerned.

The date for the payment of any other tax imposed under this Title without interest shall be prescribed by the sanggunian concerned.

Payments of real property taxes shall first be applied to prior years delinquencies, interests, and penalties, if any, and only after said delinquencies are settled may tax payments be credited for the current period.

Section 251. *Tax Discount for Advanced Prompt Payment.* - If the basic real property tax and the additional tax accruing to the Special Education Fund (SEF) are paid in advance in accordance with the prescribed schedule of payment as provided under Section 250, the sanggunian concerned may grant a discount not exceeding twenty percent (20%) of the annual tax due.

Section 252. *Payment Under Protest.* -

(a) No protest shall be entertained unless the taxpayer first pays the tax. There shall be annotated on the tax receipts the words "paid under protest". The protest in writing must be filed within thirty (30) days from payment of the tax to the provincial, city treasurer or municipal treasurer, in the case of a municipality within Metropolitan Manila Area, who shall decide the protest within sixty (60) days from receipt.

(b) The tax or a portion thereof paid under protest, shall be held in trust by the treasurer concerned.

(c) In the event that the protest is finally decided in favor of the taxpayer, the amount or portion of the tax protested shall be refunded to the protestant, or applied as tax credit against his existing or future tax liability.

(d) In the event that the protest is denied or upon the lapse of the sixty day period prescribed in subparagraph (a), the taxpayer may avail of the remedies as provided for in Chapter 3, Title II, Book II of this Code.

Section 253. *Repayment of Excessive Collections.* - When an assessment of basic real property tax, or any other tax levied under this Title, is found to be illegal or erroneous and the tax is accordingly reduced or adjusted, the taxpayer may file a written claim for refund or credit for taxes and interests with the provincial or city treasurer within two (2) years from the date the taxpayer is entitled to such reduction or adjustment.

The provincial or city treasurer shall decide the claim for tax refund or credit within sixty (60) days from receipt thereof. In case the claim for tax refund or credit is denied, the taxpayer may avail of the remedies as provided in Chapter 3, Title II, Book II of this Code.

Section 254. *Notice of Delinquency in the Payment of the Real Property Tax.* -

(a) When the real property tax or any other tax imposed under this Title becomes delinquent, the provincial, city or municipal treasurer shall immediately cause a notice of the delinquency to be posted at the main hall and in a publicly accessible and conspicuous place in each barangay of the local government unit concerned. The notice of delinquency shall also be published once a week for two (2) consecutive weeks, in a newspaper of general circulation in the province, city, or municipality.

(b) Such notice shall specify the date upon which the tax became delinquent and shall state that personal property may be distrained to effect payment. It shall likewise state that any time before the distraint of personal property, payment of the tax with surcharges, interests and penalties may be made in accordance with the next following Section, and unless the tax, surcharges and penalties are paid before the expiration of the year for which the tax is due except when the notice of assessment or special levy is contested administratively or judicially pursuant to the provisions of Chapter 3, Title II, Book II of this Code, the delinquent real property will be sold at public auction, and the title to the property will be vested in the purchaser, subject, however, to the right of the delinquent owner of the property or any person having legal interest therein to redeem the property within one (1) year from the date of sale.

Section 255. *Interests on Unpaid Real Property Tax.* - In case of failure to pay the basic real property tax or any other tax levied under this Title upon the expiration of the periods as provided in Section 250, or when due, as the case may be, shall subject the taxpayer to the payment of interest at the rate of two percent (2%) per month on the unpaid amount or a fraction thereof, until the delinquent tax shall have been fully paid: Provided, however, That in no case shall the total interest on the unpaid tax or portion thereof exceed thirty-six (36) months.

Section 256. *Remedies For The Collection Of Real Property Tax.* - For the collection of the basic real property tax and any other tax levied under this Title, the local government unit concerned may avail of the remedies by administrative action thru levy on real property or by judicial action.

Section 257. *Local Governments Lien.* - The basic real property tax and any other tax levied under this Title constitutes a lien on the property subject to tax, superior to all liens, charges or encumbrances in favor of any person, irrespective of the owner or possessor thereof, enforceable by administrative or judicial action, and may only be extinguished upon payment of the tax and the related interests and expenses.

Section 258. *Levy on Real Property.* - After the expiration of the time required to pay the basic real property tax or any other tax levied under this Title, real property subject to such tax may be levied upon through the issuance of a warrant on or before, or simultaneously with, the institution of the civil action for the collection of the delinquent tax. The provincial or city treasurer, or a treasurer of a municipality within the Metropolitan Manila Area, as the case may be, when issuing a warrant of levy shall prepare a duly authenticated certificate showing the name of the delinquent owner of the property or person having legal interest therein, the description of the property, the amount of the tax due and the interest thereon. The warrant shall operate with the force of a legal execution throughout the province, city or a municipality, within the Metropolitan Manila Area. The warrant shall be mailed to or served upon the delinquent owner of the real property or person having legal interest therein, or in case he is out of the country or cannot be located, the administrator or occupant of the property. At the same time, written notice of the levy with the attached warrant shall be mailed to or served upon the assessor and the Registrar of Deeds of the province, city or municipality within the Metropolitan Manila Area where the property is located, who shall annotate the levy on the tax declaration and certificate of title of the property, respectively.

The levying officer shall submit a report on the levy to the sanggunian concerned within ten (10) days after receipt of the warrant by the owner of the property or person having legal interest therein.

Section 259. *Penalty for Failure to Issue and Execute Warrant.* - Without prejudice to criminal prosecution under the Revised Penal Code and other applicable laws, any local treasurer or his deputy who fails to issue or execute the warrant of levy within one (1) year from the time the tax becomes delinquent or within thirty (30) days from the date of the issuance thereof, or who is found guilty of abusing the exercise thereof in an administrative or judicial proceeding shall be dismissed from the service.

Section 260. Advertisement and Sale. - Within thirty (30) days after service of the warrant of levy, the local treasurer shall proceed to publicly advertise for sale or auction the property or a usable portion thereof as may be necessary to satisfy the tax delinquency and expenses of sale. The advertisement shall be effected by posting a notice at the main entrance of the provincial, city or municipal building, and in a publicly accessible and conspicuous place in the barangay where the real property is located, and by publication once a week for two (2) weeks in a newspaper of general circulation in the province, city or municipality where the property is located. The advertisement shall specify the amount of the delinquent tax, the interest due thereon and expenses of sale, the date and place of sale, the name of the owner of the real property or person having legal interest therein, and a description of the property to be sold. At any time before the date fixed for the sale, the owner of the real property or person having legal interest therein may stay the proceedings by paying the delinquent tax, the interest due thereon and the expenses of sale. The sale shall be held either at the main entrance of the provincial, city or municipal building, or on the property to be sold, or at any other place as specified in the notice of the sale.

Within thirty (30) days after the sale, the local treasurer or his deputy shall make a report of the sale to the sanggunian concerned, and which shall form part of his records. The local treasurer shall likewise prepare and deliver to the purchaser a certificate of sale which shall contain the name of the purchaser, a description of the property sold, the amount of the delinquent tax, the interest due thereon, the expenses of sale and a brief description of the proceedings: Provided, however, That proceeds of the sale in excess of the delinquent tax, the interest due thereon, and the expenses of sale shall be remitted to the owner of the real property or person having legal interest therein.

The local treasurer may, by ordinance duly approved, advance an amount sufficient to defray the costs of collection thru the remedies provided for in this Title, including the expenses of advertisement and sale.

Section 261. Redemption of Property Sold. - Within one (1) year from the date of sale, the owner of the delinquent real property or person having legal interest therein, or his representative, shall have the right to redeem the property upon payment to the local treasurer of the amount of the delinquent tax, including the interest due thereon, and the expenses of sale from the date of delinquency to the date of sale, plus interest of not more than two percent (2%) per month on the purchase price from the date of sale to the date of redemption. Such payment shall invalidate the certificate of sale issued to the purchaser and the owner of the delinquent real property or person having legal interest therein shall be entitled to a certificate of redemption which shall be issued by the local treasurer or his deputy.

From the date of sale until the expiration of the period of redemption, the delinquent real property shall remain in possession of the owner or person having legal interest therein who shall be entitled to the income and other fruits thereof.

The local treasurer or his deputy, upon receipt from the purchaser of the certificate of sale, shall forthwith return to the latter the entire amount paid by him plus interest of not more than two percent (2%) per month. Thereafter, the property shall be free from lien of such delinquent tax, interest due thereon and expenses of sale.

Section 262. Final Deed to Purchaser. - In case the owner or person having legal interest fails to redeem the delinquent property as provided herein, the local treasurer shall execute a deed conveying to the purchaser said property, free from lien of the delinquent tax, interest due thereon and expenses of sale. The deed shall briefly state the proceedings upon which the validity of the sale rests.

Section 263. Purchase of Property By the Local Government Units for Want of Bidder. - In case there is no bidder for the real property advertised for sale as provided herein, the real property tax and the related interest and costs of sale the local treasurer conducting the sale shall purchase the property in behalf of the local government unit concerned to satisfy the claim and within two (2) days thereafter shall make a report of his proceedings which shall be reflected upon the records of his office. It shall be the duty of the Registrar of Deeds concerned upon registration with his office of any such declaration of forfeiture to

transfer the title of the forfeited property to the local government unit concerned without the necessity of an order from a competent court.

Within one (1) year from the date of such forfeiture, the taxpayer or any of his representative, may redeem the property by paying to the local treasurer the full amount of the real property tax and the related interest and the costs of sale. If the property is not redeemed as provided herein, the ownership thereof shall be vested on the local government unit concerned.

Section 264. *Resale of Real Estate Taken for Taxes, Fees, or Charges.* - The sanggunian concerned may, by ordinance duly approved, and upon notice of not less than twenty (20) days, sell and dispose of the real property acquired under the preceding section at public auction. The proceeds of the sale shall accrue to the general fund of the local government unit concerned.

Section 265. *Further Distraint or Levy.* - Levy may be repeated if necessary until the full amount due, including all expenses, is collected.

Section 266. *Collection of Real Property Tax Through the Courts.* - The local government unit concerned may enforce the collection of the basic real property tax or any other tax levied under this Title by civil action in any court of competent jurisdiction. The civil action shall be filed by the local treasurer within the period prescribed in Section 270 of this Code.

Section 267. *Action Assailing Validity of Tax Sale.* - No court shall entertain any action assailing the validity or any sale at public auction of real property or rights therein under this Title until the taxpayer shall have deposited with the court the amount for which the real property was sold, together with interest of two percent (2%) per month from the date of sale to the time of the institution of the action. The amount so deposited shall be paid to the purchaser at the auction sale if the deed is declared invalid but it shall be returned to the depositor if the action fails.

Neither shall any court declare a sale at public auction invalid by reason or irregularities or informalities in the proceedings unless the substantive rights of the delinquent owner of the real property or the person having legal interest therein have been impaired.

Section 268. *Payment of Delinquent Taxes on Property Subject of Controversy.* - In any action involving the ownership or possession of, or succession to, real property, the court may, motu proprio or upon representation of the provincial, city, or municipal treasurer or his deputy, award such ownership, possession, or succession to any party to the action upon payment to the court of the taxes with interest due on the property and all other costs that may have accrued, subject to the final outcome of the action.

Section 269. *Treasurer to Certify Delinquencies Remaining Uncollected.* - The provincial, city or municipal treasurer or their deputies shall prepare a certified list of all real property tax delinquencies which remained uncollected or unpaid for at least one (1) year in his jurisdiction, and a statement of the reason or reasons for such non-collection or non-payment, and shall submit the same to the sanggunian concerned on or before December thirty-first (31st) of the year immediately succeeding the year in which the delinquencies were incurred, with a request for assistance in the enforcement of the remedies for collection provided herein.

Section 270. *Periods Within Which To Collect Real Property Taxes.* - The basic real property tax and any other tax levied under this Title shall be collected within five (5) years from the date they become due. No action for the collection of the tax, whether administrative or judicial, shall be instituted after the expiration of such period. In case of fraud or intent to evade payment of the tax, such action may be instituted for the collection of the same within ten (10) years from the discovery of such fraud or intent to evade payment.

The period of prescription within which to collect shall be suspended for the time during which:

- (1) The local treasurer is legally prevented from collecting the tax;
- (2) The owner of the property or the person having legal interest therein requests for reinvestigation and executes a waiver in writing before the expiration of the period within which to collect; and
- (3) The owner of the property or the person having legal interest therein is out of the country or otherwise cannot be located.

CHAPTER VII

Disposition of Proceeds

Section 271. *Distribution of Proceeds.* - The proceeds of the basic real property tax, including interest thereon, and proceeds from the use, lease or disposition, sale or redemption of property acquired at a public auction in accordance with the provisions of this Title by the province or city or a municipality within the Metropolitan Manila Area shall be distributed as follows:

(a) In the case of provinces:

- (1) Province - Thirty-five percent (35%) shall accrue to the general fund;
- (2) Municipality - Forty percent (40%) to the general fund of the municipality where the property is located; and
- (3) Barangay - Twenty-five percent (25%) shall accrue to the barangay where the property is located.

(b) In the case of cities:

- (1) City - Seventy percent (70%) shall accrue to the general fund of the city; and
- (2) Thirty percent (30%) shall be distributed among the component barangays of the cities where the property is located in the following manner:
 - (i) Fifty percent (50%) shall accrue to the barangay where the property is located;
 - (ii) Fifty percent (50%) shall accrue equally to all component barangays of the city; and

(c) In the case of a municipality within the Metropolitan Manila Area:

- (1) Metropolitan Manila Authority - Thirty-five percent (35%) shall accrue to the general fund of the authority;
- (2) Municipality - Thirty-five percent (35%) shall accrue to the general fund of the municipality where the property is located;
- (3) Barangays - Thirty percent (30%) shall be distributed among the component barangays of the municipality where the property is located in the following manner:
 - (i) Fifty percent (50%) shall accrue to the barangay where the property is located;

(ii) Fifty percent (50%) shall accrue equally to all component barangays of the municipality.

(d) The share of each barangay shall be released, without need of any further action, directly to the barangay treasurer on a quarterly basis within five (5) days after the end of each quarter and shall not be subject to any lien or holdback for whatever purpose.

Section 272. *Application of Proceeds of the Additional One Percent SEF Tax.* - The proceeds from the additional one percent (1%) tax on real property accruing to the Special Education Fund (SEF) shall be automatically released to the local school boards: Provided, That, in case of provinces, the proceeds shall be divided equally between the provincial and municipal school boards: Provided, however, That the proceeds shall be allocated for the operation and maintenance of public schools, construction and repair of school buildings, facilities and equipment, educational research, purchase of books and periodicals, and sports development as determined and approved by the Local School Board.

Section 273. *Proceeds of the Tax on Idle Lands.* - The proceeds of the additional real property tax on idle lands shall accrue to the respective general fund of the province or city where the land is located. In the case of a municipality within the Metropolitan Manila Area, the proceeds shall accrue equally to the Metropolitan Manila Authority and the municipality where the land is located.

Section 274. *Proceeds of the Special Levy.* - The proceeds of the special levy on lands benefited by public works, projects and other improvements shall accrue to the general fund of the local government unit which financed such public works, projects or other improvements.

CHAPTER VIII

Special Provisions

Section 275. *General Assessment Revision; Expenses Incident Thereto.* - The sanggunian of provinces, cities and municipalities within the Metropolitan Manila Area shall provide the necessary appropriations to defray the expenses incident to the general revision of real property assessment.

All expenses incident to a general revision of real property assessment shall, by ordinance of the sangguniang panlalawigan, be apportioned between the province and the municipality on the basis of the taxable area of the municipality concerned.

Section 276. *Condonation or Reduction of Real Property Tax and Interest.* - In case of a general failure of crops or substantial decrease in the price of agricultural or agribased products, or calamity in any province, city or municipality, the sanggunian concerned, by ordinance passed prior to the first (1st) day of January of any year and upon recommendation of the Local Disaster Coordinating Council, may condone or reduce, wholly or partially, the taxes and interest thereon for the succeeding year or years in the city or municipality affected by the calamity.

Section 277. *Condonation or Reduction of Tax by the President of the Philippines.* - The President of the Philippines may, when public interest so requires, condone or reduce the real property tax and interest for any year in any province or city or a municipality within the Metropolitan Manila Area.

Section 278. *Duty of Registrar of Deeds and Notaries Public to Assist the Provincial, City or Municipal Assessor.* - It shall be the duty of the Registrar of Deeds and notaries public to furnish the provincial, city or municipal assessor with copies of all contracts selling, transferring, or otherwise conveying, leasing, or mortgaging real property received by, or acknowledged before them.

Section 279. *Insurance Companies to Furnish Information.* - Insurance companies are hereby required to furnish the provincial, city or municipal assessor copies of any contract or policy insurance on buildings,

structures, and improvements insured by them or such other documents which may be necessary for the proper assessment thereof.

Section 280. *Fees in Court Actions.* - All court actions, criminal or civil, instituted at the instance of the provincial, city or municipal treasurer or assessor under the provisions of this Code, shall be exempt from the payment of court and sheriff's fees.

Section 281. *Fees in Registration of Papers or Documents on Sale of Delinquent Real Property to Province, City or Municipality.* - All certificates, documents, and papers covering the sale of delinquent property to the province, city or municipality, if registered in the Registry of Property, shall be exempt from the documentary stamp tax and registration fees.

Section 282. *Real Property Assessment Notices or Owner's Copies of Tax Declarations to be Exempt from Postal Charges or Fees.* - All real property assessment notices or owner's copies of tax declaration sent through the mails by the assessor shall be exempt from the payment of postal charges or fees.

Section 283. *Sale and Forfeiture Before Effectivity of Code.* - Tax delinquencies incurred, and sales and forfeitures of delinquent real property effected, before the effectivity of this Code shall be governed by the provisions of applicable laws then in force.

TITLE III

SHARES OF LOCAL GOVERNMENT UNITS IN THE PROCEEDS OF NATIONAL TAXES

CHAPTER I

Allotment of Internal Revenue

Section 284. *Allotment of Internal Revenue Taxes.* - Local government units shall have a share in the national internal revenue taxes based on the collection of the third fiscal year preceding the current fiscal year as follows:

- (a) On the first year of the effectivity of this Code, thirty percent (30%);
- (b) On the second year, thirty-five percent (35%); and
- (c) On the third year and thereafter, forty percent (40%).

Provided, That in the event that the national government incurs an unmanageable public sector deficit, the President of the Philippines is hereby authorized, upon the recommendation of Secretary of Finance, Secretary of Interior and Local Government and Secretary of Budget and Management, and subject to consultation with the presiding officers of both Houses of Congress and the presidents of the "liga", to make the necessary adjustments in the internal revenue allotment of local government units but in no case shall the allotment be less than thirty percent (30%) of the collection of national internal revenue taxes of the third fiscal year preceding the current fiscal year: Provided, further, That in the first year of the effectivity of this Code, the local government units shall, in addition to the thirty percent (30%) internal revenue allotment which shall include the cost of devolved functions for essential public services, be entitled to receive the amount equivalent to the cost of devolved personal services.

Section 285. *Allocation to Local Government Units.* - The share of local government units in the internal revenue allotment shall be collected in the following manner:

- (a) Provinces - Twenty-three percent (23%);
- (b) Cities - Twenty-three percent (23%);

(c) Municipalities - Thirty-four percent (34%); and

(d) Barangays - Twenty percent (20%)

Provided, however, That the share of each province, city, and municipality shall be determined on the basis of the following formula:

(a) Population - Fifty percent (50%);

(b) Land Area - Twenty-five percent (25%); and

(c) Equal sharing - Twenty-five percent (25%)

Provided, further, That the share of each barangay with a population of not less than one hundred (100) inhabitants shall not be less than Eighty thousand (P80,000.00) per annum chargeable against the twenty percent (20%) share of the barangay from the internal revenue allotment, and the balance to be allocated on the basis of the following formula:

(a) On the first year of the effectivity of this Code:

(1) Population - Forty percent (40%); and

(2) Equal sharing - Sixty percent (60%)

(b) On the second year:

(1) Population - Fifty percent (50%); and

(2) Equal sharing - Fifty percent (50%)

(c) On the third year and thereafter:

(1) Population - Sixty percent (60%); and

(2) Equal sharing - Forty percent (40%).

Provided, finally, That the financial requirements of barangays created by local government units after the effectivity of this Code shall be the responsibility of the local government unit concerned.

Section 286. Automatic Release of Shares. -

(a) The share of each local government unit shall be released, without need of any further action, directly to the provincial, city, municipal or barangay treasurer, as the case may be, on a quarterly basis within five (5) days after the end of each quarter, and which shall not be subject to any lien or holdback that may be imposed by the national government for whatever purpose.

(b) Nothing in this Chapter shall be understood to diminish the share of local government units under existing laws.

Section 287. Local Development Projects. - Each local government unit shall appropriate in its annual budget no less than twenty percent (20%) of its annual internal revenue allotment for development

projects. Copies of the development plans of local government units shall be furnished the Department of Interior and Local Government.

Section 288. Rules and Regulations. - The Secretary of Finance, in consultation with the Secretary of Budget and Management, shall promulgate the necessary rules and regulations for a simplified disbursement scheme designed for the speedy and effective enforcement of the provisions of this Chapter.

CHAPTER II

Share of Local Government Units in the National Wealth

Section 289. Share in the Proceeds from the Development and Utilization of the National Wealth. - Local government units shall have an equitable share in the proceeds derived from the utilization and development of the national wealth within their respective areas, including sharing the same with the inhabitants by way of direct benefits.

Section 290. Amount of Share of Local Government Units. - Local government units shall, in addition to the internal revenue allotment, have a share of forty percent (40%) of the gross collection derived by the national government from the preceding fiscal year from mining taxes, royalties, forestry and fishery charges, and such other taxes, fees, or charges, including related surcharges, interests, or fines, and from its share in any co-production, joint venture or production sharing agreement in the utilization and development of the national wealth within their territorial jurisdiction.

Section 291. Share of the Local Governments from any Government Agency or Owned or Controlled Corporation. - Local government units shall have a share based on the preceding fiscal year from the proceeds derived by any government agency or government-owned or controlled corporation engaged in the utilization and development of the national wealth based on the following formula whichever will produce a higher share for the local government unit:

(a) One percent (1%) of the gross sales or receipts of the preceding calendar year; or

(b) Forty percent (40%) of the mining taxes, royalties, forestry and fishery charges and such other taxes, fees or charges, including related surcharges, interests, or fines the government agency or government owned or controlled corporation would have paid if it were not otherwise exempt.

Section 292. Allocation of Shares. - The share in the preceding Section shall be distributed in the following manner:

(a) Where the natural resources are located in the province:

(1) Province - Twenty percent (20%);

(2) Component City/Municipality - Forty-five percent (45%); and

(3) Barangay - Thirty-five percent (35%)

Provided, however, That where the natural resources are located in two (2) or more provinces, or in two (2) or more component cities or municipalities or in two (2) or more barangays, their respective shares shall be computed on the basis of:

(1) Population - Seventy percent (70%); and

(2) Land area - Thirty percent (30%)

(b) Where the natural resources are located in a highly urbanized or independent component city:

(1) City - Sixty-five percent (65%); and

(2) Barangay - Thirty-five percent (35%)

Provided, however, That where the natural resources are located in such two (2) or more cities, the allocation of shares shall be based on the formula on population and land area as specified in paragraph (a) of this Section.

Section 293. *Remittance of the Share of Local Government Units.* - The share of local government units from the utilization and development of national wealth shall be remitted in accordance with Section 286 of this Code: Provided, however, That in the case of any government agency or government-owned or controlled corporation engaged in the utilization and development of the national wealth, such share shall be directly remitted to the provincial, city, municipal or barangay treasurer concerned within five (5) days after the end of each quarter.

Section 294. *Development and Livelihood Projects.* - The proceeds from the share of local government units pursuant to this chapter shall be appropriated by their respective sanggunian to finance local government and livelihood projects: Provided, however, That at least eighty percent (80%) of the proceeds derived from the development and utilization of hydrothermal, geothermal, and other sources of energy shall be applied solely to lower the cost of electricity in the local government unit where such a source of energy is located.

TITLE IV Credit Financing

Section 295. *Scope.* - This Title shall govern the power of local government units to create indebtedness and to enter into credit and other financial transactions.

Section 296. *General Policy.* -

(a) It shall be the basic policy that any local government unit may create indebtedness, and avail of credit facilities to finance local infrastructure and other socio-economic development projects in accordance with the approved local development plan and public investment program.

(b) A local government unit may avail of credit lines from government or private banks and lending institutions for the purpose of stabilizing local finances.

Section 297. *Loans, Credits, and Other Forms of Indebtedness of Local Government Units.* -

(a) A local government unit may contract loans, credits, and other forms of indebtedness with any government or domestic private bank and other lending institutions to finance the construction, installation, improvement, expansion, operation, or maintenance of public facilities, infrastructure facilities, housing projects, the acquisition of real property, and the implementation of other capital investment projects, subject to such terms and conditions as may be agreed upon by the local government unit and the lender. The proceeds from such transactions shall accrue directly to the local government unit concerned.

(b) A local government unit may likewise secure from any government bank and lending institution short, medium and long-term loans and advances against security of real estate or other acceptable assets for the establishment, development, or expansion of agricultural,

industrial, commercial, house financing projects, livelihood projects, and other economic enterprises.

(c) Government financial and other lending institutions are hereby authorized to grant loans, credits, and other forms of indebtedness out of their loanable funds to local government units for purposes specified above.

Section 298. *Deferred-Payment and other Financial Schemes.* - Provincial, city and municipal governments may likewise acquire property, plant, machinery, equipment, and such necessary accessories under a supplier's credit, deferred payment plan, or either financial scheme.

Section 299. *Bonds and Other Long-Term Securities.* - Subject to the rules and regulations of the Central Bank and the Securities and Exchange Commission, provinces, cities, and municipalities are hereby authorized to issue bonds, debentures, securities, collaterals, notes and other obligations to finance self-liquidating, income-producing development or livelihood projects pursuant to the priorities established in the approved local development plan or the public investment program. The sanggunian concerned shall, through an ordinance approved by a majority of all its members, declare and state the terms and conditions of the bonds and the purpose for which the proposed indebtedness is to be incurred.

Section 300. *Inter-Local Government Loans, Grants, and Subsidies.* - Provinces, cities, and municipalities may, upon approval of the majority of all members of the sanggunian concerned and in amounts not exceeding their surplus funds, extend loans, grants, or subsidies to other local government units under such terms and conditions as may be agreed upon by the contracting parties.

Local government units may, upon approval of their respective sanggunian, jointly or severally contract loans, credits, and other forms of indebtedness for purposes mutually beneficial to them.

Section 301. *Loans from Funds Secured by the National Government from Foreign Sources.* -

(a) The President, or his duly authorized representative, may, through any government financial or other lending institution, relend to any province, city, municipality, or barangay, the proceeds of loans contracted with foreign financial institutions or other international funding agencies for the purpose of financing the construction, installation, improvement, expansion, operation, or maintenance of public utilities and facilities, infrastructure facilities, or housing projects, the acquisition of real property, and the implementation of other capital investment projects, subject to such terms and conditions as may be agreed upon by the President and the local government unit. The proceeds from such loans shall accrue directly to the local government concerned.

(b) The President may likewise authorize the relending to local government units the proceeds of grants secured from foreign sources, subject to the provisions of existing laws and the applicable grant agreements. (c) Repayment or amortization of loans including accrued interest thereon, may be financed partly from the income of the projects or services and from the regular income of the local government unit, which must be provided for and appropriated regularly in its annual budget until the loan and the interest thereon shall have been fully paid.

Section 302. *Financing, Construction, Maintenance, Operation, and Management of Infrastructure Projects by the Private Sector.* -

(a) Local government units may enter into contracts with any duly prequalified individual contractor, for the financing, construction, operation, and maintenance of any financially viable infrastructure facilities, under the build-operate-transfer agreement, subject to the applicable provisions of Republic Act Numbered Sixty-nine hundred fifty-seven (R.A. No. 6957) authorizing the financing, construction, operation and maintenance of infrastructure projects by the private

sector and the rules and regulations issued thereunder and such terms and conditions provided in this Section.

(b) Local government units shall include in their respective local development plans and public investment programs priority projects that may be financed, constructed, operated and maintained by the private sector under this Section. It shall be the duty of the local government unit concerned to disclose to the public all projects eligible for financing under this Section, including official notification of duly registered contractors and publications in newspapers of general or local circulation and in conspicuous and accessible public places. Local projects under the build-operate-and-transfer agreement shall be confirmed by the local development councils.

(c) Projects implemented under this Section shall be subject to the following terms and conditions:

(1) The provincial, city or municipal engineer, as the case may be, upon formal request in writing by the local chief executive, shall prepare the plans and specifications for the proposed projects, which shall be submitted to the sanggunian for approval.

(2) Upon approval by the sanggunian of the project plans and specifications, the provincial, city, or municipal engineer shall, as the case may be, cause to be published once every week, for two (2) consecutive weeks in at least one (1) local newspaper which is circulated in the region, province, city or municipality in which the project is to be implemented, a notice inviting all duly qualified contractors to participate in a public bidding for the projects so approved. The conduct of public bidding and award of contracts for local government projects under this Section shall be in accordance with this Code and other applicable laws, rules and regulations.

In the case of a build-operate-and-transfer agreement, the contract shall be awarded to the lowest complying bidder whose offer is deemed most advantageous to the local government and based on the present value of its proposed tolls, fees, rentals, and charges over a fixed term for the facility to be constructed, operated, and maintained according to the prescribed minimum design and performance standards, plans, and specifications. For this purpose, the winning contractor shall be automatically granted by the local government unit concerned the franchise to operate and maintain the facility, including the collection of tolls, fees, rentals, and charges in accordance with subsection (c-4) hereof.

In the case of a build-operate-and-transfer agreement, the contract shall be awarded to the lowest complying bidder based on the present value of its proposed schedule of amortization payments for the facility to be constructed according to the prescribed minimum design and performance standards, plans, and specifications.

(3) Any contractor who shall undertake the prosecution of any project under this Section shall post the required bonds to protect the interest of the province, city, or municipality, in such amounts as may be fixed by the sanggunian concerned and the provincial, city or municipal engineer shall not, as the case may be, allow any contractor to initiate the prosecution of projects under this Section unless such contractor presents proof or evidence that he has posted the required bond.

(4) The contractor shall be entitled to a reasonable return of its investment in accordance with its bid proposal as accepted by the local government unit concerned.

In the case of a build-operate-and-transfer agreement, the repayment shall be made by authorizing the contractor to charge and collect reasonable tolls, fees, rentals, and

charges for the use of the project facility not exceeding those proposed in the bid and incorporated in the contract: Provided, That the local government unit concerned shall, based on reasonableness and equity, approve the tolls, fees, rentals and charges: Provided, further, That the imposition and collection of tolls, fees, rentals and charges shall be for a fixed period as proposed in the bid and incorporated in the contract which shall in no case exceed fifty (50) years: Provided, finally, That during the lifetime of the contract, the contractor shall undertake the necessary maintenance and repair of the facility in accordance with standards prescribed in the bidding documents and in the contract.

In the case of a build-operate-and-transfer agreement, the repayment shall be made through amortization payments in accordance with the schedule proposed in the bid and incorporated in the contract.

In case of land reclamation or construction of industrial estates, the repayment plan may consist of the grant of a portion or percentage of the reclaimed land or the industrial estate constructed.

(5) Every infrastructure project undertaken under this Section shall be constructed, operated, and maintained by the contractor under the technical supervision of the local government unit and in accordance with the plans, specifications, standards, and costs approved by it.

(d) The provincial, city, or municipal legal officer shall, as the case may be, review the contracts executed pursuant to this Section to determine their legality, validity, enforceability and correctness of form.

Section 303. Remedies and Sanctions. - Local government unit shall appropriate in their respective annual budgets such amounts as are sufficient to pay the loans and other indebtedness incurred or redeem or retire bonds, debentures, securities, notes and other obligations issued under this Title: Provided, That failure to provide the appropriations herein required shall render their annual budgets inoperative.

TITLE V

Local Fiscal Administration

CHAPTER I

General Provisions

Section 304. Scope. - This Title shall govern the conduct and management of financial affairs, transactions, and operations of provinces, cities, municipalities, and barangays.

Section 305. Fundamental Principles. - The financial affairs, transactions, and operations of local government units shall be governed by the following fundamental principles:

- (a) No money shall be paid out of the local treasury except in pursuance of an appropriations ordinance or law;
- (b) Local government funds and monies shall be spent solely for public purposes;
- (c) Local revenue is generated only from sources expressly authorized by law or ordinance, and collection thereof shall at all times be acknowledged properly;

- (d) All monies officially received by a local government officer in any capacity or on any occasion shall be accounted for as local funds, unless otherwise provided by law;
- (e) Trust funds in the local treasury shall not be paid out except in fulfillment of the purpose for which the trust was created or the funds received;
- (f) Every officer of the local government unit whose duties permit or require the possession or custody of local funds shall be properly bonded, and such officer shall be accountable and responsible for said funds and for the safekeeping thereof in conformity with the provisions of law;
- (g) Local governments shall formulate sound financial plans, and local budgets shall be based on functions, activities, and projects, in terms of expected results;
- (h) Local budget plans and goals shall, as far as practicable, be harmonized with national development plans, goals, and strategies in order to optimize the utilization of resources and to avoid duplication in the use of fiscal and physical resources;
- (i) Local budgets shall operationalize approved local development plans;
- (j) Local government units shall ensure that their respective budgets incorporate the requirements of their component units and provide for equitable allocation of resources among these component units;
- (k) National planning shall be based on local planning to ensure that the needs and aspirations of the people as articulated by the local government units in their respective local development plans are considered in the formulation of budgets of national line agencies or offices;
- (l) Fiscal responsibility shall be shared by all those exercising authority over the financial affairs, transactions, and operations of the local government units; and
- (m) The local government unit shall endeavor to have a balanced budget in each fiscal year of operation.

Section 306. Definitions. - When used in this Title, the term -

- (a) "Annual Budget" refers to a financial plan embodying the estimates of income and expenditures for one (1) fiscal year;
- (b) "Appropriation" refers to an authorization made by ordinance, directing the payment of goods and services from local government funds under specified conditions or for specific purposes;
- (c) "Budget Document" refers to the instrument used by the local chief executive to present a comprehensive financial plan to the sanggunian concerned;
- (d) "Capital Outlays" refers to appropriations for the purchase of goods and services, the benefits of which extend beyond the fiscal year and which add to the assets of the local government unit concerned, including investments in public utilities such as public markets and slaughterhouses;
- (e) "Continuing Appropriation" refers to an appropriation available to support obligations for a specified purpose or projects, such as those for the construction of physical structures or for the acquisition of real property or equipment, even when these obligations are incurred beyond the budget year;

(f) "Current Operating Expenditures" refers to appropriations for the purchase of goods and services for the conduct of normal local government operations within the fiscal year, including goods and services that will be used or consumed during the budget year;

(g) "Expected Results" refers to the services, products, or benefits that shall accrue to the public, estimated in terms of performance measures or physical targets;

(h) "Fund" refers to a sum of money, or other assets convertible to cash, set aside for the purpose of carrying out specific activities or attaining certain objectives in accordance with special regulations, restrictions, or limitations, and constitutes as independent fiscal and accounting entity;

(i) "Income" refers to all revenues and receipts collected or received forming the gross accretions of funds of the local government unit;

(j) "Obligations" refers to an amount committed to be paid by the local government unit for any lawful act made by an accountable officer for and in behalf of the local unit concerned;

(k) "Personal Services" refers to appropriations for the payment of salaries, wages and other compensation of permanent, temporary, contractual, and casual employees of the local government unit;

(l) "Receipts" refers to income realized from operations and activities of the local government or are received by it in the exercise of its corporate functions, consisting of charges for services rendered, conveniences furnished, or the price of a commodity sold, as well as loans, contributions or aids from other entities, except provisional advances for budgetary purposes; and

(m) "Revenue" refers to income derived from the regular system of taxation enforced under authority of law or ordinance, and, as such, accrue more or less regularly every year.

CHAPTER II

Local and Other Special Funds

ARTICLE I

Receipts, Safekeeping Article and Disposition of Local Funds

Section 307. *Remittance of Government Monies to the Local Treasury.* - Officers of local government authorized to receive and collect monies arising from taxes, revenues, or receipts of any kind shall remit the full amount received and collected to the treasury of such local government unit which shall be credited to the particular account or accounts to which the monies in question properly belong.

Section 308. *Local Funds.* - Every local government unit shall maintain a General Fund which shall be used to account for such monies and resources as may be received by and disbursed from the local treasury. The General Fund shall consist of monies and resources of the local government which are available for the payment of expenditures, obligations or purposes not specifically declared by law as accruing and chargeable to, or payable from, any other fund.

Section 309. *Special Funds.* - There shall be maintained in every provincial, city, or municipal treasury the following special funds:

(a) Special Education Fund (SEF) shall consist of the respective shares of provinces, cities, municipalities and barangays in the proceeds of the additional tax on real property to be appropriated for purposes prescribed in Section 272 of this Code; and

(b) Trust Funds shall consist of private and public monies which have officially come into the possession of the local government or of a local government official as trustee, agent or administrator, or which have been received as a guaranty for the fulfillment of some obligation. A trust fund shall only be used for the specific purpose for which it was created or for which it came into the possession of the local government unit.

Section 310. *Separation of Books and Depository Accounts.* - Local accountants and treasurers shall maintain separate books and depository accounts, respectively, for each fund in their custody or administration under such rules and regulations as the Commission on Audit may prescribe.

Section 311. *Depository Accounts.* - Local treasurers shall maintain depository accounts in the name of their respective local government units with banks, preferably government-owned, located in or nearest to their respective areas of jurisdiction. Earnings of each depository account shall accrue exclusively thereto.

Section 312. *Separation of Personal Money from Public Funds.* - Local treasurers and other accountable officers shall keep monies separate and distinct from local public funds in their custody and shall not make profit out of public money or otherwise apply the same to any use not authorized by law or ordinance.

ARTICLE II

Special Accounts

Section 313. *Special Accounts to be Maintained in the General Fund.* - Local government units shall maintain special accounts in the general fund for the following:

- (a) Public utilities and other economic enterprises;
- (b) Loans, interests, bond issues, and other contributions for specific purposes; and
- (c) Development projects funded from the share of the local government unit concerned in the internal revenue allotment and such other special accounts which may be created by law or ordinance.

Receipts, transfers, and expenditures involving the foregoing special accounts shall be properly taken up thereunder.

Profits or income derived the operation of public utilities and other economic enterprises, after deduction for the cost of improvement, repair and other related expenses of the public utility or economic enterprise concerned, shall first be applied for the return of the advances or loans made therefor. Any excess shall form part of the general fund of the local government unit concerned.

CHAPTER III

Budgeting

ARTICLE I

Local Government Budgets

Section 314. *Form and Content.* -

- (a) Local government budgets shall primarily consists of two (2) parts:
 - (1) The estimates of income; and

(2) The total appropriations covering the current operating expenditures and capital outlays.

(b) The budget document shall contain:

(1) A budget message of the local chief executive setting forth in brief the significance of the executive budget, particularly in relation to the approved local development plan;

(2) A brief summary of the functions, projects, and activities to be accomplished in pursuit of the goals and objectives of the local government unit for the ensuing fiscal year, specifically the delivery of basic services or facilities enumerated under Section 17 of this Code;

(3) Summary of financial statements setting forth:

(i) The actual income and expenditures during the immediately preceding year;

(ii) The actual income and expenditures of the first two (2) quarters and the estimates of income and expenditures for the last two (2) quarters of the current fiscal year;

(iii) The estimates of income for the ensuing fiscal year from ordinances and laws existing at the time the proposed budget is transmitted, together with other proposals;

(iv) The estimated expenditures necessary to carry out the functions, projects, and activities of the local government unit for the ensuing fiscal year;

(v) All essential facts regarding the bonded and other long-term obligations and indebtedness of the local government unit, if any;

(vi) Summary statement of all statutory and contractual obligations due; and

(vii) Such other financial statements and data as are deemed necessary or desirable in order to disclose in all practicable detail the financial condition of the local government unit.

Section 315. *Submission of Detailed Statements of Income and Expenditures.* - (a) On or before the fifteenth (15th) day of July of each year, local treasurers shall submit to their respective local chief executives a certified statement, covering the income and expenditures of the preceding fiscal year, the actual income and expenditures of the first two (2) quarters of the current year, and the estimated income and expenditures for the last two (2) quarters of the current year.

Section 316. *Local Finance Committee.* - There is hereby created in every province, city or municipality a local finance committee to be composed of the local planning and development officer, the local budget officer, and the local treasurer. It shall exercise the following functions:

(a) Determine the income reasonably projected as collectible for the ensuing fiscal year;

(b) Recommend the appropriate tax and other revenue measures or borrowings which may be appropriate to support the budget;

- (c) Recommend to the local chief executive concerned the level of the annual expenditures and the ceilings of spending for economic, social, and general services based on the approved local development plans;
- (d) Recommend to the local chief executive concerned the proper allocation of expenditures for each development activity between current operating expenditures and capital outlays;
- (e) Recommend to the local chief executive concerned the amount to be allocated for capital outlay under each development activity or infrastructure project;
- (f) Assist the sangguniang panlalawigan in the review and evaluation of budget of component cities and municipalities in the case of provincial finance committee, the barangay budgets in the case of city or municipal finance committee, and recommend the appropriate action thereon;
- (g) Assist the sanggunian concerned in the analysis and review of annual regular and supplemental budgets of the respective local government unit to determine compliance with statutory and administrative requirements; and
- (h) Conduct semi-annual review and general examination of cost and accomplishments against performance standards applied in undertaking development projects.

A copy of this report shall be furnished the local chief executive and the sanggunian concerned, and shall be posted in conspicuous and publicly accessible places in the provinces, cities, municipalities and barangays.

Section 317. *Submission of Budget Proposals by Heads or Departments or Offices.* -

- (a) Each head of department or office shall submit a budget proposal for his department or office to the local chief executive on or before the fifteenth (15th) of July of each year: Provided, That the budget proposal of each department or office shall be categorized under either economic, social or general services: Provided, further, That each service shall be covered by the budget of at least one (1) department or office of the local government unit concerned.

The said budget proposal shall be prepared in accordance with such policy and program guidelines as the local chief executive concerned may issue in conformity with the local development plan, the budgetary ceilings prescribed by the local finance committee, and the general requirements prescribed in this Title.

- (b) Budget proposals of departments or offices shall be divided into two (2) primary categories, namely: the current operating expenditures and the capital outlays. Such budget proposals shall contain the following information:

- (1) Objectives, functions, and projects showing the general character and relative importance of the work to be accomplished or the services to be rendered, and the cost thereof;

- (2) Organizational charts and staffing patterns indicating the list of plantilla positions with their corresponding salaries, and proposals for reclassification of positions and salary changes, as well as the creation of new positions with their proposed salary grade, duly supported by proper justification;

(3) Brief description of the functions, projects and activities for the ensuing fiscal year, expected results for each function, project and activity, and the nature of work to be performed, including the objects of expenditures for each function, project and activity;

(4) Relation of the work and financial proposals to approved local development plans;

(5) Estimated current operating expenditures and capital outlays with comparative data for the last two (2) preceding, current, and ensuing fiscal years; and

(6) Accomplishment reports for the last two (2) preceding and current fiscal years.

Section 318. *Preparation of the Budget by the Local Chief Executive.* - Upon receipt of the statements of income and expenditures from the treasurer, the budget proposals of the heads of departments and offices, and the estimates of income and budgetary ceilings from the local finance committee, the local chief executive shall prepare the executive budget for the ensuing fiscal year in accordance with the provisions of this Title.

The local chief executive shall submit the said executive budget to the sanggunian concerned not later than the sixteenth (16th) of October of the current fiscal year. Failure to submit such budget on the date prescribed herein shall subject the local chief executive to such criminal and administrative penalties as provided for under this Code and other applicable laws.

Section 319. *Legislative Authorization of the Budget.* - On or before the end of the current fiscal year, the sanggunian concerned shall, through an ordinance, the annual budget of the local government unit for the ensuing fiscal year on the basis of the estimates of income and expenditures submitted by the local chief executive.

Section 320. *Effectivity of Budgets.* - The ordinance enacting the annual budget shall take effect at the beginning of the ensuing calendar year. An ordinance enacting a supplemental budget, however, shall take effect upon its approval or on the date fixed therein.

The responsibility for the execution of the annual and supplemental budgets and the accountability therefor shall be vested primarily in the local chief executive concerned.

Section 321. *Changes in the Annual Budget.* - All budgetary proposals shall be included and considered in the budget preparation process. After the local chief executive concerned shall have submitted the executive budget to the sanggunian, no ordinance providing for a supplemental budget shall be enacted, except when supported by funds actually available as certified by the local treasurer or by new revenue sources.

A supplemental budget may also be enacted in times of public calamity by way of budgetary realignment to set aside appropriations for the purchase of supplies and materials or the payment of services which are exceptionally urgent or absolutely indispensable to prevent imminent danger to, or loss of, life or property, in the jurisdiction of the local government unit or in other areas declared by the President in a state of calamity. Such ordinance shall clearly indicate the sources of funds available for appropriations, as certified under oath by the local treasurer and local accountant and attested by the local chief executive, and the various items of appropriations affected and the reasons for the change.

Section 322. *Reversion of Unexpended Balances of Appropriations, Continuing Appropriations.* - Unexpended balances of appropriations authorized in the annual appropriations ordinance shall revert to the unappropriated surplus of the general fund at the end of the fiscal year and shall not thereafter be available for the expenditure except by subsequent enactment. However, appropriations for capital outlays shall continue and remain valid until fully spent, reverted or the project is completed. Reversions

of continuing appropriations shall not be allowed unless obligations therefor have been fully paid or otherwise settled.

The balances of continuing appropriations shall be reviewed as part of the annual budget preparation and the sanggunian concerned may approve, upon recommendation of the local chief executive, the reversion of funds no longer needed in connection with the activities funded by said continuing appropriations subject to the provisions of this Section.

Section 323. *Failure to Enact the Annual Appropriations.* - In case the sanggunian concerned fails to pass the ordinance authorizing the annual appropriations at the beginning of the ensuing fiscal year, it shall continue to hold sessions, without additional remuneration for its members, until such ordinance is approved, and no other business may be taken up during such sessions. If the sanggunian still fails to enact such ordinance after ninety (90) days from the beginning of the fiscal year, the ordinance authorizing the appropriations of the preceding year shall be deemed reenacted and shall remain in force and effect until the ordinance authorizing the proposed appropriations is passed by the sanggunian concerned. However, only the annual appropriations for salaries and wages of existing positions, statutory and contractual obligations, and essential operating expenses authorized in the annual and supplemental budgets for the preceding year shall be deemed reenacted and disbursement of funds shall be in accordance therewith.

In the implementation of such reenacted ordinance, the local treasurer concerned shall exclude from the estimates of income for the preceding fiscal year those realized from nonrecurring sources, like national aids, proceeds from loans, sale of assets, prior year adjustments, and other analogous sources of income. No ordinance authorizing supplemental appropriations shall be passed in place of the annual appropriations.

In case the revised income estimates be less than the aggregate reenacted appropriations, the local treasurer concerned shall accordingly advise the sanggunian concerned which shall, within ten (10) days from the receipt of such advice, make the necessary adjustments or reductions. The revised appropriations authorized by the sanggunian concerned shall then be the basis for disbursements.

Section 324. *Budgetary Requirements.* - The budgets of local government units for any fiscal year shall comply with the following requirements:

- (a) The aggregate amount appropriated shall not exceed the estimates of income;
- (b) Full provision shall be made for all statutory and contractual obligations of the local government unit concerned: Provided, however, That the amount of appropriations for debt servicing shall not exceed twenty percent (20%) of the regular income of the local government unit concerned;
- (c) In the case of provinces, cities, and municipalities, aid to component barangays shall be provided in amounts of not less than One thousand pesos (P1,000.00) per barangay; and
- (d) Five percent (5%) of the estimated revenue from regular sources shall be set aside as an annual lump sum appropriation for unforeseen expenditures arising from the occurrence of calamities: Provided, however, That such appropriation shall be used only in the area, or a portion thereof, of the local government unit or other areas declared by the President in a state of calamity.

Section 325. *General Limitations.* - The use of the provincial, city, and municipal funds shall be subject to the following limitations:

(a) The total appropriations, whether annual or supplemental, for personal services of a local government unit for one (1) fiscal year shall not exceed forty-five percent (45%) in the case of first to third class provinces, cities and municipalities, and fifty-five percent (55%) in the case of fourth class or lower, of the total annual income from regular sources realized in the next preceding fiscal year. The appropriations for salaries, wages, representation and transportation allowances of officials and employees of the public utilities and economic enterprises owned, operated, and maintained by the local government unit concerned shall not be included in the annual budget or in the computation of the maximum amount for personal services. The appropriations for the personal services of such economic enterprises shall be charged to their respective budgets;

(b) No official or employee shall be entitled to a salary rate higher than the maximum fixed for his position or other positions of equivalent rank by applicable laws or rules and regulations issued thereunder;

(c) No local fund shall be appropriated to increase or adjust salaries or wages of officials and employees of the national government, except as may be expressly authorized by law;

(d) In cases of abolition of positions and the creation of new ones resulting from the abolition of existing positions in the career service, such abolition or creation shall be made in accordance with pertinent provisions of this code and the civil service law, rules and regulations;

(e) Positions in the official plantilla for career positions which are occupied by incumbents holding permanent appointments shall be covered by adequate appropriations;

(f) No changes in designation or nomenclature of positions resulting in a promotion or demotion in rank or increase or decrease in compensation shall be allowed, except when the position is actually vacant, and the filling of such positions shall be strictly made in accordance with the civil service law, rules and regulations;

(g) The creation of new positions and salary increases or adjustments shall in no case be made retroactive;

(h) The annual appropriations for discretionary purposes of the local chief executive shall not exceed two percent (2%) of the actual receipts derived from basic real property tax in the next preceding calendar year. Discretionary funds shall be disbursed only for public purposes to be supported by appropriate vouchers and subject to such guidelines as may be prescribed by law. No amount shall be appropriated for the same purpose except as authorized under this Section.

Section 326. *Review of Appropriation Ordinances of Provinces, Highly-Urbanized Cities, Independent Component Cities, and Municipalities within the Metropolitan Manila Area.* - The Department of Budget and Management shall review ordinances authorizing the annual or supplemental appropriations of provinces, highly-urbanized cities, independent component cities, and municipalities within the Metropolitan Manila Area in accordance with the immediately succeeding Section.

Section 327. *Review of Appropriation Ordinances of Component Cities and Municipalities.* - The sangguniang panlalawigan shall review the ordinance authorizing annual or supplemental appropriations of component cities and municipalities in the same manner and within the same period prescribed for the review of other ordinances.

If within ninety (90) days from receipt of copies of such ordinance, the sangguniang panlalawigan takes no action thereon, the same shall be deemed to have been reviewed in accordance with law and shall continue to be in full force and effect. If within the same period, the sangguniang panlalawigan shall have ascertained that the ordinance authorizing annual or supplemental appropriations has not complied with the requirements set forth in this Title, the sangguniang panlalawigan shall, within the ninety-day period

hereinabove prescribed declare such ordinance inoperative in its entirety or in part. Items of appropriation contrary to limitations prescribed in this Title or in excess of the amounts prescribed herein shall be disallowed or reduced accordingly.

The sangguniang panlalawigan shall within the same period advise the sangguniang panlungsod or sangguniang bayan concerned through the local chief executive of any action on the ordinance under review. Upon receipt of such advice, the city or municipal treasurer concerned shall not make further disbursements of funds from any of the items of appropriation declared inoperative, disallowed or reduced.

Section 328. *Duration of Appropriation.* - Appropriations for ordinary administrative purposes not duly obligated shall terminate with the fiscal year and all unexpended balances thereof shall be automatically reverted on the thirty-first (31st) day of December of each year to the general fund of the local government unit.

ARTICLE II

Barangay Budgets

Section 329. *Barangay Funds.* - Unless otherwise provided in this Title, all the income of the barangay from whatever source shall accrue to its general fund and shall, at the option of the barangay concerned, be kept as trust fund in the custody of the city or municipal treasurer or be deposited in a bank, preferably government-owned, situated in or nearest to its area of jurisdiction. Such funds shall be disbursed in accordance with the provisions of this Title. Ten percent (10%) of the general fund of the barangay shall be set aside for the sangguniang kabataan.

Section 330. *Submission of Detailed Statements of Income and Expenditures for the Barangay Budgets.* - On or before the fifteenth (15th) day of September of each year, the barangay treasurer shall submit to the punong barangay a statement covering the estimates of income and expenditures for the ensuing fiscal year, based on a certified statement issued by the city or municipal treasurer covering the estimates of income from local sources for the barangay concerned.

Section 331. *Preparation of the Barangay Budget.* -

(a) Upon receipt of the statement of income and expenditures from the barangay treasurer, the punong barangay shall prepare the barangay budget for the ensuing fiscal year in the manner and within the period prescribed in this Title and submit the annual barangay budget to the sangguniang barangay for legislative enactment.

(b) The total annual appropriations for personal services of a barangay for one (1) fiscal year shall not exceed fifty-five percent (55%) of the total annual income actually realized from local sources during the next preceding fiscal year.

(c) The barangay budget shall likewise be subject to the same budgetary requirements and limitations hereinabove prescribed.

Section 332. *Effectivity of Barangay Budgets.* - The ordinance enacting the annual budget shall take effect at the beginning of the ensuing calendar year. An ordinance enacting a supplemental budget, however, shall take effect upon its approval or on the date fixed therein.

The responsibility for the execution of the annual and supplemental budgets and the accountability therefor shall be vested primarily in the punong barangay concerned.

Section 333. *Review of the Barangay Budget.* -

(a) Within ten (10) days from its approval, copies of the barangay ordinance authorizing the annual appropriations shall be furnished the sangguniang panlungsod or the sangguniang bayan, as the case may be, through the city or municipal budget officer. The sanggunian concerned shall have the power to review such ordinance in order to ensure that the provisions of this Title are complied with. If within sixty (60) days after the receipt of the ordinance, the sanggunian concerned takes no action thereon, the same shall continue to be in full force and effect. If within the same period, the sanggunian concerned shall have ascertained that the ordinance contains appropriations in excess of the estimates of the income duly certified as collectible, or that the same has not complied with the budgetary requirements set forth in this Title, the said ordinance shall be declared inoperative in its entirety or in part. Items of appropriation contrary to, or in excess of, any of the general limitations or the maximum amount prescribed in this Title shall be disallowed or reduced accordingly.

(b) Within the period hereinabove fixed, the sangguniang panlungsod or sangguniang bayan concerned shall return the barangay ordinance, through the city or municipal budget officer, to the punong barangay with the advice of action thereon for proper adjustments, in which event, the barangay shall operate on the ordinance authorizing annual appropriations of the preceding fiscal year until such time that the new ordinance authorizing annual appropriations shall have met the objections raised. Upon receipt of such advice, the barangay treasurer or the city or municipal treasurer who has custody of the funds shall not make further disbursement from any item of appropriation declared inoperative, disallowed, or reduced.

Section 334. *Barangay Financial Procedures.* -

(a) The barangay treasurer shall collect all taxes, fees, and other charges due and contributions accruing to the barangay for which he shall issue official receipts, and shall deposit all collections with the city or municipal treasury or in the depository account maintained in the name of the barangay within five (5) days after receipt thereof. He may collect real property taxes and such other taxes as may be imposed by a province, city or municipality that are due in his barangay only after being deputized by the local treasurer concerned for the purpose.

(b) The barangay treasurer may be authorized by the sangguniang barangay to make direct purchases amounting to not more than One thousand pesos (P1,000.00) at any time for the ordinary and essential needs of the barangay. The petty cash that the barangay treasurer may be authorized to hold for the purpose shall not exceed twenty percent (20%) of the funds available and to the credit of the barangay treasury.

(c) The financial records of the barangay shall be kept in the office of the city or municipal accountant in simplified manner as prescribed by the Commission on Audit. Representatives of the Commission on Audit shall audit such accounts annually or as often as may be necessary and make a report of the audit to the sangguniang panlungsod or sangguniang bayan, as the case may be. The Commission on Audit shall prescribe and put into effect simplified procedures for barangay finances within six (6) months following the effectivity of this Code.

CHAPTER IV

Expenditures, Disbursements, Accounting and Accountability

Section 335. *Prohibitions Against Expenditures for Religious or Private Purposes.* - No public money or property shall be appropriated or applied for religious or private purposes.

Section 336. *Use of Appropriated Funds and Savings.* - Funds shall be available exclusively for the specific purpose for which they have been appropriated. No ordinance shall be passed authorizing any transfer of appropriations from one item to another. However, the local chief executive or the presiding officer of the sanggunian concerned may, by ordinance, be authorized to augment any item in the

approved annual budget for their respective offices from savings in other items within the same expense class of their respective appropriations.

Section 337. *Restriction Upon Limit of Disbursements.* - Disbursements in accordance with appropriations in the approved annual budget may be made from any local fund in the custody of the treasurer, but the total disbursements from any local fund shall in no case exceed fifty percent (50%) of the uncollected estimated revenue accruing to such local fund in addition to the actual collections: Provided, however, That no cash overdraft in any local fund shall be incurred at the end of the fiscal year.

In case of emergency arising from a typhoon, earthquake, or any other calamity, the sanggunian concerned may authorize the local treasurer to continue making disbursements from any local fund in his possession in excess of the limitations herein provided, but only for such purposes and amounts included in the approved annual budgets.

Any overdraft which may be incurred at the end of the year in any local fund by virtue of the provisions hereof shall be covered with the first collections of the immediately succeeding fiscal year accruing to such local fund.

Section 338. *Prohibitions Against Advance Payments.* - No money shall be paid on account of any contract under which no services have been rendered or goods delivered.

Section 339. *Cash Advances.* - No cash advance shall be granted to any local official or employee, elective or appointive, unless made in accordance with the rules and regulations as the Commission on Audit may prescribe.

Section 340. *Persons Accountable for Local Government Funds.* - Any officer of the local government unit whose duty permits or requires the possession or custody of local government funds shall be accountable and responsible for the safekeeping thereof in conformity with the provisions of this Title. Other local officers who, though not accountable by the nature of their duties, may likewise be similarly held accountable and responsible for local government funds through their participation in the use or application thereof.

Section 341. *Prohibitions Against Pecuniary Interest.* - Without prejudice to criminal prosecution under applicable laws, any local treasurer, accountant, budget officer, or other accountable local officer having any pecuniary interest, direct or indirect, in any contract, work or other business of the local government unit of which he is an accountable officer shall be administratively liable therefor.

Section 342. *Liability for Acts Done Upon Direction of Superior Officer, or Upon Participation of Other Department Heads or Officers of Equivalent Rank.* - Unless he registers his objection in writing, the local treasurer, accountant, budget officer, or other accountable officer shall not be relieved of liability for illegal or improper use or application or deposit of government funds or property by reason of his having acted upon the direction of a superior officer, elective or appointive, or upon participation of other department heads or officers of equivalent rank. The superior officer directing, or the department head participating in such illegal or improper use or application or deposit of government funds or property, shall be jointly and severally liable with the local treasurer, accountant, budget officer, or other accountable officer for the sum or property so illegally or improperly used, applied or deposited.

Section 343. *Prohibition Against Expenses for Reception and Entertainment.* - No money shall be appropriated, used, or paid for entertainment or reception except to the extent of the representation allowances authorized by law or for the reception of visiting dignitaries of foreign governments or foreign missions, or when expressly authorized by the President in specific cases.

Section 344. *Certification, and Approval of, Vouchers.* - No money shall be disbursed unless the local budget officer certifies to the existence of appropriation that has been legally made for the purpose, the

local accountant has obligated said appropriation, and the local treasurer certifies to the availability of funds for the purpose. Vouchers and payrolls shall be certified to and approved by the head of the department or office who has administrative control of the fund concerned, as to validity, propriety, and legality of the claim involved. Except in cases of disbursements involving regularly recurring administrative expenses such as payrolls for regular or permanent employees, expenses for light, water, telephone and telegraph services, remittances to government creditor agencies such as GSIS, SSS, LDP, DBP, National Printing Office, Procurement Service of the DBM and others, approval of the disbursement voucher by the local chief executive himself shall be required whenever local funds are disbursed.

In cases of special or trust funds, disbursements shall be approved by the administrator of the fund.

In case of temporary absence or incapacity of the department head or chief of office, the officer next-in-rank shall automatically perform his function and he shall be fully responsible therefor.

Section 345. *Officials Authorized to Draw Checks in Settlement of Obligations.* - Checks in obligations shall be drawn by the local treasurer and countersigned by the local administrator.

In case of temporary absence or incapacity of the foregoing officials, these duties shall devolve upon their immediate assistants.

Section 346. *Disbursements of Local Funds and Statement of Accounts.* - Disbursements shall be made in accordance with the ordinance authorizing the annual or supplemental appropriations without the prior approval of the sanggunian concerned. Within thirty (30) days after the close of each month, the local accountant shall furnish the sanggunian with such financial statements as may be prescribed by the Commission on Audit. In the case of the year-end statement of accounts, the period shall be sixty (60) days after the thirty-first (31st) of December.

Section 347. *Rendition of Accounts.* - Local treasurers, accountants and other local accountable officers shall render their accounts within such time, in such form, style, and content and under such regulations as the Commission on Audit may prescribe.

Provincial, city, and municipal auditors shall certify the balances arising in the accounts settled by them to the Chairman of the Commission on Audit and to the local treasurer, accountant, and other accountable officers. Copies of the certification shall be prepared and furnished other local officers who may be held jointly and severally liable for any loss or illegal, improper or unauthorized use or misappropriation of local funds or property.

Section 348. *Auditorial Visitation.* - The books, accounts, papers, and cash of local treasurer, accountant, budget officer, or other accountable officers shall at all times be open for inspection of the Commission on Audit or its duly authorized representative.

In case an examination of the accounts of a local treasurer discloses a shortage in cash which should be on hand, it shall be the duty of the examining officer to seize the office and its contents, notify the Commission on Audit, the local chief executive concerned, and the local accountant. Thereupon, the examining officer shall immediately turn over to the accountable officer next-in-rank in the local treasury service, unless the said officer is likewise under investigation, the office of the treasurer and its contents, and close and render his accounts on the date of turnover. In case the accountable officer next in rank is under investigation, the auditor shall take full possession of the office and its contents, close and render his accounts on the date of taking possession, and temporarily continue the public business of such office until such time that the local treasurer is restored or a successor has been duly designated. The local treasurer or accountable officer found with such shortage shall be automatically suspended from office.

Section 349. *Accounting for Revenues.* - Estimated revenues which remain unrealized at the close of the fiscal year shall not be booked or credited to the unappropriated surplus or any other account.

Section 350. *Accounting for Obligations.* - All lawful expenditures and obligations incurred during a fiscal year shall be taken up in the accounts of that year.

Section 351. *General Liability for Unlawful Expenditures.* - Expenditures of funds or use of property in violation of this Title and other laws shall be a personal liability of the official or employee responsible therefor.

Section 352. *Posting of the Summary of Income and Expenditures.* - Local treasurers, accountants, budget officers, and other accountable officers shall, within thirty (30) days from the end of the fiscal year, post in at least three (3) publicly accessible and conspicuous places in the local government unit a summary of all revenues collected and funds received including the appropriations and disbursements of such funds during the preceding fiscal year.

Section 353. *The Official Fiscal Year.* - The official fiscal year of local government units shall be the period beginning with the first day of January and ending with the thirty-first day of December of the same year.

Section 354. *Administrative Issuances; Budget Operations Manual.* - The Secretary of Budget and Management jointly with the Chairman of the Commission on Audit shall, within one (1) year from the effectivity of this Code, promulgate a Budget Operations Manual for local government units to improve and systematize methods, techniques, and procedures employed in budget preparation, authorization, execution, and accountability.

TITLE VI

Property and Supply Management in the Local Government Units

Section 355. *Scope.* - This Title shall govern the procurement, care, utilization, custody, and disposal of supplies, as defined herein, by local government units and the other aspects of supply management at the local levels.

Section 356. *General Rule in Procurement or Disposal.* - Except as otherwise provided herein, acquisition of supplies by local government units shall be through competitive public bidding. Supplies which have become unserviceable or no longer needed shall be sold, whenever applicable, at public auction, subject to applicable rules and regulations.

Section 357. *Definition of Terms.* - When used in this Title, the term

(a) "Lowest Complying and Responsible Bid" refers to the proposal of one who offers the lowest price, meets all the technical specifications and requirements of the supplies desired and, as a dealer in the line of supplies involved, maintains a regular establishment, and has complied consistently with previous commitments;

(b) "Suitable Substitute" refers to that kind of article which would serve substantially the same purpose or produce substantially the same results as the brand, type, or make of article originally desired or requisitioned;

(c) "Supplies" includes everything, except real property, which may be needed in the transaction of public business or in the pursuit of any undertaking, project, or activity, whether in the nature of equipment, furniture, stationary materials for construction or personal property of any sort, including non-personal or contractual services such as the repair and maintenance of equipment and furniture, as well as trucking, hauling, janitorial, security, and related services; and

(d) "Terms and Conditions" refer to other requirements not affecting the technical specifications and requirements of the required supplies desired such as bonding, terms of delivery and payment, and related preferences.

Section 358. Requirement of Requisition. - Any order for supplies shall be filled by the provincial or city general services officer or the municipal or barangay treasurer concerned, as the case may be, for any office or department of a local government unit only upon written requisition as hereinafter provided.

Section 359. Officers Having Authority to Draw Requisitions. - Requisitions shall be prepared by the head of office or department needing the supplies, who shall certify as to their necessity for official use and specify the project or activity where the supplies are to be used.

Section 360. Certification by the Local Budget Officer, Accountant, and Treasurer. - Every requisition must be accompanied by a certificate signed by the local budget officer, the local accountant, and the local treasurer showing that an appropriation therefor exists, the estimated amount of such expenditure has been obligated, and the funds are available for the purpose, respectively.

Section 361. Approval of Requisitions. - Approval of the requisition by the head of office or department concerned who has administrative control of the appropriation against which the proposed expenditure is chargeable is deemed sufficient, except in case of requisition for supplies to be carried in stock which shall be approved by the local chief executive concerned: Provided, That such supplies are listed or included in the annual procurement plan and the maximum quantity thereof does not exceed the estimated consumption corresponding to a programmed three-month period: Provided, further, That nothing herein contained shall be held as authorizing the purchase of furniture and equipment for stock purposes.

Section 362. Call for Bids. - When procurement is to be made by local government units, the provincial or city general services officer or the municipal or barangay treasurer shall call bids for open public competition. The call for bids shall show the complete specifications and technical descriptions of the required supplies and shall embody all terms and conditions of participation and award, terms of delivery and payment, and all other covenants affecting the transaction. In all calls for bids, the right to waive any defect in the tender as well as the right to accept the bid most advantageous to the government shall be reserved. In no case, however, shall failure to meet the specifications or technical requirements of the supplies desired be awarded.

Section 363. Publication of Call for Bids. - The call for bids shall be given the widest publicity possible, sending, by mail or otherwise, any known prospective participant in the locality, of copies of the call and by posting copies of the same in at least three (3) publicly accessible and conspicuous places in the provincial capitol or city, municipal, or barangay hall, as the case may be.

The notice of the bidding may likewise be published in a newspaper of general circulation in the territorial jurisdiction of the local government unit concerned when the provincial or city general services officer or the municipal or barangay treasurer, as the case may be, deems it necessary in order to obtain the lowest responsible and complying bid.

The opening of bids shall only be made in the presence of the provincial or city auditor or his duly authorized representative who shall initial and secure copies of the bids and certify the abstract of the bidding.

Section 364. The Committee on Awards. - There shall be in every province, city or municipality a committee on awards to decide the winning bids and questions of awards on procurement and disposal of property.

The Committee on Awards shall be composed of the local chief executive as chairman, the local treasurer, the local accountant, the local budget officer, the local general services officer, and the head of office or department for whose use the supplies are being procured, as members. In case a head of office or department would sit in a dual capacity, a member of the sanggunian elected from among its members shall sit as a member. The committee on awards at the barangay level shall be the sangguniang barangay. No national official shall sit as a member of the committee on awards.

The results of the bidding shall be made public by conspicuously posting the same in the provincial capitol or city, municipal, or barangay hall.

Section 365. *Rule on Awards.* - Awards in the procurement of supplies shall be given to the lowest complying and responsible bid which meets all the terms and conditions of the contract or undertaking.

Section 366. *Procurement Without Public Bidding.* - Procurement of supplies may be made without the benefit of public bidding under any of the following modes:

- (a) Personal canvass of responsible merchants;
- (b) Emergency purchase;
- (c) Negotiated purchase;
- (d) Direct purchase from manufacturers or exclusive distributors; and
- (e) Purchase from other government entities.

Section 367. *Procurement through Personal Canvass.* - Upon approval by the Committee on Awards, procurement of supplies may be effected after personal canvass of at least three (3) responsible suppliers in the locality by a committee of three (3) composed of the local services officer or the municipal or barangay treasurer, as the case may be, the local accountant, and the head of office or department for whose use the supplies are being procured. The award shall be decided by the Committee on Awards.

Purchases under this Section shall not exceed the amounts specified hereunder for all items in any one (1) month for each local government unit:

Provinces and Cities and Municipalities within the Metropolitan Manila Area:

First and Second Class - One hundred fifty thousand pesos (P150,000.00)

Third and Fourth Class - One hundred thousand pesos (P100,000.00)

Fifth and Sixth Class - Fifty thousand pesos (P50,000.00)

Municipalities:

First Class - Sixty thousand pesos (P60,000.00)

Second and Third Class - Forty thousand pesos (P40,000.00)

Fourth Class and Below - Twenty thousand pesos (P20,000.00)

Section 368. *Emergency Purchase.* - In cases of emergency where the need for the supplies is exceptionally urgent or absolutely indispensable and only to prevent imminent danger to, or loss of, life or property, local government units may, through the local chief executive concerned, make emergency purchases or place repair orders, regardless of amount, without public bidding. Delivery of purchase orders or utilization of repair orders pursuant to this Section shall be made within ten (10) days after placement of the same. Immediately after the emergency purchase or repair order is made, the chief of office or department making the emergency purchase or repair order shall draw a regular requisition to cover the same which shall contain the following:

- (a) A complete description of the supplies acquired or the work done or to be performed;
- (b) By whom furnished or executed;
- (c) Date of placing the order and the date and time of delivery or execution;
- (d) The unit price and the total contract price;
- (e) A brief and concise explanation of the circumstances why procurement was of such urgency that the same could not be done through the regular course without involving danger to, or loss of, life or property;
- (f) A certification of the provincial or city general services or the municipal or barangay treasurer, as the case may be, to the effect that the price paid or contracted for was the lowest at the time of procurement; and
- (g) A certification of the local budget officer as to the existence of appropriations for the purpose, the local accountant as to the obligation of the amount involved, and the local treasurer as to the availability of funds. The goods or services procured under this Section must be utilized or availed of within fifteen (15) days from the date of delivery or availability.

Without prejudice to criminal prosecution under applicable laws, the local chief executive, the head of department, or the chief of office making the procurement shall be administratively liable for any violation of this Section and shall be a ground for suspension or dismissal from service.

Section 369. *Negotiated Purchase.* -

(a) In cases where public biddings have failed for two (2) consecutive times and no suppliers have qualified to participate or win in the biddings, local government units may, through the local chief executive concerned, undertake the procurement of supplies by negotiated purchase, regardless of amount, without public bidding; Provided, however, That the contract covering the negotiated purchase shall be approved by the sanggunian concerned. Delivery of purchase orders or utilization of repair orders pursuant to this Section shall be made within seven (7) days after placement of the same. Immediately after the negotiated purchase or repair order is made, the local chief executive concerned shall draw a regular requisition to cover the same which shall contain the following:

- (1) A complete description of the supplies acquired or the work done or to be performed;
- (2) By whom furnished or executed;
- (3) Date of placing the order and the date and time of delivery or execution;
- (4) The unit price and the total contract price;

(5) A certification of the provincial or city general services of the municipal or barangay treasurer, as the case may be, to the effect that the price paid or contracted for was the lowest at the time of procurement;

(6) A certification to the effect that the price paid or contracted for was the lowest at the time of procurement; and

(7) A certification of the local budget officer as to the existence of appropriations for the purpose, the local accountant as to the obligation of the amount involved, and the local treasurer as to the availability of funds.

(b) In case of repeat orders for regular supplies, procurement may be made by negotiated purchase: Provided, That the repeat order is made within three (3) months from the last procurement of the same item: Provided, further, That the same terms and conditions of sale are obtained for the said repeat order.

Section 370. *Procurement from Duly Licensed Manufacturer.* - Procurement may be made directly from duly licensed manufacturers in cases of supplies of Philippine manufacture or origin and in case there are two (2) or more manufacturers shall be conducted to obtain the lowest price for the quality of the said supplies.

Section 371. *Procurement from Exclusive Philippine Agents or Distributors.* - Procurement may, in the case of supplies of foreign origin, preferably be made directly from the exclusive or reputable Philippine distributors or agents, subject to the following conditions:

(a) That the Philippine distributor has no subdealers selling at lower prices; and

(b) That no suitable substitutes or substantially the same quality are available at lower prices.

Section 372. *Procurement from Government Entities.* - Procurement may be made directly from the government entities producing the required supplies, including units or agencies of foreign governments with which the Philippines maintains diplomatic relations. In the latter case, prior authority from the Office of the President shall be required.

Section 373. *Annual Procurement Program.* -

(a) On or before the fifteenth (15th) day of July each year, the local chief executive shall prepare an annual procurement program for the ensuing fiscal year which shall contain an itemized list of the estimated quantity of supplies needed for such year, a complete description thereof as to kind, quality, estimated cost, and balance on hand: Provided, however, That the total estimated cost of the approved annual procurement program shall not exceed the total appropriations authorized for the acquisition of supplies. The local government units may augment the supplies and equipment provided by the Supreme Court to the lower courts located in their respective jurisdictions.

(b) Except in emergency cases or where urgent indispensable needs could not have been reasonably anticipated, no purchase of supplies shall be made unless included in, or covered by, the approved procurement program. (c) The conversion of excess cash into supplies stock is hereby prohibited except to the extent of the kind and quantity specified in the approved annual procurement plan. A violation of this Section shall be a ground for suspension or dismissal of any political or employee responsible therefor.

Section 374. *Establishment of an Archival System.* - Every local government unit shall provide for the establishment of archival system to ensure the safety and protection of all government property, public documents or records such as records of births, marriages, property inventory, land assessments, land ownership, tax payments, tax accounts, and business permits, and such other records or documents of public interest in the various departments and offices of the provincial, city, or municipal government concerned.

Section 375. *Primary and Secondary Accountability for Government Property.* -

(a) Each head of department or office of a province, city, municipality or barangay shall be primarily accountable for all government property assigned or issued to his department or office. The person or persons entrusted with the possession or custody of government property under the accountability of any head of department or office shall be immediately accountable to such officer.

(b) The head of a department or office primarily accountable for government property may require any person in possession of the property or having custody and control thereof under him to keep such records and make reports as may be necessary for his own information and protection.

(c) Buildings and other physical structures shall be under the accountability and responsibility of the provincial or city general services officer or the municipal mayor or punong barangay, as the case may be. (d) Every officer primarily accountable for government property shall keep a complete record of all properties under his charge and render his accounts therefor semiannually to the provincial or city general services officer or the municipal mayor or punong barangay, as the case may be.

Section 376. *Responsibility for Proper Use and Care of Government Property.* - The person in actual physical possession of government property or entrusted with its custody and control shall be responsible for its proper use and care and shall exercise due diligence in the utilization and safekeeping thereof.

Section 377. *Measure of Liability of Persons Accountable for Government Property.* -

(a) The person immediately accountable for government property shall be liable for its money value in case of the illegal, improper or unauthorized use or misapplication thereof, by himself or any other person for whose acts he may be responsible, and he shall be liable for all loss, damage, or deterioration occasioned by negligence in the keeping or use of property unless it is proved that he has exercised due diligence and care in the utilization and safekeeping thereof.

(b) Unless he registers his objection in writing, an accountable person shall not be relieved from liability by reason of his having acted under the direction of a superior officer in using property with which he is chargeable; but the officer directing any illegal, unauthorized or improper use of property shall first be required to answer therefor.

(c) In cases of loss, damage, or deterioration of government property arising from, or attributable to, negligence in security, the head of the security agency shall be held liable therefor.

Section 378. *Credit for Loss Occurring in Transit or Due to Casualty.* - When a loss of government property occurs while the same is in transit or is caused by fire, theft, force majeure, or other casualty, the officer accountable therefor or having custody thereof shall immediately notify the provincial or city auditor concerned within thirty (30) days from the date the loss occurred or for such longer period as the provincial, city or municipal auditor, as the case may be, may in the particular case allow, and he shall present his application for relief, with the available evidence in support thereof. An officer who fails to comply with this requirement shall not be relieved of liability or allowed credit for any such loss in the settlement of his accounts.

A provincial, city or municipal auditor shall not allow credit for these losses unless so expressly authorized by the Chairman of the Commission on Audit, to be exercised only if the loss is not in excess of fifty thousand pesos (P50,000.00). In any case when the allowance of credit is not within the competence of the provincial, city or municipal auditor, the application and evidence, with the recommendation of the auditor concerned, shall be forwarded to the Chairman of the Commission on Audit for his appropriate action.

Section 379. *Property Disposal.* - When property of any local government unit has become unserviceable for any cause or is no longer needed, it shall upon application of the officer accountable therefor, be inspected and appraised by the provincial, city or municipal auditor, as the case may be, or his duly authorized representative or that of the Commission on Audit and, if found valueless or unusable, shall be destroyed in the presence of the inspecting officer.

If found valuable, the same shall be sold at public auction to the highest bidder under the supervision of the committee on awards and in the presence of the provincial, city or municipal auditor or his duly authorized representative. Notice of the public auction shall be posted in at least three (3) publicly accessible and conspicuous places, and if the acquisition cost exceeds One hundred thousand pesos (P100,000.00) in the case of provinces and cities, and Fifty thousand pesos (P50,000.00) in the case of municipalities, notice of auction shall be published at least two (2) times within a reasonable period in a newspaper of general circulation in the locality.

Section 380. *Negotiated Sale of Property.* - Property no longer needed may also be disposed of at a private sale at such price as may be determined by the committee on awards, subject to the approval of the Commission on Audit or its duly authorized representative when the acquisition or transfer cost of the property exceeds Fifty thousand pesos (P50,000.00) in the case of provinces and cities, and Twenty-five thousand pesos (P25,000.00) in the case of municipalities and barangays.

In case of real property, the disposal shall be subject to the approval of the Commission on Audit regardless of the value or cost involved.

Section 381. *Transfer Without Cost.* - Property which has become unserviceable or is no longer needed may be transferred without cost to another office, agency, subdivision or instrumentality of the national government or another local government unit at an appraised valuation determined by the local committee on awards. Such transfer shall be subject to the approval of the sanggunian concerned making the transfer and by the head of the office, agency, subdivision, instrumentality or local government unit receiving the property.

Section 382. *Tax Exemption Privileges of Local Government Units.* - Local government units shall be exempt from the payment of duties and taxes for the importation of heavy equipment or machineries which shall be used for the construction, improvement, repair, and maintenance of roads, bridges and other infrastructure projects, as well as garbage trucks, fire trucks, and other similar equipment: Provided, however, That such equipment or machineries shall not be disposed of, either by public auction or negotiated sale as hereinabove provided, within five (5) years from the importation thereof. In case the machinery or equipment is sold within the five-year period, the purchasers or recipients shall be considered the importers thereof, and shall be liable for duties and taxes computed on the book value of such importation.

Section 383. *Implementing Rules and Regulations.* - The Chairman of the Commission on Audit shall promulgate the rules and regulations necessary to effectively implement the provisions of this Title, including requirements as to testing, inspection, and standardization of supply and property.

BOOK III LOCAL GOVERNMENT UNITS

TITLE I THE BARANGAY

CHAPTER I Role and Creation of the Barangay

Section 384. *Role of the Barangay.* - As the basic political unit, the barangay serves as the primary planning and implementing unit of government policies, plans, programs, projects, and activities in the community, and as a forum wherein the collective views of the people may be expressed, crystallized and considered, and where disputes may be amicably settled.

Section 385. *Manner of Creation.* - A barangay may be created, divided, merged, abolished, or its boundary substantially altered, by law or by an ordinance of the sangguniang panlalawigan or panlungsod, subject to approval by a majority of the votes cast in a plebiscite to be conducted by the COMELEC in the local government unit or units directly affected within such period of time as may be determined by the law or ordinance creating said barangay. In the case of the creation of barangays by the sangguniang panlalawigan, the recommendation of the sangguniang bayan concerned shall be necessary.

Section 386. *Requisites for Creation.* -

(a) A barangay may be created out of a contiguous territory which has a population of at least two thousand (2,000) inhabitants as certified by the National Statistics Office except in cities and municipalities within Metro Manila and other metropolitan political subdivisions or in highly urbanized cities where such territory shall have a certified population of at least five thousand (5,000) inhabitants: Provided, That the creation thereof shall not reduce the population of the original barangay or barangays to less than the minimum requirement prescribed herein.

To enhance the delivery of basic services in the indigenous cultural communities, barangays may be created in such communities by an Act of Congress, notwithstanding the above requirement.

(b) The territorial jurisdiction of the new barangay shall be properly identified by metes and bounds or by more or less permanent natural boundaries. The territory need not be contiguous if it comprises two (2) or more islands.

(c) The governor or city mayor may prepare a consolidation plan for barangays, based on the criteria prescribed in this Section, within his territorial jurisdiction. The plan shall be submitted to the sangguniang panlalawigan or sangguniang panlungsod concerned for appropriate action.

In the case of municipalities within the Metropolitan Manila Area and other metropolitan political subdivisions, the barangay consolidation plan shall be prepared and approved by the sangguniang bayan concerned.

CHAPTER II Barangay Officials and Offices

Section 387. *Chief Officials and Offices.* -

(a) There shall be in each barangay a punong barangay, seven (7) sangguniang barangay members, the sangguniang kabataan chairman, a barangay secretary, and a barangay treasurer.

(b) There shall also be in every barangay a lupong tagapamayapa. The sangguniang barangay may form community brigades and create such other positions or offices as may be deemed

necessary to carry out the purposes of the barangay government in accordance with the needs of public service, subject to the budgetary limitations on personal services prescribed under Title Five, Book II of this Code.

Section 388. *Persons in Authority.* - For purposes of the Revised Penal Code, the punong barangay, sangguniang barangay members, and members of the lupong tagapamayapa in each barangay shall be deemed as persons in authority in their jurisdictions, while other barangay officials and members who may be designated by law or ordinance and charged with the maintenance of public order, protection and security of life and property, or the maintenance of a desirable and balanced environment, and any barangay member who comes to the aid of persons in authority, shall be deemed agents of persons in authority.

CHAPTER III

The Punong Barangay

Section 389. *Chief Executive: Powers, Duties, and Functions.* -

(a) The punong barangay, as the chief executive of the barangay government, shall exercise such powers and perform such duties and functions, as provided by this Code and other laws.

(b) For efficient, effective and economical governance, the purpose of which is the general welfare of the barangay and its inhabitants pursuant to Section 16 of this Code, the punong barangay shall:

- (1) Enforce all laws and ordinances which are applicable within the barangay;
- (2) Negotiate, enter into, and sign contracts for and in behalf of the barangay, upon authorization of the sangguniang barangay;
- (3) Maintain public order in the barangay and, in pursuance thereof, assist the city or municipal mayor and the sanggunian members in the performance of their duties and functions;
- (4) Call and preside over the sessions of the sangguniang barangay and the barangay assembly, and vote only to break a tie;
- (5) Upon approval by a majority of all the members of the sangguniang barangay, appoint or replace the barangay treasurer, the barangay secretary, and other appointive barangay officials;
- (6) Organize and lead an emergency group whenever the same may be necessary for the maintenance of peace and order or on occasions of emergency or calamity within the barangay;
- (7) In coordination with the barangay development council, prepare the annual executive and supplemental budgets of the barangay;
- (8) Approve vouchers relating to the disbursement of barangay funds;
- (9) Enforce laws and regulations relating to pollution control and protection of the environment;

- (10) Administer the operation of the katarungang pambarangay in accordance with the provisions of this Code;
- (11) Exercise general supervision over the activities of the sangguniang kabataan;
- (12) Ensure the delivery of basic services as mandated under Section 17 of this Code;
- (13) Conduct an annual palamong barangay which shall feature traditional sports and disciplines included in national and international games, in coordination with the Department of Education, Culture and Sports;
- (14) Promote the general welfare of the barangay; and
- (15) Exercise such other powers and perform such other duties and functions as may be prescribed by law or ordinance.

(b) In the performance of his peace and order functions, the punong barangay shall be entitled to possess and carry the necessary firearm within his territorial jurisdiction, subject to appropriate rules and regulations.

CHAPTER IV

The Sangguniang Barangay

Section 390. Composition. - The sangguniang barangay, the legislative body of the barangay, shall be composed of the punong barangay as presiding officer, and the seven (7) regular sangguniang barangay members elected at large and sangguniang kabataan chairman, as members.

Section 391. Powers, Duties, and Functions. -

- (a) The sangguniang barangay, as the legislative body of the barangay, shall:
 - (1) Enact ordinances as may be necessary to discharge the responsibilities conferred upon it by law or ordinance and to promote the general welfare of the inhabitants therein;
 - (2) Enact tax revenue ordinances, subject to the limitations imposed in this Code;
 - (3) Enact annual and supplemental budgets in accordance with the provisions of this Code;
 - (4) Provide for the construction and maintenance of barangay facilities and other public works projects chargeable to the general fund of the barangay or such other funds actually available for the purpose;
 - (5) Submit to the sangguniang panlungsod or sangguniang bayan such suggestions or recommendations as it may see fit for the improvement of the barangay or for the welfare of the inhabitants thereof;
 - (6) Assist in the establishment, organization, and promotion of cooperative enterprises that will improve the economic condition and well-being of the residents;
 - (7) Regulate the use of multi-purpose halls, multi-purpose pavements, grain or copra dryers, patios and other post-harvest facilities, barangay waterworks, barangay markets,

parking areas or other similar facilities constructed with government funds within the jurisdiction of the barangay and charge reasonable fees for the use thereof;

(8) Solicit or accept monies, materials and voluntary labor for specific public works and cooperative enterprises of the barangay from residents, land owners, producers and merchants in the barangay; monies from grants-in-aid, subsidies, contributions, and revenues made available to the barangays from national, provincial, city or municipal funds; and monies from other private agencies and individuals: Provided, however, That monies or properties donated by private agencies and individuals for specific purposes shall accrue to the barangay as trust fund;

(9) Solicit or accept, in any or all the foregoing public works and cooperative enterprises, such cooperation as is made available by national, provincial, city, or municipal agencies established by law to render financial, technical, and advisory assistance to barangays and to barangay residents: Provided, however, That in soliciting or accepting such cooperation, the sangguniang barangay need not pledge any sum of money for expenditure in excess of amounts currently in the barangay treasury or encumbered for other purposes;

(10) Provide compensation, reasonable allowances or per diems as well as travel expenses for sangguniang barangay members and other barangay officials, subject to the budgetary limitations prescribed under Title Five, Book II of this Code: Provided, however, That no increase in the compensation or honoraria of the sangguniang barangay members shall take effect until after the expiration of the full term of all members of the sangguniang barangay approving such increase;

(11) Hold fund-raising activities for barangay projects without the need of securing permits from any national or local office or agency. The proceeds from such activities shall be tax-exempt and shall accrue to the general fund of the barangay: Provided, That in the appropriation thereof, the specific purpose for which such fund-raising activity has been held shall be first satisfied: Provided, further, That no fund-raising activities shall be held within a period of sixty (60) days immediately preceding and after a national or local election, recall, referendum, or plebiscite: Provided, finally, That said fund-raising activities shall comply with national policy standards and regulations on morals, health, and safety of the persons participating therein. The sangguniang barangay, through the punong barangay, shall render a public accounting of the funds raised at the completion of the project for which the fund-raising activity was undertaken;

(12) Authorize the punong barangay to enter into contracts in behalf of the barangay, subject to the provisions of this Code;

(13) Authorize the barangay treasurer to make direct purchases in an amount not exceeding One thousand pesos (P1,000.00) at any one time for the ordinary and essential administrative needs of the barangay;

(14) Prescribe fines in amounts not exceeding One thousand pesos (P1,000.00) for violation of barangay ordinances;

(15) Provide for the administrative needs of the lupong tagapamayapa and the pangkat ng tagapagkasundo;

(16) Provide for the organization of community brigades, barangay tanod, or community service units as may be necessary;

(17) Organize regular lectures, programs, or fora on community problems such as sanitation, nutrition, literacy, and drug abuse, and convene assemblies to encourage citizen participation in government;

(18) Adopt measures to prevent and control the proliferation of squatters and mendicants in the barangay;

(19) Provide for the proper development and welfare of children in the barangay by promoting and supporting activities for the protection and total development of children, particularly those below seven (7) years of age;

(20) Adopt measures towards the prevention and eradication of drug abuse, child abuse, and juvenile delinquency;

(21) Initiate the establishment of a barangay high school, whenever feasible, in accordance with law;

(22) Provide for the establishment of a non-formal education center in the barangay whenever feasible, in coordination with the Department of Education, Culture and Sports;

(23) Provide for the delivery of basic services; and

(24) Exercise such other powers and perform such other duties and functions as may be prescribed by law or ordinance.

Section 392. *Other Duties of Sangguniang Barangay Members.* - In addition to their duties as members of the sangguniang barangay, sangguniang barangay members may:

(a) Assist the punong barangay in the discharge of his duties and functions;

(b) Act as peace officers in the maintenance of public order and safety; and

(c) Perform such other duties and functions as the punong barangay may delegate.

Section 393. *Benefits of Barangay Officials.* -

(a) Barangay officials, including barangay tanods and members of the lupong tagapamayapa, shall receive honoraria, allowances, and such other emoluments as may be authorized by law or barangay, municipal or city ordinance in accordance with the provisions of this Code, but in no case shall it be less than One thousand pesos (P1,000.00) per month for the punong barangay and Six hundred pesos (P600.00) per month for the sangguniang barangay members, barangay treasurer, and barangay secretary: Provided, however, That the annual appropriations for personal services shall be subject to the budgetary limitations prescribed under Title Five, Book II of this Code;

(b) The punong barangay, the sangguniang barangay members, the barangay treasurer, and the barangay secretary shall also:

(1) Be entitled to Christmas bonus of at least One thousand pesos (P1,000.00) each, the funds for which shall be taken from the general fund of the barangay or from such other funds appropriated by the national government for the purpose;

(2) Be entitled, during their incumbency, to insurance coverage which shall include, but shall not be limited to temporary and permanent disability, double indemnity, accident insurance, death and burial benefits, in accordance with Republic Act Numbered Sixty-nine hundred forty-two (R.A. No. 6942), entitled "An Act Increasing the Insurance Benefits of Local Government Officials and Providing Funds Therefor";

(3) Be entitled to free medical care including subsistence, medicines, and medical attendance in any government hospital or institution: Provided, That such hospital care shall include surgery or surgical expenses, medicines, X-rays, laboratory fees, and other hospital expenses;

In case of extreme urgency where there is no available government hospital or institution, the barangay official attendance to the nearest private clinic, hospital or institution and the expenses not exceeding Five thousand pesos (P5,000.00) that may be incurred therein shall be chargeable against the funds of the barangay concerned;

(4) Be exempted during their incumbency from paying tuition and matriculation fees for their legitimate dependent children attending state colleges or universities. He may likewise avail of such educational benefits in a state college or university located within the province or city to which the barangay belongs; and

(5) Be entitled to appropriate civil service eligibility on the basis of the number of years of service to the barangay, pursuant to the rules and regulations issued by the Civil Service Commission.

(c) Elective barangay officials shall have preference in appointments to any government position or in any government-owned or controlled corporations, including their subsidiaries, after their tenure of office, subject to the requisite qualifications and the provisions of the immediately preceding paragraph.

(d) All duly appointed members of the barangay tanod brigades, or their equivalent, which shall number not more than twenty (20) in each barangay, shall be granted insurance or other benefits during their incumbency, chargeable to the barangay or the city or municipal government to which the barangay belongs.

CHAPTER V

Appointive Barangay Officials

Section 394. *Barangay Secretary: Appointment, Qualifications, Powers and Duties.* -

(a) The barangay secretary shall be appointed by the punong barangay with the concurrence of the majority of all the sangguniang barangay members. The appointment of the barangay secretary shall not be subject to attestation by the Civil Service Commission.

(b) The barangay secretary shall be of legal age, a qualified voter and an actual resident of the barangay concerned.

(c) No person shall be appointed barangay secretary if he is a sangguniang barangay member, a government employee, or a relative of the punong barangay within the fourth civil degree of consanguinity of affinity.

(d) The barangay secretary shall:

- (1) Keep custody of all records of the sangguniang barangay and the barangay assembly meetings;
- (2) Prepare and keep the minutes of all meetings of the sangguniang barangay and the barangay assembly;
- (3) Prepare a list of members of the barangay assembly, and have the same posted in conspicuous places within the barangay;
- (4) Assist in the preparation of all necessary forms for the conduct of barangay elections, initiatives, referenda or plebiscites, in coordination with the COMELEC;
- (5) Assist the municipal civil registrar in the registration of births, deaths, and marriages;
- (6) Keep an updated record of all inhabitants of the barangay containing the following items of information: name, address, place and date of birth, sex, civil status, citizenship, occupation, and such other items of information as may be prescribed by law or ordinance;
- (7) Submit a report on the actual number of barangay residents as often as may be required by the sangguniang barangay; and
- (8) Exercise such other powers and perform such other duties and functions as may be prescribed by law or ordinance.

Section 395. *Barangay Treasurer: Appointment, Qualification, Powers and Duties.* -

- (a) The barangay treasurer shall be appointed by the punong barangay with the concurrence of the majority of all the sangguniang barangay members. The appointment of the barangay treasurer shall not be subject to attestation by the Civil Service Commission.
- (b) The barangay treasurer shall be of legal age, a qualified voter, and an actual resident of the barangay concerned.
- (c) No person shall be appointed barangay treasurer if he is a sangguniang barangay member, a government employee, or a relative of the punong barangay within the fourth civil degree of consanguinity or affinity.
- (d) The barangay treasurer shall be bonded in accordance with existing laws in an amount to be determined by the sangguniang barangay but not exceeding Ten thousand pesos (P10,000.00), premiums for which shall be paid by the barangay.
- (e) The barangay treasurer shall:
 - (1) Keep custody of barangay funds and properties;
 - (2) Collect and issue official receipts for taxes, fees, contributions, monies, materials, and all other resources accruing to the barangay treasury and deposit the same in the account of the barangay as provided under Title Five, Book II of this Code;
 - (3) Disburse funds in accordance with the financial procedures provided in this Code;

(4) Submit to the punong barangay a statement covering the actual and estimates of income and expenditures for the preceding and ensuing calendar years, respectively, subject to the provisions of Title Five, Book II of this Code.

(5) Render a written accounting report of all barangay funds and property under his custody at the end of each calendar year, and ensure that such report shall be made available to the members of the barangay assembly and other government agencies concerned;

(6) Certify as to the availability of funds whenever necessary;

(7) Plan and attend to the rural postal circuit within his jurisdiction; and

(8) Exercise such other powers and perform such other duties and functions as may be prescribed by law or ordinance.

Section 396. *Other Appointive Officials.* - The qualifications, duties, and functions of all other barangay officials appointed by the punong barangay shall be governed by the provisions of this Code and other laws or by barangay ordinances.

CHAPTER VI **Barangay Assembly**

Section 397. *Composition; Meetings.* -

(a) There shall be a barangay assembly composed of all persons who are actual residents of the barangay for at least six (6) months, fifteen (15) years of age or over, citizens of the Philippines, and duly registered in the list of barangay assembly members.

(b) The barangay assembly shall meet at least twice a year to hear and discuss the semestral report of the sangguniang barangay concerning its activities and finances as well as problems affecting the barangay. Its meetings shall be held upon call of the punong barangay or of at least four (4) members of the sangguniang barangay, or upon written petition of at least five percent (5%) of the assembly members.

(c) No meeting of the barangay assembly shall take place unless a written notice is given one (1) week prior to the meeting except on matters involving public safety or security, in which case notice within a reasonable time shall be sufficient. The punong barangay, or in his absence, the sangguniang barangay member acting as punong barangay, or any assembly member selected during the meeting, shall act as presiding officer in all the meetings of the assembly. The barangay secretary, or in his absence, any member designated by the presiding officer to act as secretary, shall discharge the duties of secretary of the barangay assembly.

Section 398. *Powers of the Barangay Assembly.* - The barangay assembly shall:

(a) Initiate legislative processes by recommending to the sangguniang barangay the adoption of measures for the welfare of the barangay and the city or municipality concerned;

(b) Decide on the adoption of initiative as a legal process whereby the registered voters of the barangay may directly propose, enact, or amend any ordinance; and

(c) Hear and pass upon the semestral report of the sangguniang barangay concerning its activities and finances.

CHAPTER VII
Katarungang Pambarangay

Section 399. *Lupong Tagapamayapa.* -

- (a) There is hereby created in each barangay a lupong tagapamayapa, hereinafter referred to as the lupon, composed of the punong barangay, as chairman and ten (10) to twenty (20) members. The lupon shall be constituted every three (3) years in the manner provided herein.
- (b) Any person actually residing or working, in the barangay, not otherwise expressly disqualified by law, and possessing integrity, impartiality, independence of mind, sense of fairness, and reputation for probity, may be appointed a member of the lupon.
- (c) A notice to constitute the lupon, which shall include the names of proposed members who have expressed their willingness to serve, shall be prepared by the punong barangay within the first fifteen (15) days from the start of his term of office. Such notice shall be posted in three (3) conspicuous places in the barangay continuously for a period of not less than three (3) weeks;
- (d) The punong barangay, taking into consideration any opposition to the proposed appointment or any recommendations for appointment as may have been made within the period of posting, shall within ten (10) days thereafter, appoint as members those whom he determines to be suitable therefor. Appointments shall be in writing, signed by the punong barangay, and attested to by the barangay secretary.
- (e) The list of appointed members shall be posted in three (3) conspicuous places in the barangay for the entire duration of their term of office; and
- (f) In barangays where majority of the inhabitants are members of indigenous cultural communities, local systems of settling disputes through their councils of datos or elders shall be recognized without prejudice to the applicable provisions of this Code.

Section 400. *Oath and Term of Office.* - Upon appointment, each lupon member shall take an oath of office before the punong barangay. He shall hold office until a new lupon is constituted on the third year following his appointment unless sooner terminated by resignation, transfer of residence or place of work, or withdrawal of appointment by the punong barangay with the concurrence of the majority of all the members of the lupon.

Section 401. *Vacancies.* - Should a vacancy occur in the lupon for any cause, the punong barangay shall immediately appoint a qualified person who shall hold office only for the unexpired portion of the term.

Section 402. *Functions of the Lupon.* - The lupon shall:

- (a) Exercise administrative supervision over the conciliation panels provided herein;
- (b) Meet regularly once a month to provide a forum for exchange of ideas among its members and the public on matters relevant to the amicable settlement of disputes, and to enable various conciliation panel members to share with one another their observations and experiences in effecting speedy resolution of disputes; and
- (c) Exercise such other powers and perform such other duties and functions as may be prescribed by law or ordinance.

Section 403. Secretary of the Lupon. - The barangay secretary shall concurrently serve as the secretary of the lupon. He shall record the results of mediation proceedings before the punong barangay and shall submit a report thereon to the proper city or municipal courts. He shall also receive and keep the records of proceedings submitted to him by the various conciliation panels.

Section 404. Pangkat ng Tagapagkasundo. -

(a) There shall be constituted for each dispute brought before the lupon a conciliation panel to be known as the pangkat ng tagapagkasundo, hereinafter referred to as the pangkat, consisting of three (3) members who shall be chosen by the parties to the dispute from the list of members of the lupon.

Should the parties fail to agree on the pangkat membership, the same shall be determined by lots drawn by the lupon chairman.

(b) The three (3) members constituting the pangkat shall elect from among themselves the chairman and the secretary. The secretary shall prepare the minutes of the pangkat proceedings and submit a copy duly attested to by the chairman to the lupon secretary and to the proper city or municipal court. He shall issue and cause to be served notices to the parties concerned.

The lupon secretary shall issue certified true copies of any public record in his custody that is not by law otherwise declared confidential.

Section 405. Vacancies in the Pangkat. - Any vacancy in the pangkat shall be chosen by the parties to the dispute from among the other lupon members. Should the parties fail to agree on a common choice, the vacancy shall be filled by lot to be drawn by the lupon chairman.

Section 406. Character of Office and Service of Lupon Members. -

(a) The lupon members, while in the performance of their official duties or on the occasion thereof, shall be deemed as persons in authority, as defined in the Revised Penal Code.

(b) The lupon or pangkat members shall serve without compensation, except as provided for in Section 393 and without prejudice to incentives as provided for in this Section and in Book IV of this Code. The Department of the Interior and Local Government shall provide for a system of granting economic or other incentives to the lupon or pangkat members who adequately demonstrate the ability to judiciously and expeditiously resolve cases referred to them. While in the performance of their duties, the lupon or pangkat members, whether in public or private employment, shall be deemed to be on official time, and shall not suffer from any diminution in compensation or allowance from said employment by reason thereof.

Section 407. Legal Advice on Matters Involving Questions of Law. - The provincial, city legal officer or prosecutor or the municipal legal officer shall render legal advice on matters involving questions of law to the punong barangay or any lupon or pangkat member whenever necessary in the exercise of his functions in the administration of the katarungang pambarangay.

Section 408. Subject Matter for Amicable Settlement; Exception Thereto. - The lupon of each barangay shall have authority to bring together the parties actually residing in the same city or municipality for amicable settlement of all disputes except:

(a) Where one party is the government, or any subdivision or instrumentality thereof;

(b) Where one party is a public officer or employee, and the dispute relates to the performance of his official functions;

(c) Offenses punishable by imprisonment exceeding one (1) year or a fine exceeding Five thousand pesos (P5,000.00);

(d) Offenses where there is no private offended party;

(e) Where the dispute involves real properties located in different cities or municipalities unless the parties thereto agree to submit their differences to amicable settlement by an appropriate lupon;

(f) Disputes involving parties who actually reside in barangays of different cities or municipalities, except where such barangay units adjoin each other and the parties thereto agree to submit their differences to amicable settlement by an appropriate lupon;

(g) Such other classes of disputes which the President may determine in the interest of Justice or upon the recommendation of the Secretary of Justice.

The court in which non-criminal cases not falling within the authority of the lupon under this Code are filed may, at any time before trial motu proprio refer the case to the lupon concerned for amicable settlement.

Section 409. Venue. -

(a) Disputes between persons actually residing in the same barangay shall be brought for amicable settlement before the lupon of said barangay.

(b) Those involving actual residents of different barangays within the same city or municipality shall be brought in the barangay where the respondent or any of the respondents actually resides, at the election of the complainant.

(c) All disputes involving real property or any interest therein shall be brought in the barangay where the real property or the larger portion thereof is situated.

(d) Those arising at the workplace where the contending parties are employed or at the institution where such parties are enrolled for study, shall be brought in the barangay where such workplace or institution is located.

Objections to venue shall be raised in the mediation proceedings before the punong barangay; otherwise, the same shall be deemed waived. Any legal question which may confront the punong barangay in resolving objections to venue herein referred to may be submitted to the Secretary of Justice, or his duly designated representative, whose ruling thereon shall be binding.

Section 410. Procedure for Amicable Settlement. -

(a) Who may initiate proceeding - Upon payment of the appropriate filing fee, any individual who has a cause of action against another individual involving any matter within the authority of the lupon may complain, orally or in writing, to the lupon chairman of the barangay.

(b) Mediation by lupon chairman - Upon receipt of the complaint, the lupon chairman shall within the next working day summon the respondent(s), with notice to the complainant(s) for them and their witnesses to appear before him for a mediation of their conflicting interests. If he fails in his

mediation effort within fifteen (15) days from the first meeting of the parties before him, he shall forthwith set a date for the constitution of the pangkat in accordance with the provisions of this Chapter.

(c) Suspension of prescriptive period of offenses - While the dispute is under mediation, conciliation, or arbitration, the prescriptive periods for offenses and cause of action under existing laws shall be interrupted upon filing the complaint with the punong barangay. The prescriptive periods shall resume upon receipt by the complainant of the complaint or the certificate of repudiation or of the certification to file action issued by the lupon or pangkat secretary: Provided, however, That such interruption shall not exceed sixty (60) days from the filing of the complaint with the punong barangay.

(d) Issuance of summons; hearing; grounds for disqualification - The pangkat shall convene not later than three (3) days from its constitution, on the day and hour set by the lupon chairman, to hear both parties and their witnesses, simplify issues, and explore all possibilities for amicable settlement. For this purpose, the pangkat may issue summons for the personal appearance of parties and witnesses before it. In the event that a party moves to disqualify any member of the pangkat by reason of relationship, bias, interest, or any other similar grounds discovered after the constitution of the pangkat, the matter shall be resolved by the affirmative vote of the majority of the pangkat whose decision shall be final. Should disqualification be decided upon, the resulting vacancy shall be filled as herein provided for.

(e) Period to arrive at a settlement - The pangkat shall arrive at a settlement or resolution of the dispute within fifteen (15) days from the day it convenes in accordance with this section. This period shall, at the discretion of the pangkat, be extendible for another period which shall not exceed fifteen (15) days, except in clearly meritorious cases.

Section 411. Form of settlement. - All amicable settlements shall be in writing, in a language or dialect known to the parties, signed by them, and attested to by the lupon chairman or the pangkat chairman, as the case may be. When the parties to the dispute do not use the same language or dialect, the settlement shall be written in the language known to them.

Section 412. Conciliation. -

(a) Pre-condition to Filing of Complaint in Court. - No complaint, petition, action, or proceeding involving any matter within the authority of the lupon shall be filed or instituted directly in court or any other government office for adjudication, unless there has been a confrontation between the parties before the lupon chairman or the pangkat, and that no conciliation or settlement has been reached as certified by the lupon secretary or pangkat secretary as attested to by the lupon or pangkat chairman or unless the settlement has been repudiated by the parties thereto.

(b) Where Parties May Go Directly to Court. - The parties may go directly to court in the following instances:

(1) Where the accused is under detention;

(2) Where a person has otherwise been deprived of personal liberty calling for habeas corpus proceedings;

(3) Where actions are coupled with provisional remedies such as preliminary injunction, attachment, delivery of personal property and support pendente lite; and

(4) Where the action may otherwise be barred by the statute of limitations.

(c) Conciliation among members of indigenous cultural communities. - The customs and traditions of indigenous cultural communities shall be applied in settling disputes between members of the cultural communities.

Section 413. Arbitration. -

(a) The parties may, at any stage of the proceedings, agree in writing that they shall abide by the arbitration award of the lupon chairman or the pangkat. Such agreement to arbitrate may be repudiated within five (5) days from the date thereof for the same grounds and in accordance with the procedure hereinafter prescribed. The arbitration award shall be made after the lapse of the period for repudiation and within ten (10) days thereafter.

(b) The arbitration award shall be in writing in a language or dialect known to the parties. When the parties to the dispute do not use the same language or dialect, the award shall be written in the language or dialect known to them.

Section 414. Proceedings Open to the Public; Exception. - All proceedings for settlement shall be public and informal: Provided, however, That the lupon chairman or the pangkat chairman, as the case may be, may motu proprio or upon request of a party, exclude the public from the proceedings in the interest of privacy, decency, or public morals.

Section 415. Appearance of Parties in Person. - In all katarungang pambarangay proceedings, the parties must appear in person without the assistance of counsel or representative, except for minors and incompetents who may be assisted by their next-of-kin who are not lawyers.

Section 416. Effect of Amicable Settlement and Arbitration Award. - The amicable settlement and arbitration award shall have the force and effect of a final judgment of a court upon the expiration of ten (10) days from the date thereof, unless repudiation of the settlement has been made or a petition to nullify the award has been filed before the proper city or municipal court.

However, this provision shall not apply to court cases settled by the lupon under the last paragraph of Section 408 of this Code, in which case the compromise or the pangkat chairman shall be submitted to the court and upon approval thereof, have the force and effect of a judgment of said court.

Section 417. Execution. - The amicable settlement or arbitration award may be enforced by execution by the lupon within six (6) months from the date of the settlement. After the lapse of such time, the settlement may be enforced by action in the appropriate city or municipal court.

Section 418. Repudiation. - Any party to the dispute may, within ten (10) days from the date of the settlement, repudiate the same by filing with the lupon chairman a statement to that effect sworn to before him, where the consent is vitiated by fraud, violence, or intimidation. Such repudiation shall be sufficient basis for the issuance of the certification for filing a complaint as hereinabove provided.

Section 419. Transmittal of Settlement and Arbitration. - Award to the Court. - The secretary of the lupon shall transmit the settlement or the arbitration award to the appropriate city or municipal court within five (5) days from the date of the award or from the lapse of the ten-day period repudiating the settlement and shall furnish copies thereof to each of the parties to the settlement and the lupon chairman.

Section 420. Power to Administer Oaths. - The punong barangay, as chairman of the lupon tagapamayapa, and the members of the pangkat are hereby authorized to administer oaths in connection with any matter relating to all proceedings in the implementation of the katarungang pambarangay.

Section 421. Administration; Rules and Regulations. - The city or municipal mayor, as the case may be, shall see to the efficient and effective implementation and administration of the katarungang pambarangay. The Secretary of Justice shall promulgate the rules and regulations necessary to implement this Chapter.

Section 422. Appropriations. - Such amount as may be necessary for the effective implementation of the katarungang pambarangay shall be provided for in the annual budget of the city or municipality concerned.

CHAPTER VIII Sangguniang Kabataan

Section 423. Creation and Election. -

(a) There shall be in every barangay a sangguniang kabataan to be composed of a chairman, seven (7) members, a secretary, and a treasurer.

(b) A sangguniang kabataan official who, during his term of office, shall have passed the age of twenty-one (21) years shall be allowed to serve the remaining portion of the term for which he was elected.

Section 424. Katipunan ng Kabataan. - The katipunan ng kabataan shall be composed of all citizens of the Philippines actually residing in the barangay for at least six (6) months, who are fifteen (15) but not more than twenty-one (21) years of age, and who are duly registered in the list of the sangguniang kabataan or in the official barangay list in the custody of the barangay secretary.

Section 425. Meetings of the Katipunan ng Kabataan. - The katipunan ng kabataan shall meet at least once every three (3) months, or at the call of the chairman of the sangguniang kabataan or upon written petition of at least one-twentieth (1/20) of its members, to decide on important issues affecting the youth of the barangay.

Section 426. Powers and Functions of the Sangguniang Kabataan. - The sangguniang kabataan shall:

(a) Promulgate resolutions necessary to carry out the objectives of the youth in the barangay in accordance with the applicable provisions of this Code;

(b) Initiate programs designed to enhance the social, political, economic, cultural, intellectual, moral, spiritual, and physical development of the members;

(c) Hold fund-raising activities, the proceeds of which shall be tax-exempt and shall accrue to the general fund of the sangguniang kabataan: Provided, however, That in the appropriation thereof, the specific purpose for which such activity has been held shall be first satisfied;

(d) Create such bodies or committees as it may deem necessary to effectively carry out its programs and activities;

(e) Submit annual and end-of-term reports to the sangguniang barangay on their projects and activities for the survival and development of the youth in the barangay;

(f) Consult and coordinate with all youth organizations in the barangay for policy formulation and program implementation;

(g) Coordinate with the appropriate national agency for the implementation of youth development projects and programs at the national level;

(h) Exercise such other powers and perform such other duties and functions as the sangguniang barangay may determine or delegate; and

(i) Exercise such other powers and perform such other duties and functions as may be prescribed by law or ordinance.

Section 427. Meetings of the Sangguniang Kabataan. - The sangguniang kabataan shall meet regularly once a month on the date, time, and place to be fixed by the said sanggunian. Special meetings may be called by the sangguniang kabataan chairman or any three (3) of its members by giving written notice to all members of the date, time, place and agenda of the meeting at least one (1) day in advance. Notices of regular or special meetings shall be furnished the punong barangay and the sangguniang barangay.

A majority of the members of the sangguniang kabataan shall constitute a quorum.

Section 428. Qualifications. - An elective official of the sangguniang kabataan must be a citizen of the Philippines, a qualified voter of the katipunan ng kabataan, a resident of the barangay for at least one (1) year immediately prior to election, at least fifteen (15) years but not more than twenty- one (21) years of age on the day of his election, able to read and write Filipino, English, or the local dialect, and must not have been convicted of any crime involving moral turpitude.

Section 429. Term of Office. - The sangguniang kabataan chairman and members shall hold office for a period of three (3) years, unless sooner removed for cause as provided by law, permanently incapacitated, die or resign from office.

Section 430. Sangguniang Kabataan Chairman. - The registered voters of the katipunan ng kabataan shall elect the chairman of the sangguniang kabataan who shall automatically serve as an ex officio member of the sangguniang barangay upon his assumption to office. As such, he shall exercise the same powers, discharge the same duties and functions, and enjoy the same privileges as the regular sangguniang barangay members, and shall be the chairman of the committee on youth and sports development in the said sanggunian.

Section 431. Powers and Duties of the Sangguniang Kabataan Chairman. - In addition to the duties which may be assigned to him by the sangguniang barangay, the sangguniang kabataan chairman shall:

(a) Call and preside over all meetings of the katipunan ng kabataan and the sangguniang kabataan;

(b) Implement policies, programs, and projects within his jurisdiction in coordination with the sangguniang barangay;

(c) Exercise general supervision over the affairs and activities of the sangguniang kabataan and the official conduct of its members, and such other officers of the sangguniang kabataan within his jurisdiction;

(d) With the concurrence of the sangguniang kabataan, appoint from among the members of the sangguniang kabataan, the secretary and treasurer and such other officers as may be deemed necessary; and

(e) Exercise such other powers and perform such other duties and functions as may be prescribed by law or ordinance.

Section 432. *Sangguniang Kabataan Secretary.* - The sangguniang kabataan secretary shall:

- (a) Keep all records of the katipunan ng kabataan and sangguniang kabataan;
- (b) Prepare and keep the minutes of all meetings of the katipunan ng kabataan and sangguniang kabataan;
- (c) Prepare all forms necessary for the conduct of registrations, elections, initiatives, referenda, or plebiscites, in coordination with the barangay secretary and the COMELEC; and
- (d) Perform such other duties and discharge such other functions as the chairman of the sangguniang kabataan may prescribe or direct.

Section 433. *Sangguniang Kabataan Treasurer.* - The sangguniang kabataan treasurer shall:

- (a) Take custody of all sangguniang kabataan property and funds not otherwise deposited with the city or municipal treasurer;
- (b) Collect and receive contributions, monies, materials, and all other sources intended for the sangguniang kabataan and katipunan ng kabataan;
- (c) Disburse funds in accordance with an approved budget of the sangguniang kabataan;
- (d) Certify to the availability of funds whenever necessary;
- (e) Submit to the sangguniang kabataan and to the sangguniang barangay certified and detailed statements of actual income and expenditures at the end of every month; and
- (f) Perform such other duties and discharge such other functions as the chairman of the sangguniang kabataan may direct.

Section 434. *Privileges of Sangguniang Kabataan Officials.* - The sangguniang kabataan chairman shall have the same privileges enjoyed by other sangguniang barangay officials under this Code subject to such requirements and limitations provided herein. During their incumbency, sangguniang kabataan officials shall be exempt from payment of tuition and matriculation fees while enrolled in public tertiary schools, including state colleges and universities. The national government shall reimburse said college or university the amount of the tuition and matriculation fees: Provided, That, to qualify for the privilege, the said officials shall enroll in a state college or university within or nearest their area of jurisdiction.

Section 435. *Succession and Filling of Vacancies.* -

- (a) In case a sangguniang kabataan chairman refuses to assume office, fails to qualify, is convicted of a felony, voluntarily resigns, dies, is permanently incapacitated, is removed from office, or has been absent without leave for more than three (3) consecutive months, the sangguniang kabataan member who obtained the next highest number of votes in the election immediately preceding shall assume the office of the chairman for the unexpired portion of the term, and shall discharge the powers and duties, and enjoy the rights and privileges appurtenant to the office. In case the said member refuses to assume the position or fails to qualify, the sangguniang member obtaining the next highest number of votes shall assume the position of the chairman for the unexpired portion of the term.

(b) Where two (2) or more sangguniang kabataan members obtained the same next highest number of votes, the other sangguniang kabataan members shall conduct an election to choose the successor to the chairman from among the said members.

(c) After the vacancy shall have been filled, the sangguniang kabataan chairman shall call a special election to complete the membership of said sanggunian. Such sangguniang kabataan member shall hold office for the unexpired portion of the term of the vacant seat.

(d) In case of suspension of the sangguniang kabataan chairman, the successor, as determined in subsections (a) and (b) of this Section shall assume the position during the period of such suspension.

CHAPTER IX

Pederasyon ng mga Sangguniang Kabataan

Section 436. Pederasyon ng mga Kabataan. -

(a) There shall be an organization of all the pederasyon ng mga sangguniang kabataan to be known as follows:

- (1) in municipalities pambayang pederasyon ng mga sangguniang kabataan;
- (2) in cities, panlungsod na pederasyon ng mga sangguniang kabataan;
- (3) in provinces, panlalawigang pederasyon ng mga kabataan;
- (4) in special metropolitan political subdivisions, pangmetropolitan pederasyon ng mga sangguniang kabataan; and
- (5) on the national level pambansang pederasyon ng mga sangguniang kabataan.

(b) The pederasyon ng mga sangguniang kabataan shall, at all levels, elect from among themselves the president, vice- president and such other officers as may be necessary and shall be organized in the following manner:

- (1) The panlungsod and pambayang pederasyon shall be composed of the sangguniang kabataan chairmen of barangays in the city or municipality, respectively;
- (2) The panlalawigang pederasyon shall be composed of presidents of the panlungsod and pambayang pederasyon;
- (3) The pangmetropolitang pederasyon shall be composed of presidents of the panlungsod and pambayan pederasyon;

(c) The elected presidents of the pederasyon at the provincial, highly urbanized city, and metropolitan political subdivision levels shall constitute the pambansang katipunan ng mga sangguniang kabataan.

Section 437. Constitution and By-Laws. - The term of office, manner of election, removal and suspension of the officers of the pederasyon ng mga sangguniang kabataan at all levels shall be governed by the constitution and by-laws of the pederasyon in conformity with the provisions of this Code and national policies on youth.

Section 438. Membership in the Sanggunian. -

(a) A sangguniang kabataan chairman shall, upon certification of his election by the COMELEC and during his tenure of office is elected as pederasyon president, serve as an ex-officio member of the sangguniang panlalawigan, sangguniang panlungsod, and sangguniang bayan, as the case may be, without need of further appointment.

(b) The vice-president of the pederasyon whose president has been elected as president of a higher pederasyon shall serve as ex-officio member of the sanggunian concerned without need of further appointment.

(c) The pederasyon president or vice-president, as the case may be, shall be the chairman of the committee on youth and sports development of the sanggunian concerned.

**CHAPTER X
Linggo ng Kabataan**

Section 439. Observance of Linggo ng Kabataan. -

(a) Every barangay, municipality, city and province shall, in coordination with the pederasyon ng mga sangguniang kabataan at all levels, conduct an annual activity to be known as the Linggo ng Kabataan on such date as shall be determined by the Office of the President.

(b) The observance of the Linggo ng Kabataan shall include the election of the counterparts of all local elective and appointive officials, as well as heads of national offices or agencies stationed or assigned in the territorial jurisdiction of the local government unit, among in-school and community youth residing in the local government unit concerned from ages thirteen (13) to seventeen (17). During said week, they shall hold office as boy and girl officials and shall perform such duties and conduct such activities as may be provided in the ordinance enacted pursuant to this Chapter.

**TITLE II
THE MUNICIPALITY**

**CHAPTER I
Role and Creation of the Municipality**

Section 440. Role of the Municipality. - The municipality, consisting of a group of barangays, serves primarily as a general purpose government for the coordination and delivery of basic, regular and direct services and effective governance of the inhabitants within its territorial jurisdiction.

Section 441. Manner of Creation. - A municipality may be created, divided, merged, abolished, or its boundary substantially altered only by an Act of Congress and subject to the approval by a majority of the votes cast in a plebiscite to be conducted by the COMELEC in the local government unit or units directly affected. Except as may otherwise be provided in the said Act, the plebiscite shall be held within one hundred twenty (120) days from the date of its effectivity.

Section 442. Requisites for Creation. -

(a) A municipality may be created if it has an average annual income, as certified by the provincial treasurer, of at least Two million five hundred thousand pesos (P2,500,000.00) for the last two (2) consecutive years based on the 1991 constant prices; a population of at least twenty-five thousand (25,000) inhabitants as certified by the National Statistics Office; and a contiguous

territory of at least fifty (50) square kilometers as certified by the Lands Management Bureau: Provided, That the creation thereof shall not reduce the land area, population or income of the original municipality or municipalities at the time of said creation to less than the minimum requirements prescribed herein.

(b) The territorial jurisdiction of a newly-created municipality shall be properly identified by metes and bounds. The requirement on land area shall not apply where the municipality proposed to be created is composed of one (1) or more islands. The territory need not be contiguous if it comprises two (2) or more islands.

(c) The average annual income shall include the income accruing to the general fund of the municipality concerned, exclusive of special funds, transfers and non-recurring income.

(d) Municipalities existing as of the date of the effectivity of this Code shall continue to exist and operate as such. Existing municipal districts organized pursuant to presidential issuances or executive orders and which have their respective set of elective municipal officials holding office at the time of the effectivity of this Code shall henceforth be considered as regular municipalities.

CHAPTER II

Municipal Officials in General

Section 443. *Officials of the Municipal Government.* -

(a) There shall be in each municipality a municipal mayor, a municipal vice-mayor, sangguniang bayan members, a secretary to the sangguniang bayan, a municipal treasurer, a municipal assessor, a municipal accountant, a municipal budget officer, a municipal planning and development coordinator, a municipal engineer/building official, a municipal health officer and a municipal civil registrar.

(b) In addition thereto, the mayor may appoint a municipal administrator, a municipal legal officer, a municipal agriculturist, a municipal environment and natural resources officer, a municipal social welfare and development officer, a municipal architect, and a municipal information officer.

(c) The sangguniang bayan may:

(1) Maintain existing offices not mentioned in subsections (a) and (b) hereof;

(2) Create such other offices as may be necessary to carry out the purposes of the municipal government; or

(3) Consolidate the functions of any office with those of another in the interest of efficiency and economy.

(d) Unless otherwise provided herein, heads of departments and offices shall be appointed by the municipal mayor with the concurrence of the majority of all the sangguniang bayan members, subject to civil service law, rules and regulations. The sangguniang bayan shall act on the appointment within fifteen (15) days from the date of its submission; otherwise, the same shall be deemed confirmed.

(e) Elective and appointive municipal officials shall receive such compensation, allowances and other emoluments as may be determined by law or ordinance, subject to the budgetary limitations on personal services as prescribed in Title Five, Book Two of this Code: Provided, That no increase in compensation of the mayor, vice-mayor, and sangguniang bayan members shall take

effect until after the expiration of the full term of all the elective local officials approving such increase.

CHAPTER III
Officials and Offices Common to All Municipalities

ARTICLE I
The Municipal Mayor

Section 444. *The Chief Executive: Powers, Duties, Functions and Compensation.* -

(a) The municipal mayor, as the chief executive of the municipal government, shall exercise such powers and performs such duties and functions as provided by this Code and other laws.

(b) For efficient, effective and economical governance the purpose of which is the general welfare of the municipality and its inhabitants pursuant to Section 16 of this Code, the municipal mayor shall:

(1) Exercise general supervision and control over all programs, projects, services, and activities of the municipal government, and in this connection, shall:

(i) Determine the guidelines of municipal policies and be responsible to the sangguniang bayan for the program of government;

(ii) Direct the formulation of the municipal development plan, with the assistance of the municipal development council, and upon approval thereof by the sangguniang bayan, implement the same;

(iii) At the opening of the regular session of the sangguniang bayan for every calendar year and, as may be deemed necessary, present the program of government and propose policies and projects for the consideration of the sangguniang bayan as the general welfare of the inhabitants and the needs of the municipal government may require;

(iv) Initiate and propose legislative measures to the sangguniang bayan and, from time to time as the situation may require, provide such information and data needed or requested by said sanggunian in the performance of its legislative functions;

(v) Appoint all officials and employees whose salaries and wages are wholly or mainly paid out of municipal funds and whose appointments are not otherwise provided for in this Code, as well as those he may be authorized by law to appoint;

(vi) Upon authorization by the sangguniang bayan, represent the municipality in all its business transactions and sign on its behalf all bonds, contracts, and obligations, and such other documents made pursuant to law or ordinance;

(vii) Carry out such emergency measures as may be necessary during and in the aftermath of man-made and natural disasters and calamities;

(viii) Determine, according to law or ordinance, the time, manner and place of payment of salaries or wages of the officials and employees of the municipality;

(ix) Allocate and assign office space to municipal and other officials and employees who, by law or ordinance, are entitled to such space in the municipal hall and other buildings owned or leased by the municipal government;

(x) Ensure that all executive officials and employees of the municipality faithfully discharge their duties and functions as provided by law and this Code, and cause to be instituted administrative or judicial proceedings against any official or employee of the municipality who may have committed an offense in the performance of his official duties;

(xi) Examine the books, records and other documents of all offices, officials, agents or employees of the municipality and in aid of his executive powers and authority, require all national officials and employees stationed in or assigned to the municipality to make available to him such books, records, and other documents in their custody, except those classified by law as confidential;

(xii) Furnish copies of executive orders issued by him to the provincial governor within seventy-two (72) hours after their issuance: Provided, That municipalities of Metropolitan Manila Area and that of any metropolitan political subdivision shall furnish copies of said executive orders to the metropolitan authority council chairman and to the Office of the President;

(xiii) Visit component barangays of the municipality at least once every six (6) months to deepen his understanding of problems and conditions therein, listen and give appropriate counsel to local officials and inhabitants, inform the component barangay officials and inhabitants of general laws and ordinances which especially concern them, and otherwise conduct visits and inspections to the end that the governance of the municipality will improve the quality of life of the inhabitants;

(xiv) Act on leave applications of officials and employees appointed by him and the commutation of the monetary value of leave credits according to law;

(xv) Authorize official trips outside of the municipality of municipal officials and employees for a period not exceeding thirty (30) days;

(xvi) Call upon any national official or employee stationed in or assigned to the municipality to advise him on matters affecting the municipality and to make recommendations thereon, or to coordinate in the formulation and implementation of plans, programs and projects, and when appropriate, initiate an administrative or judicial action against a national government official or employee who may have committed an offense in the performance of his official duties while stationed in or assigned to the local government unit concerned;

(xvii) Subject to availability of funds, authorize payment of medical care, necessary transportation, subsistence, hospital or medical fees of municipal officials and employees who are injured while in the performance of their official duties and functions;

(xviii) Solemnize marriages, any provision of law to the contrary notwithstanding;

(xix) Conduct a *palarong bayan*, in coordination with the Department of Education, Culture and Sports, as an annual activity which shall feature

traditional sports and disciplines included in national and international games;
and

(xx) Submit to the provincial governor the following reports: an annual report containing a summary of all matters pertaining to the management, administration and development of the municipality and all information and data relative to its political, social and economic conditions; and supplemental reports when unexpected events and situations arise at any time during the year, particularly when man-made or natural disasters or calamities affect the general welfare of the municipality, province, region or country. mayors of municipalities of the Metropolitan Manila Area and other metropolitan political subdivisions shall submit said reports to their respective metropolitan council chairmen and to the Office of the President;

(2) Enforce all laws and ordinances relative to the governance of the municipality and the exercise of its corporate powers provided for under Section 22 of this Code implement all approved policies, programs, projects, services and activities of the municipality and, in addition to the foregoing, shall:

(i) Ensure that the acts of the municipality's component barangays and of its officials and employees are within the scope of their prescribed powers, functions, duties and responsibilities;

(ii) Call conventions, conferences, seminars or meetings of any elective and appointive officials of the municipality, including provincial officials and national officials and employees stationed in or assigned to the municipality at such time and place and on such subject as he may deem important for the promotion of the general welfare of the local government unit and its inhabitants;

(iii) Issue such executive orders as are necessary for the proper enforcement and execution of laws and ordinances;

(iv) Be entitled to carry the necessary firearm within his territorial jurisdiction;

(v) Act as the deputized representative of the National Police Commission, formulate the peace and order plan of the municipality and upon its approval implement the same and exercise general and operational control and supervision over the local police in the municipality in accordance with R.A. No 6975;

(vi) Call upon the appropriate law enforcement agencies to suppress disorder, riot, lawless violence, rebellion or sedition or to apprehend violators of the law when public interest so requires and the municipal police forces are inadequate to cope with the situation or the violators;

(3) Initiate and maximize the generation of resources and revenues, and apply the same to the implementation of development plans, program objectives and priorities as provided for under Section 18 of this Code, particularly those resources and revenues programmed for gro-industrial development and country-wide growth and progress, and relative thereto, shall:

(i) Require each head of an office or department to prepare and submit an estimate of appropriations for the ensuing calendar year, in accordance with the budget preparation process under Title Five, Book II of this Code;

(ii) Prepare and submit to the sanggunian for approval the executive and supplemental budgets of the municipality for the ensuing calendar year in the manner provided for under Title Five, Book II of this Code;

(iii) Ensure that all taxes and other revenues of the municipality are collected and that municipal funds are applied in accordance with law or ordinance to the payment of expenses and settlement of obligations of the municipality;

(iv) Issue licenses and permits and suspend or revoke the same for any violation of the conditions upon which said licenses or permits had been issued, pursuant to law or ordinance;

(v) Issue permits, without need of approval therefor from any national agency, for the holding of activities for any charitable or welfare purpose, excluding prohibited games of chance or shows contrary to law, public policy and public morals;

(vi) Require owners of illegally constructed houses, buildings or other structures to obtain the necessary permit, subject to such fines and penalties as may be imposed by law or ordinance, or to make necessary changes in the construction of the same when said construction violates any law or ordinance, or to order the demolition or removal of said house, building or structure within the period prescribed by law or ordinance;

(vii) Adopt adequate measures to safeguard and conserve land, mineral, marine, forest, and other resources of the municipality; provide efficient and effective property and supply management in the municipality; and protect the funds, credits, rights and other properties of the municipality; and

(viii) Institute or cause to be instituted administrative or judicial proceedings for violation of ordinances in the collection of taxes, fees or charges, and for the recovery of funds and property; and cause the municipality to be defended against all suits to ensure that its interests, resources and rights shall be adequately protected;

(4) Ensure the delivery of basic services and the provision of adequate facilities as provided for under Section 17 of this Code and, in addition thereto, shall:

(i) Ensure that the construction and repair of roads and highways funded by the national government shall be, as far as practicable, carried out in a spatially contiguous manner and in coordination with the construction and repair of the roads and bridges of the municipality and the province; and

(ii) Coordinate the implementation of technical services rendered by national and provincial offices, including public works and infrastructure programs in the municipality; and

(5) Exercise such other powers and perform such other duties and functions as may be prescribed by law or ordinance.

(c) During his incumbency, the municipal mayor shall hold office in the municipal hall.

(d) The municipal mayor shall receive a minimum monthly compensation corresponding to Salary Grade twenty-seven (27) as prescribed under R.A. No. 6758 and the implementing guidelines issued pursuant thereto.

ARTICLE II **The Vice Mayor**

Section 445. Powers, Duties and Compensation. -

(a) The vice-mayor shall:

(1) Be the presiding officer of the sangguniang bayan and sign all warrants drawn on the municipal treasury for all expenditures appropriated for the operation of the sangguniang bayan;

(2) Subject to civil service law, rules and regulations, appoint all officials and employees of the sangguniang bayan, except those whose manner of appointment is specifically provided in this Code;

(3) Assume the office of the municipal mayor for the unexpired term of the latter in the event of permanent vacancy as provided for in Section 44, Book I of this Code;

(4) Exercise the powers and perform the duties and functions of the municipal mayor in cases of temporary vacancy as provided for in Section 46, Book I of this Code; and

(5) Exercise such other powers and perform such other duties and functions as may be prescribed by law or ordinance.

(b) The vice-mayor shall receive a monthly compensation corresponding to Salary Grade twenty five (25) as prescribed under R.A. No. 6758 and the implementing guidelines issued pursuant thereto.

ARTICLE III **The Sangguniang Bayan**

Section 446. Composition. -

(a) The sangguniang bayan, the legislative body of the municipality, shall be composed of the municipal vice mayor as the presiding officer, the regular sanggunian members, the president of the municipal chapter of the liga ng mga barangay, the president of the pambayang pederasyon ng mga sangguniang kabataan, and the sectoral representatives, as members.

(b) In addition thereto, there shall be three (3) sectoral representatives: one (1) from the women; and as shall be determined by the sanggunian concerned within ninety (90) days prior to the holding of local elections, one (1) from the agricultural or industrial workers, and one (1) from other sectors, including the urban poor, indigenous cultural communities, or disabled persons.

(c) The regular members of the sangguniang bayan and the sectoral representatives shall be elected in the manner as may be provided for by law.

Section 447. Powers, Duties, Functions and Compensation. -

(a) The sangguniang bayan, as the legislative body of the municipality, shall enact ordinances, approve resolutions and appropriate funds for the general welfare of the municipality and its inhabitants pursuant to Section 16 of this Code and in the proper exercise of the corporate powers of the municipality as provided for under Section 22 of this Code, and shall:

(1) Approve ordinances and pass resolutions necessary for an efficient and effective municipal government, and in this connection shall:

(i) Review all ordinances approved by the sangguniang barangay and executive orders issued by the punong barangay to determine whether these are within the scope of the prescribed powers of the sanggunian and of the punong barangay;

(ii) Maintain peace and order by enacting measures to prevent and suppress lawlessness, disorder, riot, violence, rebellion or sedition and impose penalties for the violation of said ordinances;

(iii) Approve ordinances imposing a fine not exceeding Two thousand five hundred pesos (P2,500.00) or an imprisonment for a period not exceeding six (6) months, or both in the discretion of the court, for the violation of a municipal ordinance;

(iv) Adopt measures to protect the inhabitants of the municipality from the harmful effects of man-made or natural disasters and calamities and to provide relief services and assistance for victims during and in the aftermath of said disasters or calamities and their return to productive livelihood following said events;

(v) Enact ordinances intended to prevent, suppress and impose appropriate penalties for habitual drunkenness in public places, vagrancy, mendicancy, prostitution, establishment and maintenance of houses of ill repute, gambling and other prohibited games of chance, fraudulent devices and ways to obtain money or property, drug addiction, maintenance of drug dens, drug pushing, juvenile delinquency, the printing, distribution or exhibition of obscene or pornographic materials or publications, and such other activities inimical to the welfare and morals of the inhabitants of the municipality;

(vi) Protect the environment and impose appropriate penalties for acts which endanger the environment, such as dynamite fishing and other forms of destructive fishing, illegal logging and smuggling of logs, smuggling of natural resources products and of endangered species of flora and fauna, slash and burn farming, and such other activities which result in pollution, acceleration of eutrophication of rivers and lakes, or of ecological imbalance;

(vii) Subject to the provisions of this Code and pertinent laws, determine the powers and duties of officials and employees of the municipality;

(viii) Determine the positions and salaries, wages, allowances and other emoluments and benefits of officials and employees paid wholly or mainly from municipal funds and provide for expenditures necessary for the proper conduct of programs, projects, services, and activities of the municipal government;

(ix) Authorize the payment of compensation to a qualified person not in the government service who fills up a temporary vacancy or grant honorarium to any

qualified official or employee designated to fill a temporary vacancy in a concurrent capacity, at the rate authorized by law;

(x) Provide a mechanism and the appropriate funds therefor, to ensure the safety and protection of all municipal government property, public documents, or records such as those relating to property inventory, land ownership, records of births, marriages, deaths, assessments, taxation, accounts, business permits, and such other records and documents of public interest in the offices and departments of the municipal government;

(xi) When the finances of the municipal government allow, provide for additional allowances and other benefits to judges, prosecutors, public elementary and high school teachers, and other national government officials stationed in or assigned to the municipality;

(xii) Provide for legal assistance to barangay officials who, in the performance of their official duties or on the occasion thereof, have to initiate judicial proceedings or defend themselves against legal action; and

(xiii) Provide for group insurance or additional insurance coverage for barangay officials, including members of barangay tanod brigades and other service units, with public or private insurance companies, when the finances of the municipal government allow said coverage.

(2) Generate and maximize the use of resources and revenues for the development plans, program objectives and priorities of the municipality as provided for under Section 18 of this Code with particular attention to agro-industrial development and countryside growth and progress, and relative thereto, shall:

(i) Approve the annual and supplemental budgets of the municipal government and appropriate funds for specific programs, projects, services and activities of the municipality, or for other purposes not contrary to law, in order to promote the general welfare of the municipality and its inhabitants;

(ii) Subject to the provisions of Book II of this Code and applicable laws and upon the majority vote of all the members of the sangguniang bayan, enact ordinances levying taxes, fees and charges, prescribing the rates thereof for general and specific purposes, and granting tax exemptions, incentives or reliefs;

(iii) Subject to the provisions of Book II of this Code and upon the majority vote of all the members of the sangguniang bayan, authorize the municipal mayor to negotiate and contract loans and other forms of indebtedness;

(iv) Subject to the provisions of Book II of this Code and applicable laws and upon the majority vote of all the members of the sangguniang bayan, enact ordinances authorizing the floating of bonds or other instruments of indebtedness, for the purpose of raising funds to finance development projects;

(v) Appropriate funds for the construction and maintenance or the rental of buildings for the use of the municipality and, upon the majority vote of all the members of the sangguniang bayan, authorize the municipal mayor to lease to private parties such public buildings held in a proprietary capacity, subject to existing laws, rules and regulations;

(vi) Prescribe reasonable limits and restraints on the use of property within the jurisdiction of the municipality;

(vii) Adopt a comprehensive land use plan for the municipality: Provided, That the formulation, adoption, or modification of said plan shall be in coordination with the approved provincial comprehensive land use plan;

(viii) Reclassify land within the jurisdiction of the municipality, subject to the pertinent provisions of this Code;

(ix) Enact integrated zoning ordinances in consonance with the approved comprehensive land use plan, subject to existing laws, rules and regulations; established fire limits or zones, particularly in populous centers; and regulate the construction, repair or modification of buildings within said fire limits or zones in accordance with the provisions of this Code;

(x) Subject to national law, process and approve subdivision plans for residential, commercial, or industrial purposes and other development purposes, and collect processing fees and other charges the proceeds of which shall accrue entirely to the municipality: Provided, however, That, where approval by a national agency or office is required, said approval shall not be withheld for more than thirty (30) days from receipt of the application. Failure to act on the application within the period stated above shall be deemed as approval thereof;

(xi) Subject to the provisions of Book II of this Code, grant the exclusive privilege of constructing fish corrals or fish pens, or the taking or catching of bangus fry, prawn fry or kawag-kawag of fry of any species or fish within the municipal waters;

(xii) With the concurrence of at least two-thirds (2/3) of all the members of the sangguniang bayan, grant tax exemptions, incentives or reliefs to entities engaged in community growth-inducing industries, subject to the provisions of Chapter 5, Title I, Book II of this Code.

(xiii) Grant loans or provide grants to other local government units or to national, provincial and municipal charitable, benevolent or educational institutions: Provided, That said institutions are operated and maintained within the municipality;

(xiv) Regulate the numbering of residential, commercial and other buildings; and

(xv) Regulate the inspection, weighing and measuring of articles of commerce.

(3) Subject to the provisions of Book II of this Code, grant franchises, enact ordinances authorizing the issuance of permits or licenses, or enact ordinances levying taxes, fees and charges upon such conditions and for such purposes intended to promote the general welfare of the inhabitants of the municipality, and pursuant to this legislative authority shall:

(i) Fix and impose reasonable fees and charges for all services rendered by the municipal government to private persons or entities;

(ii) Regulate any business, occupation, or practice of profession or calling which does not require government examination within the municipality and the conditions under which the license for said business or practice of profession may be issued or revoked;

(iii) Prescribe the terms and conditions under which public utilities owned by the municipality shall be operated by the municipal government or leased to private persons or entities, preferably cooperatives;

(iv) Regulate the display of and fix the license fees for signs, signboards, or billboards at the place or places where the profession or business advertised thereby is, in whole or in part, conducted;

(v) Any law to the contrary notwithstanding, authorize and license the establishment, operation, and maintenance of cockpits, and regulate cockfighting and commercial breeding of gamecocks: Provided, That existing rights should not be prejudiced;

(vi) Subject to the guidelines prescribed by the Department of Transportation and Communications, regulate the operation of tricycles and grant franchises for the operation thereof within the territorial jurisdiction of the municipality;

(vii) Upon approval by a majority vote of all the members of the sangguniang bayan, grant a franchise to any person, partnership, corporation, or cooperative to establish, construct, operate and maintain ferries, wharves, markets or slaughterhouses, or such other similar activities within the municipality as may be allowed by applicable laws: Provided, That, cooperatives shall be given preference in the grant of such a franchise.

(4) Regulate activities relative to the use of land, buildings and structures within the municipality in order to promote the general welfare and for said purpose shall:

(i) Declare, prevent or abate any nuisance;

(ii) Require that buildings and the premises thereof and any land within the municipality be kept and maintained in a sanitary condition; impose penalties for any violation thereof, or upon failure to comply with said requirement, have the work done and require the owner, administrator or tenant concerned to pay the expenses of the same; or require the filling up of any land or premises to a grade necessary for proper sanitation;

(iii) Regulate the disposal of clinical and other wastes from hospitals, clinics and other similar establishments;

(iv) Regulate the establishment, operation and maintenance of cafes, restaurants, beerhouses, hotels, motels, inns, pension houses, lodging houses, and other similar establishments, including tourist guides and transports;

(v) Regulate the sale, giving away or dispensing of any intoxicating malt, vino, mixed or fermented liquors at any retail outlet;

(vi) Regulate the establishment and provide for the inspection of steam boilers or any heating device in buildings and the storage of inflammable and highly combustible materials within the municipality;

(vii) Regulate the establishment, operation, and maintenance of entertainment or amusement facilities, including theatrical performances, circuses, billiards pools, public dancing schools, public dance halls, sauna baths, massage parlors, and other places of entertainment or amusement; regulate such other events or activities for amusement or entertainment, particularly those which tend to disturb the community or annoy the inhabitants, or require the suspension or suppression of the same; or, prohibit certain forms of amusement or entertainment in order to protect the social and moral welfare of the community;

(viii) Provide for the impounding of stray animals; regulate the keeping of animals in homes or as part of a business, and the slaughter, sale or disposition of the same; and adopt measures to prevent and penalize cruelty to animals; and

(ix) Regulate the establishment, operation, and maintenance of funeral parlors and the burial or cremation of the dead, subject to existing laws, rules and regulations.

(5) Approve ordinances which shall ensure the efficient and effective delivery of the basic services and facilities as provided for under Section 17 of this Code, and in addition to said services and facilities, shall:

(i) Provide for the establishment, maintenance, protection, and conservation of communal forests and watersheds, tree parks, greenbelts, mangroves, and other similar forest development projects;

(ii) Establish markets, slaughterhouses or animal corrals and authorize the operation thereof, and regulate the construction and operation of private markets, talipapas or other similar buildings and structures;

(iii) Authorize the establishment, maintenance and operation of ferries, wharves, and other structures, and marine and seashore or offshore activities intended to accelerate productivity;

(iv) Regulate the preparation and sale of meat, poultry, fish, vegetables, fruits, fresh dairy products, and other foodstuffs for public consumption;

(v) Regulate the use of streets, avenues, alleys, sidewalks, bridges, parks and other public places and approve the construction, improvement, repair and maintenance of the same; establish bus and vehicle stops and terminals or regulate the use of the same by privately-owned vehicles which serve the public; regulate garages and the operation of conveyances for hire; designate stands to be occupied by public vehicles when not in use; regulate the putting up of signs, signposts, awnings and awning posts on the streets; provide for the lighting, cleaning and sprinkling of streets and public places;

(vi) Regulate traffic on all streets and bridges, prohibit the putting up of encroachments or obstacles thereon, and, when necessary in the interest of public welfare, authorize the removal of encroachments and illegal constructions in public places;

(vii) Subject to existing laws, provide for the establishment, operation, maintenance, and repair of an efficient waterworks system to supply water for the inhabitants; regulate the construction, maintenance, repair and use of hydrants, pumps, cisterns and reservoirs; protect the purity and quantity of the water supply of the municipality and, for this purpose, extend the coverage of appropriate ordinances over all territory within the drainage area of said water supply and within one hundred (100) meters of the reservoir, conduit, canal, aqueduct, pumping station, or watershed used in connection with the water service; and regulate the consumption, use or wastage of water;

(viii) Regulate the drilling and excavation of the ground for laying of water, gas, sewer, and other pipes and the construction, repair and maintenance of public drains, sewers, cesspools, tunnels and similar structures; regulate the placing of poles and the use of crosswalks, curbs, and gutters; adopt measures to ensure public safety against open canals, manholes, live wires and other similar hazards to life and property; and regulate the construction and use of private water closets, privies and other similar structures in buildings and homes;

(ix) Regulate the placing, stringing, attaching, installing, repair and construction of all gas mains, electric, telegraph and telephone wires, conduits, meters and other apparatus; and, provide for the correction, condemnation or removal of the same when found to be dangerous, defective or otherwise hazardous to the welfare of the inhabitants;

(x) Subject to the availability of funds and to existing laws, rules and regulations, establish and provide for the operation of vocational and technical schools and similar post-secondary institutions and, with the approval of the Department of Education, Culture and Sports, fix and collect reasonable fees and other school charges on said institutions, subject to existing laws on tuition fees;

(xi) Establish a scholarship fund for poor but deserving students residing within the municipality in schools located within its jurisdiction;

(xii) Approve measures and adopt quarantine regulations to prevent the introduction and spread of diseases;

(xiii) Provide for an efficient and effective system of solid waste and garbage collection disposal and prohibit littering and the placing or throwing of garbage, refuse and other filth and wastes;

(xiv) Provide for the care of paupers, the aged, the sick, persons of unsound mind, disabled persons, abandoned minors, juvenile delinquents, drug dependents, abused children and other needy and disadvantaged persons, particularly children and youth below eighteen (18) years of age and, subject to availability of funds, establish and provide for the operation of centers and facilities for said needy and disadvantaged persons;

(xv) Establish and provide for the maintenance and improvement of jails and detention centers, institute sound jail management programs, and appropriate funds for the subsistence of detainees and convicted prisoners in the municipality;

(xvi) Establish a municipal council whose purpose is the promotion of culture and the arts, coordinate with government agencies and non-governmental

organizations and, subject to the availability of funds, appropriate funds for the support and development of the same; and

(xvi) Establish a municipal council for the orderly which shall formulate policies and adopt measures mutually beneficial to the elderly and to the community; provide incentives for non-governmental agencies and entities and, subject to the availability of funds, appropriate funds to support programs and projects for the benefit of the elderly; and

(6) Exercise such other powers and perform such other duties and functions as may be prescribed by law or ordinance.

(b) The members of the sangguniang bayan shall receive a minimum monthly compensation corresponding to Salary Grade twenty-four (24) as prescribed under R.A. No. 6758 and the implementing guidelines issued pursuant thereto: Provided, That, in municipalities in Metropolitan Manila Area and other metropolitan political subdivisions, members of the sangguniang bayan shall receive a minimum monthly compensation corresponding to Salary grade twenty-five (25).

TITLE III THE CITY

CHAPTER I Role and Creation of the City

Section 448. *Role of the City.* - The city, consisting of more urbanized and developed barangays. serves as a general purpose government for the coordination and delivery of basic, regular, and direct services and effective governance of the inhabitants within its territorial jurisdiction.

Section 449. *Manner of Creation.* - A city may be created, divided, merged, abolished, or its boundary substantially altered, only by an Act of Congress, and subject to approval by a majority of the votes cast in a plebiscite to be conducted by the COMELEC in the local government unit or units directly affected. Except as may otherwise be provided in such Act. the plebiscite shall be held within one hundred twenty (120) days from the date of its effectivity.

Section 450. *Requisites for Creation.*

(a) A municipality or a cluster of barangays may be converted into a component city if it has an average annual income, as certified by the Department of Finance, of at least Twenty million (P20,000,000.00) for the last two (2) consecutive years based on 1991 constant prices, and if it has either of the following requisites:

(i) a contiguous territory of at least one hundred (100) square kilometers, as certified by the Lands Management Bureau; or

(ii) a population of not less than one hundred fifty thousand (150,000) inhabitants, as certified by the National Statistics Office:

Provided, That, the creation thereof shall not reduce the land area, population, and income of the original unit or units at the time of said creation to less than the minimum requirements prescribed herein.

(b) The territorial jurisdiction of a newly-created city shall be properly identified by metes and bounds. The requirement on land area shall not apply where the city proposed to be created is

composed of one (1) or more islands. The territory need not be contiguous if it comprises two (2) or more islands.

(c) The average annual income shall include the income accruing to the general fund, exclusive of specific funds, transfers, and non-recurring income.

Section 451. *Cities, Classified.* - A city may either be component or highly urbanized: Provided, however, That the criteria established in this Code shall not affect the classification and corporate status of existing cities.

component cities whose charters prohibit their voters from voting for provincial elective officials. Independent component cities shall be independent of the province. Independent component cities are those

Section 452. *Highly Urbanized Cities.*

(a) Cities with a minimum population of two hundred thousand (200,000) inhabitants as certified by the National Statistics Office, and within the latest annual income of at least Fifty Million Pesos (P50,000,000.00) based on 1991 constant prices, as certified by the city treasurer, shall be classified as highly urbanized cities.

(b) Cities which do not meet above requirements shall be considered component cities of the province in which they are geographically located. If a component city is located within the boundaries of two (2) or more provinces, such city shall be considered a component of the province of which it used to be a municipality.

(c) Qualified voters of highly urbanized cities shall remain excluded from voting for elective provincial officials.

Unless otherwise provided in the Constitution or this Code, qualified voters of independent component cities shall be governed by their respective charters, as amended, on the participation of voters in provincial elections.

Qualified voters of cities who acquired the right to vote for elective provincial officials prior to the classification of said cities as highly-urbanized after the ratification of the Constitution and before the effectivity of this Code, shall continue to exercise such right.

Section 453. *Duty to Declare Highly Urbanized Status.* - It shall be the duty of the President to declare a city as highly urbanized within thirty (30) days after it shall have met the minimum requirements prescribed in the immediately preceding section, upon proper application therefor and ratification in a plebiscite by the qualified voters therein.

CHAPTER II

City Officials in General

Section 454. *Officials of the City Government.*

(a) There shall be in each city a mayor, a vice-mayor, sangguniang panlungsod members, a secretary to the sangguniang panlungsod, a city treasurer, a city assessor, a city accountant, a city budget officer, a city planning and development coordinator, a city engineer, a city health officer, a city civil registrar, a city administrator, a city legal officer, a city veterinarian, a city social welfare and development officer, and a city general services officer.

(b) In addition thereto, the city mayor may appoint a city architect, a city information officer, a city agriculturist, a city population officer, a city environment and natural resources officer, and a city cooperatives officer.

The appointment of a city population officer shall be optional in the city: Provided, however, That cities which have existing population offices shall continue to maintain such offices for a period of five (5) years from the date of the effectivity of this Code, after which said offices shall become optional.

(c) The sangguniang panlungsod may:

(1) Maintain existing offices not mentioned in subsections (a) and (b) hereof;

(2) Create such other offices as may be necessary to carry out the purposes of the city government; or

(3) Consolidate the functions of any office with those of another in the interest of efficiency and economy.

(d) Unless otherwise provided herein, heads of departments and offices shall be appointed by the city mayor with the concurrence of the majority of all the sangguniang panlungsod members, subject to civil service law, rules and regulations. The sangguniang panlungsod shall act on the appointment within fifteen (15) days from the date of its submission, otherwise the same shall be deemed confirmed.

(e) Elective and appointive city officials shall receive such compensation, allowances, and other emoluments as may be determined by law or ordinance, subject to the budgetary limitations on personal services prescribed under Title Five, Book II of this Code: Provided, That, no increase in compensation of the mayor, vice-mayor and sangguniang panlungsod members shall take effect until after the expiration of the full term of the said local officials approving such increase.

CHAPTER III

Officials and Offices Common to All Cities

ARTICLE I

The City Mayor

Section 455. Chief Executive; Powers, Duties and Compensation.

(a) The city mayor, as chief executive of the city government, shall exercise such powers and perform such duties and functions as provided by this Code and other laws.

(b) For efficient, effective and economical governance the purpose of which is the general welfare of the city and its inhabitants pursuant to Section 16 of this Code, the city mayor shall:

(1) Exercise general supervision and control over all programs, projects, services, and activities of the city government. and in this connection, shall:

(i) Determine the guidelines of city policies and be responsible to the sangguniang panlungsod for the program of government;

(ii) Direct the formulation of the city development plan, with the assistance of the city development council, and upon approval thereof by the sangguniang panlungsod, implement the same;

(iii) Present the program of government and propose policies and projects for the consideration of the sangguniang panlungsod at the opening of the regular session of the sangguniang panlungsod every calendar year and as often as may be deemed necessary as the general welfare of the inhabitants and the needs of the city government may require;

(iv) Initiate and propose legislative measures to the sangguniang panlungsod and as often as may be deemed necessary, provide such information and data needed or requested by said sanggunian in the performance of its legislative functions;

(v) Appoint all officials and employees whose salaries and wages are wholly or mainly paid out of city funds and whose appointments are not otherwise provided for in this Code, as well as those he may be authorized by law to appoint;

(vi) Represent the city in all its business transactions and sign in its behalf all bonds, contracts, and obligations, and such other documents upon authority of the sangguniang panlungsod or pursuant to law or ordinance;

(vii) Carry out such emergency measures as may be necessary during and in the aftermath of man-made and natural disasters and calamities;

(viii) Determine the time, manner and place of payment of salaries or wages of the officials and employees of the city, in accordance with law or ordinance;

(ix) Allocate and assign office space to city and other officials and employees who, by law or ordinance, are entitled to such space in the city hall and other buildings owned or leased by the city government;

(x) Ensure that all executive officials and employees of the city faithfully discharge their duties and functions as provided by law and this Code, and cause to be instituted administrative or judicial proceedings against any official or employee of the city who may have committed an offense in the performance of his official duties;

(xi) Examine the books, records and other documents of all offices, officials, agents or employees of the city and, in aid of his executive powers and authority, require all national officials and employees stationed in or assigned to the city to make available to him such books, records, and other documents in their custody, except those classified by law as confidential;

(xii) Furnish copies of executive orders issued by him, to the provincial governor in the case of component city mayors, to the Office of the President in the case of highly-urbanized city mayors and to their respective metropolitan council chairmen in the case of mayors of cities in the Metropolitan Manila Area and other metropolitan political subdivisions, within seventy-two (72) hours after their issuances;

(xiii) Visit component barangays of the city at least once every six (6) months to deepen his understanding of problems and conditions, listen and give

appropriate counsel to, local officials and inhabitants, inform the component barangay officials and inhabitants of general laws and ordinances which especially concern them, and otherwise conduct visits and inspections to ensure that the governance of the city will improve the quality of life of the inhabitants;

(xiv) Act on leave applications of officials and employees appointed by him and the commutation of the monetary value of their leave credits in accordance with law;

(xv) Authorize official trips of city officials and employees outside of the city for a period not exceeding thirty (30) days;

(xvi) Call upon any national official or employee stationed in or assigned to the city to advise him on matters affecting the city and to make recommendations thereon; coordinate with said official or employee in the formulation and implementation of plans, programs and projects; and, when appropriate, initiate an administrative or judicial action against a national government official or employee who may have committed an offense in the performance of his official duties while stationed in or assigned to the city;

(xvii) Authorize payment for medical care, necessary transportation, subsistence, hospital or medical fees of city officials and employees who are injured while in the performance of their duties and functions, subject to availability of funds;

(xviii) Solemnize marriage, any provision of law to the contrary notwithstanding;

(xix) Conduct an annual palamong panlungsod, which shall feature traditional sports and disciplines included in national and international games, in coordination with the Department of Education, Culture and Sports; and

(xx) Submit to the provincial governor, in case of component cities; to the Office of the President, in the case of highly-urbanized cities; to their respective metropolitan authority council chairmen and to the Office of the President, in case of cities of the Metropolitan Manila Area and other metropolitan political subdivisions, the following reports: an annual report containing a summary of all matters pertinent to the management, administration and development of the city and all information and data relative to its political, social and economic conditions; and supplemental reports when unexpected events and situations arise at any time during the year, particularly when man-made or natural disasters or calamities affect the general welfare of the city, province, region or country;

(2) Enforce all laws and ordinances relative to the governance of the city and in the exercise of the appropriate corporate powers provided for under Section 22 of this Code, implement all approved policies, programs, projects, services and activities of the city and, in addition to the foregoing, shall:

(i) Ensure that the acts of the city's component barangays and of its officials and employees are within the scope of their prescribed powers, duties and functions;

(ii) Call conventions, conferences, seminars, or meetings of any elective and appointive officials of the city, including provincial officials and national officials and employees stationed in or assigned to the city, at such time and place and

on such subject as he may deem important for the promotion of the general welfare of the local government unit and its inhabitants;

(ii) Issue such executive orders for the faithful and appropriate enforcement and execution of laws and ordinances;

(iv) Be entitled to carry the necessary firearm within his territorial jurisdiction;

(v) Act as the deputized representative of the National Police Commission, formulate the peace and order plan of the city and upon its approval, implement the same; and as such exercise general and operational control and supervision over the local police forces in the city, in accordance with R.A. No. 6975;

(vi) Call upon the appropriate law enforcement agencies to suppress disorder, riot, lawless violence, rebellion or sedition, or to apprehend violators of the law when public interest so requires and the city police forces are inadequate to cope with the situations or the violators;

(3) Initiate and maximize the generation of resources and revenues, and apply the same to the implementation of development plans, program objectives and priorities as provided for under Section 18 of this Code, particularly those resources and revenues programmed for agro-industrial development and countryside growth and progress and, relative thereto, shall:

(i) Require each head of an office or department to prepare and submit an estimate of appropriations for the ensuing calendar year, in accordance with the budget preparations process under Title Five, Book II of this Code;

(ii) Prepare and submit to the sanggunian for approval the executive and supplemental budgets of the city for the ensuing calendar year in the manner provided for under Title Five, Book II of this Code;

(iii) Ensure that all taxes and other revenues of the city are collected, and that city funds are applied to the payment of expenses and settlement of obligations of the city, in accordance with law or ordinance;

(iv) Issue licenses and permits and suspend or revoke the same for any violation of the conditions upon which said licenses or permits had been issued, pursuant to law or ordinance;

(v) Issue permits, without need of approval therefor from any national agency, for the holding of activities for any charitable or welfare purpose, excluding prohibited games of chance or shows contrary to law, public policy and public morals;

(vi) Require owners of illegally constructed houses, buildings or other structures to obtain the necessary permit, subject to such fines and penalties as may be imposed by law or ordinance, or to make necessary changes in the construction of the same when said construction violates any law or ordinance, or to order the demolition or removal of said house, building or structure within the period prescribed by law or ordinance;

(vii) Adopt adequate measures to safeguard and conserve land, mineral, marine, forest, and other resources of the city; provide efficient and effective property and supply management in the city; and protect the funds, credits, rights and other properties of the city; and

(viii) Institute or cause to be instituted administrative or judicial proceedings for violation of ordinances in the collection of taxes, fees or charges, and for the recovery of funds and property; and cause the city to be defended against all suits to ensure that its interests, resources and rights shall be adequately protected;

(4) Ensure the delivery of basic services and the provision of adequate facilities as provided for under Section 17 of this Code and, in addition thereto, shall:

(i) Ensure that the construction and repair of roads and highways funded by the national government shall be, as far as practicable, carried out in a spatially contiguous manner and in coordination with the construction and repair of the roads and bridges of the city, and in the case of component cities, of the city and of the province; and

(ii) Coordinate the implementation of technical services, including public works and infrastructure programs, rendered by national offices in the case of highly urbanized and independent component cities, and by national and provincial offices in the case of component cities; and

(5) Exercise such other powers and perform such other duties and functions as may be prescribed by law or ordinance.

(c) During his incumbency, the city mayor shall hold office in the city hall.

(d) The city mayor shall receive a minimum monthly compensation corresponding to Salary Grade Thirty (30) as prescribed under R.A. No. 6758 and the implementing guidelines issued pursuant thereto.

ARTICLE II

The City Vice-Mayor

Section 456. Powers, Duties and Compensation.

(a) The city vice-mayor shall:

(1) Be the presiding officer of the sangguniang panlungsod and sign all warrants drawn on the city treasury for all expenditures appropriated for the operation of the sangguniang panlungsod;

(2) Subject to civil service law, rules and regulations, appoint all officials and employees of the sangguniang panlungsod, except those whose manner of appointment is specifically provided in this Code;

(3) Assume the office of the city mayor for the unexpired term of the latter in the event of permanent vacancy as provided for in Section 44, Book I of this Code;

(4) Exercise the powers and perform the duties and functions of the city mayor in cases of temporary vacancy as provided for in Section 46, Book I of this Code; and

(5) Exercise such other powers and perform such other duties and functions as may be prescribed by law or ordinance.

(b) The city vice-mayor shall receive a monthly compensation corresponding to Salary Grade twenty eight (28) for a highly urbanized city and Salary Grade twenty-six (26) for a component city, as prescribed under R.A. No. 6758 and the implementing guidelines issued pursuant thereto.

ARTICLE III

The Sangguniang Panlungsod

Section 457. *Composition*

(a) The sangguniang panlungsod, the legislative body of the city, shall be composed of the city vice-mayor as presiding officer, the regular sanggunian members, the president of the city chapter of the liga ng mga barangay, the president of the panlungsod na pederasyon ng mga sangguniang kabataan, and the sectoral representatives, as members.

(b) In addition thereto, there shall be three (3) sectoral representatives: one (1) from the women; and as shall be determined by the sanggunian concerned within ninety (90) days prior to the holding of the local elections, one (1) from agricultural or industrial workers; and one (1) from the other sectors, including the urban poor, indigenous cultural communities, or disabled persons.

(c) The regular members of the sangguniang panlungsod and the sectoral representatives shall be elected in the manner as may be provided for by law.

Section 458. *Powers, Duties, Functions and Compensation.*

(a) The sangguniang panlungsod, as the legislative body of the city, shall enact ordinances, approve resolutions and appropriate funds for the general welfare of the city and its inhabitants pursuant to Section 16 of this Code and in the proper exercise of the corporate powers of the city as provided for under Section 22 of this Code, and shall:

(1) Approve ordinances and pass resolutions necessary for an efficient and effective city government, and in this connection, shall:

(i) Review all ordinances approved by the sangguniang barangay and executive orders issued by the punong barangay to determine whether these are within the scope of the prescribed powers of the sanggunian and of the punong barangay;

(ii) Maintain peace and order by enacting measures to prevent and suppress lawlessness, disorder, riot, violence, rebellion or sedition and impose penalties for violation of said ordinances;

(iii) Approve ordinances imposing a fine not exceeding Five thousand pesos (P5,000.00) or an imprisonment for a period not exceeding one (1) year, or both in the discretion of the court, for the violation of a city ordinance;

(iv) Adopt measures to protect the inhabitants of the city from the harmful effects of man-made or natural disasters and calamities, and to provide relief services

and assistance for victims during and in the aftermath of said disasters or calamities and their return to productive livelihood following said events;

(v) Enact ordinances intended to prevent, suppress and impose appropriate penalties for habitual drunkenness in public places, vagrancy, mendicancy, prostitution, establishment and maintenance of houses of ill repute, gambling and other prohibited games of chance, fraudulent devices and ways to obtain money or property, drug addiction, maintenance of drug dens, drug pushing, juvenile delinquency, the printing, distribution or exhibition of obscene or pornographic materials or publications, and such other activities inimical to the welfare and morals of the inhabitants of the city.

(vi) Protect the environment and impose appropriate penalties for acts which endanger the environment, such as dynamite fishing and other forms of destructive fishing, illegal logging and smuggling of logs, smuggling of natural resources products and of endangered species of flora and fauna, slash and burn farming, and such other activities which result in pollution, acceleration of eutrophication of rivers and lakes, or of ecological imbalance;

(vii) Subject to the provisions of this Code and pertinent laws, determine the powers and duties of officials and employees of the city;

(viii) Determine the positions and the salaries, wages, allowances and other emoluments and benefits of officials and employees paid wholly or mainly from city funds and provide for expenditures necessary for the proper conduct of programs, projects, services, and activities of the city government;

(ix) Authorize the payment of compensation to a qualified person not in the government service who fills up a temporary vacancy or grant honorarium to any qualified official or employee designated to fill a temporary vacancy in a concurrent capacity, at the rate authorized by law;

(x) Provide a mechanism and the appropriate funds therefor, to ensure the safety and protection of all city government property, public documents, or records such as those relating to property inventory, land ownership, records of births, marriages, deaths, assessments, taxation, accounts, business permits, and such other records and documents of public interest in the offices and departments of the city government;

(xi) When the finances of the city government allow, provide for additional allowances and other benefits to judges, prosecutors, public elementary and high school teachers, and other national government officials stationed in or assigned to the city;

(xii) Provide legal assistance to barangay officials who, in the performance of their official duties or on the occasion thereof, have to initiate judicial proceedings or defend themselves against legal action; and

(xiii) Provide for group insurance or additional insurance coverage for all barangay officials, including members of barangay tanod brigades and other service units, with public or private insurance companies, when the finances of the city government allow said coverage;

(2) Generate and maximize the use of resources and revenues for the development plans, program objectives and priorities of the city as provided for under Section 18 of this Code, with particular attention to agro-industrial development and city-wide growth and progress, and relative thereto, shall:

(i) Approve the annual and supplemental budgets of the city government and appropriate funds for specific programs, projects, services and activities of the city, or for other purposes not contrary to law, in order to promote the general welfare of the city and its inhabitants;

(ii) Subject to the provisions of Book II of this Code and applicable laws and upon the majority vote of all the members of the sangguniang panlungsod, enact ordinances levying taxes, fees and charges, prescribing the rates thereof for general and specific purposes, and granting tax exemptions, incentives or reliefs;

(iii) Subject to the provisions of Book II of this Code and upon the majority vote of all the members of the sangguniang panlungsod, authorize the city mayor to negotiate and contract loans and other forms of indebtedness;

(iv) Subject to the provisions of Book II of this Code and applicable laws and upon the majority vote of all the members of the sangguniang panlungsod, enact ordinances authorizing the floating of bonds or other instruments of indebtedness, for the purpose of raising funds to finance development projects;

(v) Appropriate funds for the construction and maintenance or the rental of buildings for the use of the city; and, upon the majority vote of all the members of the sangguniang panlungsod, authorize the city mayor to lease to private parties such public buildings held in a proprietary capacity, subject to existing laws, rules and regulations;

(vi) Prescribe reasonable limits and restraints on the use of property within the jurisdiction of the city;

(vii) Adopt a comprehensive land use plan for the city: Provided, That in the case of component cities, the formulation, adoption or modification of said plan shall be in coordination with the approved provincial comprehensive land use plan;

(viii) Reclassify land within the jurisdiction of the city, subject to the pertinent provisions of this Code;

(ix) Enact integrated zoning ordinances in consonance with the approved comprehensive land use plan, subject to existing laws, rules and regulations; establish fire limits or zones, particularly in populous centers; and regulate the construction, repair or modification of buildings within said fire limits or zones in accordance with the provisions of the Fire Code;

(x) Subject to national law, process and approve subdivision plans for residential, commercial, or industrial purposes and other development purposes, and to collect processing fees and other charges, the proceeds of which shall accrue entirely to the city: Provided, however, That where approval of a national agency or office is required, said approval shall not be withheld for more than thirty (30) days from receipt of the application. Failure to act on the application within the period stated above shall be deemed as approval thereof;

(xi) Subject to the provisions of Book II of this Code, grant the exclusive privilege of constructing fish corrals or fish pens, or the taking or catching of bangus fry, prawn fry or kawag-kawag, or fry of any species or fish within the city waters;

(xii) With the concurrence of at least two-thirds (2/3) of all the members of the sangguniang panlungsod, grant tax exemptions, incentives or reliefs to entities engaged in community growth-inducing industries, subject to the provisions of Chapter 5, Title I, Book II of this Code;

(xiii) Grant loans or provide grants to other local government units or to national, provincial, and city charitable, benevolent or educational institutions: Provided, That, said institutions are operated and maintained within the city;

(xiv) Regulate the numbering of residential, commercial and other buildings; and

(xv) Regulate the inspection, weighing and measuring of articles of commerce.

(3) Subject to the provisions of Book II of this Code, enact ordinances granting franchises and authorizing the issuance of permits or licenses, upon such conditions and for such purposes intended to promote the general welfare of the inhabitants of the city and pursuant to this legislative authority shall:

(i) Fix and impose reasonable fees and charges for all services rendered by the city government to private persons or entities;

(ii) Regulate or fix license fees for any business or practice of profession within the city and the conditions under which the license for said business or practice of profession may be revoked and enact ordinances levying taxes thereon;

(iii) Provide for and set the terms and conditions under which public utilities owned by the city shall be operated by the city government, and prescribe the conditions under which the same may be leased to private persons or entities, preferably cooperatives;

(iv) Regulate the display of and fix the license fees for signs, signboards, or billboards at the place or places where the profession or business advertised thereby is, in whole or in part, conducted;

(v) Any law to the contrary notwithstanding, authorize and license the establishment, operation, and maintenance of cockpits, and regulate cockfighting and commercial breeding of gamecocks: Provided, That existing rights should not be prejudiced;

(vi) Subject to the guidelines prescribed by the Department of Transportation and Communications, regulate the operation of tricycles and grant franchises for the operation thereof within the territorial jurisdiction of the city;

(vii) Upon approval by a majority vote of all the members of the sangguniang panlungsod: grant a franchise to any person, partnership, corporation, or cooperative to do business within the city; establish, construct, operate and maintain ferries, wharves, markets or slaughterhouses; or undertake such other activities within the city as may be allowed by existing laws: Provided, That, cooperatives shall be given preference in the grant of such a franchise.

(4) Regulate activities relative to the use of land, buildings and structures within the city in order to promote the general welfare and for said purpose shall:

(i) Declare, prevent or abate any nuisance;

(ii) Require that buildings and the premises thereof and any land within the city be kept and maintained in a sanitary condition; impose penalties for any violation thereof; or, upon failure to comply with said requirement, have the work done at the expense of the owner, administrator or tenant concerned; or require the filling up of any land or premises to a grade necessary for proper sanitation;

(iii) Regulate the disposal of clinical and other wastes from hospitals, clinics and other similar establishments;

(iv) Regulate the establishment, operation and maintenance of cafes, restaurants, beerhouses, hotels, motels, inns, pension houses, lodging houses, and other similar establishments, including tourist guides and transports;

(v) Regulate the sale, giving away or dispensing of any intoxicating malt, vino, mixed or fermented liquors at any retail outlet;

(vi) Regulate the establishment and provide for the inspection of steam boilers or any heating device in buildings and the storage of inflammable and highly combustible materials within the city;

(vii) Regulate the establishment, operation, and maintenance of any entertainment or amusement facilities, including theatrical performances, circuses, billiard pools, public dancing schools, public dance halls, sauna baths, massage parlors, and other places for entertainment or amusement; regulate such other events or activities for amusement or entertainment, particularly those which tend to disturb the community or annoy the inhabitants, or require the suspension or suppression of the same; or, prohibit certain forms of amusement or entertainment in order to protect the social and moral welfare of the community;

(viii) Provide for the impounding of stray animals; regulate the keeping of animals in homes or as part of a business, and the slaughter, sale or disposition of the same; and adopt measures to prevent and penalize cruelty to animals; and

(ix) Regulate the establishment, operation and maintenance of funeral parlors and the burial or cremation of the dead, subject to existing laws, rules and regulations.

(5) Approve ordinances which shall ensure the efficient and effective delivery of the basic services and facilities as provided for under Section 17 of this Code, and in addition to said services and facilities, shall:

(i) Provide for the establishment, maintenance, protection, and conservation of communal forests and watersheds, tree parks, greenbelts, mangroves, and other similar forest development projects;

(ii) Establish markets, slaughterhouses or animal corrals and authorize the operation thereof by the city government; and regulate the construction and operation of private markets, talipapas or other similar buildings and structures;

(iii) Authorize the establishment, maintenance and operation by the city government of ferries, wharves, and other structures intended to accelerate productivity related to marine and seashore or offshore activities;

(iv) Regulate the preparation and sale of meat, poultry, fish, vegetables, fruits, fresh dairy products, and other foodstuffs for public consumption;

(v) Regulate the use of streets, avenues, alleys, sidewalks, bridges, parks and other public places and approve the construction, improvement repair and maintenance of the same; establish bus and vehicle stops and terminals or regulate the use of the same by privately-owned vehicles which serve the public; regulate garages and the operation of conveyances for hire; designate stands to be occupied by public vehicles when not in use; regulate the putting up of signs, signposts, awnings and awning posts on the streets; and provide for the lighting, cleaning and sprinkling of streets; and public places;

(vi) Regulate traffic on all streets and bridges; prohibit encroachments or obstacles thereon, and when necessary in the interest of public welfare, authorize the removal or encroachments and illegal constructions in public places;

(vii) Subject to existing laws, establish and provide for the maintenance, repair and operation of an efficient waterworks system to supply water for the inhabitants and to purify the source of the water supply; regulate the construction, maintenance, repair and use of hydrants, pumps, cisterns and reservoirs; protect the purity and quantity of the water supply of the city and, for this purpose, extend the coverage of appropriate ordinances over all territory within the drainage area of said water supply and within one hundred (100) meters of the reservoir, conduit, canal, aqueduct, pumping station, or watershed used in connection with the water service; and regulate the consumption, use or wastage of water and fix and collect charges therefor;

(viii) Regulate the drilling and excavation of the ground for the laying of water, gas, sewer, and other pipes and the construction, repair and maintenance of public drains, sewers, cesspools, tunnels and similar structures; regulate the placing of poles and the use of crosswalks, curbs, and gutters; adopt measures to ensure public safety against open canals, manholes, live wires and other similar hazards to life and property; and regulate the construction and use of private water closets, privies and other similar structures in buildings and homes;

(ix) Regulate the placing, stringing, attaching, installing, repair and construction of all gas mains, electric, telegraph and telephone wires, conduits, meters and other apparatus; and provide for the correction, condemnation or removal of the same when found to be dangerous, defective, or otherwise hazardous to the welfare of the inhabitants;

(x) Subject to the availability of funds and to existing laws, rules and regulations, establish and provide for the operation of vocational and technical schools and similar post-secondary institutions and, with the approval of the Department of Education, Culture and Sports and subject to existing law on tuition fees, fix and

collect reasonable tuition fees and other school charges in educational institutions supported by the city government;

(xi) Establish a scholarship fund for the poor but deserving students in schools located within its jurisdiction or for students residing within the city;

(xii) Approve measures and adopt quarantine regulations to prevent the introduction and spread of diseases;

(xiii) Provide for an efficient and effective system of solid waste and garbage collection and disposal; prohibit littering and the placing or throwing of garbage, refuse and other filth and wastes;

(xiv) Provide for the care of disabled persons, paupers, the aged, the sick, persons of unsound mind, abandoned minors, juvenile delinquents, drug dependents, abused children and other needy and disadvantaged persons, particularly children and youth below eighteen (18) years of age; and subject to availability of funds, establish and provide for the operation of centers and facilities for said needy and disadvantaged persons;

(xv) Establish and provide for the maintenance and improvement of jails and detention centers, institute a sound jail management program, and appropriate funds for the subsistence of detainees and convicted prisoners in the city;

(xvi) Establish a city council whose purpose is the promotion of culture and the arts, coordinate with government agencies and non-governmental organizations and, subject to the availability of funds, appropriate funds for the support and development of the same; and

(xvii) Establish a city council for the elderly which shall formulate policies and adopt measures mutually beneficial to the elderly and to the community; provide incentives for non-governmental agencies and entities and, subject to the availability of funds, appropriate funds to support programs and projects for the benefit of the elderly; and

(6) Exercise such other powers and perform such other duties and functions as may be prescribed by law or ordinance.

(b) The members of the sangguniang panlungsod of component cities shall receive a minimum monthly compensation corresponding to Salary Grade twenty-five (25) and members of the sangguniang panlungsod of highly-urbanized cities shall receive a minimum monthly compensation corresponding to Salary Grade twenty-seven (27), as prescribed under R.A. 6758 and the implementing guidelines issued pursuant thereto.

TITLE IV THE PROVINCE

CHAPTER I Role and Creation of the Province

Section 459. *Role of the Province.* - The province, composed of cluster of municipalities, or municipalities and component cities, and as a political and corporate unit of government, serves as dynamic mechanism

for developmental processes and effective governance of local government units within its territorial jurisdiction.

Section 460. *Manner of Creation.* - A province may be created, divided, merged, abolished, or its boundary substantially altered, only by an Act of Congress and subject to approval by a majority of the votes cast in a plebiscite to be conducted by the COMELEC in the local government unit or units directly affected. The plebiscite shall be held within one hundred twenty (120) days from the date of effectivity of said Act, unless otherwise provided therein.

Section 461. *Requisites for Creation.*

(a) A province may be created if it has an average annual income, as certified by the Department of Finance, of not less than Twenty million pesos (P20,000,000.00) based on 1991 constant prices and either of the following requisites:

(i) a contiguous territory of at least two thousand (2,000) square kilometers, as certified by the Lands Management Bureau; or

(ii) a population of not less than two hundred fifty thousand (250,000) inhabitants as certified by the National Statistics Office:

Provided, That, the creation thereof shall not reduce the land area, population, and income of the original unit or units at the time of said creation to less than the minimum requirements prescribed herein.

(b) The territory need not be contiguous if it comprise two (2) or more islands or is separated by a chartered city or cities which do not contribute to the income of the province.

(c) The average annual income shall include the income accruing to the general fund, exclusive of special funds, trust funds, transfers and non-recurring income.

Section 462. *Existing Sub-Provinces.* - Existing sub-provinces are hereby converted into regular provinces upon approval by a majority of the votes cast in a plebiscite to be held in the said subprovinces and the original provinces directly affected. The plebiscite shall be conducted by the COMELEC simultaneously with the national elections following the effectivity of this Code.

The new legislative districts created as a result of such conversion shall continue to be represented in Congress by the duly-elected representatives of the original districts out of which said new provinces or districts were created until their own representatives shall have been elected in the next regular congressional elections and qualified.

The incumbent elected officials of the said subprovinces converted into regular provinces shall continue to hold office until June 30, 1992. Any vacancy occurring in the offices occupied by said incumbent elected officials, or resulting from expiration of their terms of office in case of a negative vote in the plebiscite results, shall be filled by appointment by the President. The appointees shall hold office until their successors shall have been elected in the regular local elections following the plebiscite mentioned herein and qualified. After effectivity of such conversion, the President shall fill up the position of governor of the newly-created province through appointment if none has yet been appointed to the same as hereinbefore provided, and shall also appoint a vice-governor and the other members of the sangguniang panlalawigan, all of whom shall likewise hold office until their successors shall have been elected in the next regular local elections and qualified.

All qualified appointive officials and employees in the career service of the said subprovinces at the time of their conversion into regular provinces shall continue in office in accordance with civil service law, rules and regulations.

CHAPTER II

Provincial Officials in General

Section 463. Officials of the Provincial Government.

(a) There shall be in each province a governor, a vice-governor, members of the sangguniang panlalawigan, a secretary to the sangguniang panlalawigan, a provincial treasurer, a provincial assessor, a provincial accountant, a provincial engineer, a provincial budget officer, a provincial planning and development coordinator, a provincial legal officer, a provincial administrator, a provincial health officer, a provincial social welfare and development officer, a provincial general services officer, a provincial agriculturist, and a provincial veterinarian.

(b) In addition thereto, the governor may appoint a provincial population officer, a provincial natural resources and environment officer, a provincial cooperative officer, a provincial architect, and a provincial information officer.

The appointment of a provincial population officer shall be optional in the province: Provided, however, That provinces which have existing population offices shall continue to maintain such offices for a period of five (5) years from the date of the effectivity of this Code, after which said offices shall become optional.

(c) The sangguniang panlalawigan may:

(1) Maintain existing offices not mentioned in subsections (a) and (b) hereof;

(2) Create such other offices as may be necessary to carry out the purposes of the provincial government; or

(3) Consolidate the functions of any office with those of another in the interest of efficiency and economy;

(d) Unless otherwise provided herein, heads of departments and offices shall be appointed by the governor with the concurrence of the majority of all the sangguniang panlalawigan members, subject to civil service law, rules and regulations. The sangguniang panlalawigan shall act on the appointment within fifteen (15) days from the date of its submission; otherwise the same shall be deemed confirmed;

(e) Elective and appointive provincial officials shall receive such compensation, allowances, and other emoluments as may be determined by law or ordinance, subject to the budgetary limitations on personal services prescribed under Title Five, Book II of this Code: Provided, That, no increase in compensation shall take effect until after the expiration of the full term of all the elective officials approving such increase.

Section 464. Residence and Office. - During the incumbency of the governor, he shall have his official residence in the capital of the province. All elective and appointive provincial officials shall hold office in the provincial capital: Provided, That, upon resolution of the sangguniang panlalawigan, elective and appointive provincial officials may hold office in any component city or municipality within the province for a period of not more than seven (7) days for any given month.

CHAPTER III
Officials and Offices Common to All Provinces

ARTICLE I
The Provincial Governor

Section 465. *The Chief Executive: Powers, Duties, Functions, and Compensation.*

(a) The provincial governor, as the chief executive of the provincial government, shall exercise such powers and perform such duties and functions as provided by this Code and other laws.

(b) For efficient, effective and economical governance the purpose of which is the general welfare of the province and its inhabitants pursuant to Section 16 of this Code, the provincial governor shall:

(1) Exercise general supervision and control over all programs, projects, services, and activities of the provincial government, and in this connection, shall:

(i) Determine the guidelines of provincial policies and be responsible to the sangguniang panlalawigan for the program of government;

(ii) Direct the formulation of the provincial development plan, with the assistance of the provincial development council, and upon approval thereof by the sangguniang panlalawigan, implement the same;

(iii) Present the program of government and propose policies and projects for the consideration of the sangguniang panlalawigan at the opening of the regular session of the sangguniang panlalawigan every calendar year and as after as may be deemed necessary as the general welfare of the inhabitants and the needs of the provincial government may require;

(iv) Initiate and propose legislative measures to the sangguniang panlalawigan and as often as may be deemed necessary, provide such information and data needed or requested by said sanggunian in the performance of its legislative functions;

(v) Appoint all officials and employees whose salaries and wages are wholly or mainly paid out of provincial funds and whose appointments are not otherwise provided for in this Code, as well as those he may be authorized by law to appoint;

(vi) Represent the province in all its business transactions and sign in its behalf all bonds, contracts, and obligations, and such other documents upon authority of the sangguniang panlalawigan or pursuant to law or ordinance;

(vii) Carry out such emergency measures as may be necessary during and in the aftermath of man-made and natural disasters and calamities;

(viii) Determine the time, manner and place of payment of salaries or wages of the officials and employees of the province, in accordance with law or ordinance;

(ix) Allocate and assign office space to provincial and other officials and employees who, by law or ordinance, are entitled to such space in the provincial capitol and other buildings owned or leased by the provincial government;

(x) Ensure that all executive officials and employees of the province faithfully discharge their duties and functions as provided by law and this Code, and cause to be instituted administrative or judicial proceedings against any official or employee of the province who may have committed an offense in the performance of his official duties;

(xi) Examine the books, records and other documents of all offices, officials, agents or employees of the province and, in aid of his executive powers and authority, require all national officials and employees stationed in the province to make available to him such books, records, and other documents in their custody, except those classified by law as confidential;

(xii) Furnish copies of executive orders issued by him to the Office of the President within seventy-two (72) hours after their issuance;

(xiii) Visit component cities and municipalities of the province at least once every six (6) months to deepen his understanding of problems and conditions, listen and give appropriate counsel to local officials and inhabitants, inform the officials and inhabitants of component cities and municipalities of general laws and ordinances which especially concern them, and otherwise conduct visits and inspections to ensure that the governance of the province will improve the quality of life of the inhabitants;

(xiv) Act on leave applications of officials and employees appointed by him and the commutation of the monetary value of leave credits in accordance with law;

(xv) Authorize official trips of provincial officials and employees outside of the province for a period not exceeding thirty (30) days;

(xvi) Call upon any national official or employee stationed in or assigned to the province to advise him on matters affecting the province and to make recommendations thereon; coordinate with said official or employee in the formulation and implementation of plans, programs and projects; and when appropriate, initiate an administrative or judicial action against a national government official or employee who may have committed an offense in the performance of his official duties while stationed in or assigned to the province;

(xvii) Authorize payment for medical care, necessary transportation, subsistence, hospital or medical fees of provincial officials and employees who are injured while in the performance of their official duties and functions, subject to availability of funds;

(xviii) Represent the province in inter-provincial or regional sports councils or committees, and coordinate the efforts of component cities or municipalities in the regional or national palaro or sports development activities;

(xix) Conduct an annual palarong panlalawigan, which shall feature traditional sports and disciplines included in national and international games in coordination with the Department of Education, Culture and Sports; and

(xx) Submit to the Office of the President the following reports: an annual report containing a summary of all matters pertinent to the management, administration and development of the province and all information and data relative to its political, social and economic conditions; and supplemental reports when unexpected events and situations arise at any time during the year, particularly when man-made or natural disasters or calamities affect the general welfare of the province, region or country;

(2) Enforce all laws and ordinances relative to the governance of the province and the exercise of the appropriate corporate powers provided for under Section 22 of this Code, implement all approved policies, programs, projects, services and activities of the province and, in addition to the foregoing, shall:

(i) Ensure that the acts of the component cities and municipalities of the province and of its officials and employees are within the scope of their prescribed powers, duties and functions;

(ii) Call conventions, conferences, seminars, or meetings of any elective and appointive officials of the province and its component cities and municipalities, including national officials and employees stationed in or assigned to the province, at such time and place and on such subject as he may deem important for the promotion of the general welfare of the province and its inhabitants;

(iii) Issue such executive orders for the faithful and appropriate enforcement and execution of laws and ordinances;

(iv) Be entitled to carry the necessary firearm within his territorial jurisdiction;

(v) In coordination with the mayors of component cities and municipalities and the National Police Commission, formulate the peace and order plan of the province and upon its approval, implement the same in accordance with R.A. No. 6975;

(vi) Call upon the appropriate national law enforcement agencies to suppress disorder, riot, lawless violence, rebellion or sedition or to apprehend violators of the law when public interest so requires and the police forces of the component city or municipality where the disorder or violation is happening are inadequate to cope with the situation or the violators;

(3) Initiate and maximize the generation of resources and revenues, and apply the same to the implementation of development plans, program objectives and priorities as provided for under Section 18 of this Code, particularly those resources and revenues programmed for agro-industrial development and country-wide growth and progress and, relative thereto, shall:

(i) Require each head of an office or department to prepare and submit an estimate of appropriations for the ensuing calendar year, in accordance with the budget preparation process under Title Five, Book II of this Code;

(ii) Prepare and submit to the sanggunian for approval the executive and supplemental budgets of the province for the ensuing calendar year in the manner provided for under Title Five, Book II of this Code;

(iii) Ensure that all taxes and other revenues of the province are collected, and that provincial funds are applied to the payment of expenses and settlement of obligations of the province, in accordance with law or ordinance;

(iv) Issue licenses and permits and suspend or revoke the same for any violation of the conditions upon which said licenses or permits had been issued, pursuant to law or ordinance;

(v) Adopt adequate measures to safeguard and conserve land, mineral, marine, forest and other resources of the province, in coordination with the mayors of component cities and municipalities; provide efficient and effective property and supply management in the province; and protect the funds, credits, rights, and other properties of the province; and

(vi) Institute or cause to be instituted administrative or judicial proceedings for violation of ordinances in the collection of taxes, fees or charges, and for the recovery of funds and property, and cause the province to be defended against all suits to ensure that its interests, resources and rights shall be adequately protected.

(4) Ensure the delivery of basic services and the provision of adequate facilities as provided for under Section 17 of this Code, and in addition thereto, shall:

(i) Ensure that the construction and repair of roads and highways funded by the national government shall be, as far as practicable, carried out in a spatially contiguous manner and in coordination with the construction and repair of the roads and bridges of the province and of its component cities and municipalities; and

(ii) Coordinate the implementation of technical services by national offices for the province and its component cities and municipalities, including public works and infrastructure programs of the provincial government and its component cities and municipalities;

(5) Exercise such other powers and perform such other duties and functions as may be prescribed by law or ordinance.

(c) The provincial governor shall receive a minimum monthly compensation corresponding to Salary Grade thirty (30) prescribed under R.A. No. 6758 and the implementing guidelines issued pursuant thereto.

ARTICLE II

The Provincial Vice-Governor

Section 466. Powers, Duties, and Compensation.

(a) The vice-governor shall:

(1) Be the presiding officer of the sangguniang panlalawigan and sign all warrants drawn on the provincial treasury for all expenditures appropriated for the operation of the sangguniang panlalawigan;

(2) Subject to civil service law, rules and regulations, appoint all officials and employees of the sangguniang panlalawigan, except those whose manner of appointment is specially provided in this Code;

(3) Assume the office of the governor for the unexpired term of the latter in the event of permanent vacancy as provided for in Section 44, Book I of this Code;

(4) Exercise the powers and perform the duties and functions of the governor in cases of temporary vacancy as provided for in Section 46, Book I of this Code; and

(5) Exercise such other powers and perform such other duties and functions as may be prescribed by law or ordinance.

(b) The vice-governor shall receive a monthly compensation corresponding to Salary Grade twenty-eight (28) as prescribed under R.A. No. 6758 and the implementing guidelines issued pursuant thereto.

ARTICLE III

The Sangguniang Panlalawigan

Section 467. *Composition.*

(a) The sangguniang panlalawigan, the legislative body of the province, shall be composed of the provincial vice-governor as presiding officer, the regular sanggunian members, the president of the provincial chapter of the liga ng mga barangay, the president of the panlalawigang pederasyon ng mga sangguniang kabataan, the president of the provincial federation of sanggunian members of municipalities and component cities and the sectoral representatives, as members.

(b) In addition thereto, there shall be three (3) sectoral representatives: one (1) from the women; and as shall be determined by the sanggunian concerned within ninety (90) days prior to the holding of the local elections, one (1) from the agricultural or industrial workers; and one (1) from other sectors including the urban poor, indigenous cultural communities, or disabled persons.

(c) The regular members of the sangguniang panlalawigan and the sectoral representatives shall be elected in the manner as may be provided for by law.

Section 468. *Powers, Duties, Functions and Compensation.*

(a) The sangguniang panlalawigan, as the legislative body of the province, shall enact ordinances, approve resolutions and appropriate funds for the general welfare of the province and its inhabitants pursuant to Section 16 of this Code in the proper exercise of the corporate powers of the province as provided for under Section 22 of this Code, and shall:

(1) Approve ordinances and pass resolutions necessary for an efficient and effective provincial government and, in this connection, shall:

(i) Review all ordinances approved by the sangguniang of component cities and municipalities and executive orders issued by the mayors of said component units to determine whether these are within the scope of the prescribed powers of the sanggunian and of the mayor;

(ii) Maintain peace and order by enacting measures to prevent and suppress lawlessness, disorder, riot, violence, rebellion or sedition and impose penalties for the violation of said ordinances;

(iii) Approve ordinances imposing a fine not exceeding Five thousand pesos (P5,000.00) or imprisonment not exceeding one (1) year, or both in the discretion of the court, for the violation of a provincial ordinance;

(iv) Adopt measures to protect the inhabitants of the province from harmful effects of man-made or natural disasters and calamities, and to provide relief services and assistance for victims during and in the aftermath of said disasters and calamities and their return to productive livelihood following said events;

(v) Enact ordinances intended to prevent, suppress and impose appropriate penalties for habitual drunkenness in public places, vagrancy, mendicancy, prostitution, establishment and maintenance of houses of ill repute, gambling and other prohibited games of chance, fraudulent devices and ways to obtain money or property, drug addiction, maintenance of drug dens, drug pushing, juvenile delinquency, the printing, distribution or exhibition of obscene or pornographic materials or publications, and other activities inimical to the welfare and morals of the inhabitants of the province;

(vi) Protect the environment and impose appropriate penalties for acts which endanger the environment, such as dynamite fishing and other forms of destructive fishing, illegal logging and smuggling of logs, smuggling of natural resources products and of endangered species of flora and fauna, slash and burn farming, and such other activities which result in pollution acceleration of eutrophication of rivers and lakes, or of ecological imbalance;

(vii) Subject to the provisions of this Code and pertinent laws, determine the powers and duties of officials and employees of the province;

(viii) Determine the positions and the salaries, wages, allowances and other emoluments and benefits of officials and employees paid wholly or mainly from provincial funds and provide for expenditures necessary for the proper conduct of programs, projects, services, and activities of the provincial government;

(ix) Authorize the payment of compensation to a qualified person not in the government service who fills up a temporary vacancy, or grant honorarium to any qualified official or employee designated to fill a temporary vacancy in a concurrent capacity, at the rate authorized by law;

(x) Provide a mechanism and the appropriate funds therefor, to ensure the safety and protection of all provincial government property, public documents, or records such as those relating to property inventory, land ownership, records of births, marriages, deaths, assessments, taxation, accounts, business permits, and such other records and documents of public interest in the offices and departments of the provincial government; and

(xi) When the finances of the provincial government allow, provide for additional allowances and other benefits to judges, prosecutors, public elementary and high school teachers, and other national government officials stationed or assigned to the province.

(2) Generate and maximize the use of resources and revenues for the development plans, program objectives and priorities of the province as provided for under Section 18 of this Code, with particular attention to agro-industrial development and country-wide growth and progress and relative thereto, shall:

(i) Enact the annual and supplemental appropriations of the provincial government and appropriate funds for specific programs, projects, services and activities of the province, or for other purposes not contrary to law, in order to promote the general welfare of the province and its inhabitants;

(ii) Subject to the provisions of Book II of this Code and applicable laws and upon the majority vote of all the members of the sangguniang panlalawigan, enact ordinances levying taxes, fees and charges, prescribing the rates thereof for general and specific purposes, and granting tax exemptions, incentives or reliefs;

(iii) Subject to the provisions of Book II of this Code and applicable laws and upon the majority vote of all the members of the sangguniang panlalawigan, authorize the provincial governor to negotiate and contract loans and other forms of indebtedness;

(iv) Subject to the provisions of Book II of this Code and applicable laws and upon the majority vote of all the members of the sangguniang panlalawigan, enact ordinances authorizing the floating of bonds or other instruments of indebtedness, for the purpose of raising funds to finance development projects;

(v) Appropriate funds for the construction and maintenance or the rental of buildings for the use of the province; and upon the majority vote of all the members of the sangguniang panlalawigan, authorize the provincial governor to lease to private parties such public buildings held in a proprietary capacity, subject to existing laws, rules and regulations;

(vi) Prescribe reasonable limits and restraints on the use of property within the jurisdiction of the province;

(vii) Review the comprehensive land use plans and zoning ordinances of component cities and municipalities and adopt a comprehensive provincial land use plan, subject to existing laws; and

(viii) Adopt measures to enhance the full implementation of the national agrarian reform program in coordination with the Department of Agrarian Reform;

(3) Subject to the provisions of Book II of this Code, grant franchises, approve the issuance of permits or licenses, or enact ordinances levying taxes, fees and charges upon such conditions and for such purposes intended to promote the general welfare of the inhabitants of the province, and pursuant to this legislative authority, shall:

(i) Fix and impose reasonable fees and charges for all services rendered by the provincial government to private persons or entities; and

(ii) Regulate and fix the license fees for such activities as provided for under this Code.

(4) Approve ordinances which shall ensure the efficient and effective delivery of basic services and facilities as provided for under Section 17 of this Code, and, in addition to said services and facilities, shall:

(i) Adopt measures and safeguards against pollution and for the preservation of the natural ecosystem in the province, in consonance with approved standards on human settlements and environmental sanitation;

(ii) Subject to applicable laws, facilitate or provide for the establishment and maintenance of waterworks system or district waterworks for supplying water to inhabitants of component cities and municipalities;

(iii) Subject to the availability of funds and to existing laws, rules and regulations, provide for the establishment and operation of vocational and technical schools and similar post-secondary institutions; and, with the approval of the Department of Education, Culture and Sports and subject to existing laws on tuition fees, fix reasonable tuition fees and other school charges in educational institutions supported by the provincial government;

(iv) Establish a scholarship fund for the poor but deserving students in schools located within its jurisdiction or for students residing within the province;

(v) Approve measures and adopt quarantine regulations to prevent the introduction and spread of diseases within its territorial jurisdiction;

(vi) Provide for the care of paupers, the aged, the sick, persons of unsound mind, abandoned minors, abused children, disabled persons, juvenile delinquents, drug dependents, and other needy and disadvantaged persons, particularly children and youth below eighteen (18) years of age; subject to availability of funds, establish and support the operation of centers and facilities for said needy and disadvantaged persons; and facilitate efforts to promote the welfare of families below the poverty threshold, the disadvantaged, and the exploited;

(vii) Establish and provide the maintenance and improvement of jails and detention centers, institute a sound jail management program, and appropriate funds for the subsistence of detainees and convicted prisoners in the province;

(viii) Establish a provincial council whose purpose is the promotion of culture and the arts, coordinate with government agencies and non-governmental organizations and, subject to the availability of funds, appropriate funds for the support and development of the same;

(ix) Establish a provincial council for the elderly which shall formulate policies and adopt measures mutually beneficial to the elderly and to the province; and subject to the availability of funds, appropriate funds to support programs and projects for the elderly; and provide incentives for non-governmental agencies and entities to support the programs and projects of the elderly; and

(5) Exercise such other powers and perform such other duties and functions as may be prescribed by law or ordinance.

(b) The members of the sangguniang panlalawigan shall receive a minimum monthly compensation corresponding to Salary Grade twenty-seven (27) as prescribed under R.A. No. 6758 and the implementing guidelines issued pursuant thereto.

TITLE V
APPOINTED LOCAL OFFICIALS COMMON TO ALL MUNICIPALITIES, CITIES AND PROVINCES

ARTICLE I
Secretary to the Sanggunian

Section 469. Qualifications, Powers and Duties.

(a) There shall be a secretary to the sanggunian who shall be a career official with the rank and salary equal to a head of department or office.

(b) No person shall be appointed secretary to the sanggunian unless he is a citizen of the Philippines, a resident of the local government unit concerned, of good moral character, a holder of a college degree preferably in law, commerce or public administration from a recognized college or university, and a first grade civil service eligible or its equivalent.

The appointment of a secretary to the sanggunian is mandatory for provincial, city and municipal governments.

(c) The secretary to the sanggunian shall take charge of the office of the secretary to the sanggunian and shall:

(1) Attend meetings of the sanggunian and keep a journal of its proceedings;

(2) Keep the seal of the local government unit and affix the same with his signature to all ordinances, resolutions, and other official acts of the sanggunian and present the same to the presiding officer for his signature;

(3) Forward to the governor or mayor, as the case may be, for approval, copies of ordinances enacted by the sanggunian and duly certified by the presiding officer, in the manner provided in Section 54 under Book I of this Code;

(4) Forward to the sanggunian panlungsod or bayan concerned, in the case of the sangguniang barangay, and to the sangguniang panlalawigan concerned, in the case of the sangguniang panlungsod of component cities or sangguniang bayan, copies of duly approved ordinances, in the manner provided in Sections 56 and 57 under Book I of this Code;

(5) Furnish, upon request of any interested party, certified copies of records of public character in his custody, upon payment to the treasurer of such fees as may be prescribed by ordinance;

(6) Record in a book kept for the purpose, all ordinances and resolutions enacted or adopted by the sanggunian, with the dates of passage and publication thereof;

(7) Keep his office and all non-confidential records therein open to the public during the usual business hours;

(8) Translate into the dialect used by the majority of the inhabitants all ordinances and resolutions immediately after their approval, and cause the publication of the same together with the original version in the manner provided under this Code; and

(9) Take custody of the local archives and, where applicable, the local library and annually account for the same; and

(d) Exercise such other powers and perform such other duties and functions as may be prescribed by law or ordinance relative to his position.

ARTICLE
The Treasurer

II

Section 470. Appointment, Qualifications, Powers, and Duties.

(a) The treasurer shall be appointed by the Secretary of Finance from a list of at least three (3) ranking, eligible recommendees of the governor or mayor, as the case may be, subject to civil service law, rules and regulations.

(b) The treasurer shall be under the administrative supervision of the governor or mayor, as the case may be, to whom he shall report regularly on the tax collection efforts in the local government unit;

(c) No person shall be appointed treasurer unless he is a citizen of the Philippines, a resident of the local government unit concerned, of good moral character, a holder of a college degree preferably in commerce, public administration or law from a recognized college or university, and a first grade civil service eligible or its equivalent. He must have acquired experience in treasury or accounting service for at least five (5) years in the case of the city or provincial treasurer, and three (3) years in the case of municipal treasurer.

The appointment of a treasurer shall be mandatory for provincial, city and municipal governments;

(d) The treasurer shall take charge of the treasury office, perform the duties provided for under Book II of this Code, and shall:

(1) Advise the governor or mayor, as the case may be, the sanggunian, and other local government and national officials concerned regarding disposition of local government funds, and on such other matters relative to public finance;

(2) Take custody of and exercise proper management of the funds of the local government unit concerned;

(3) Take charge of the disbursement of all local government funds and such other funds the custody of which may be entrusted to him by law or other competent authority;

(4) Inspect private commercial and industrial establishments within the jurisdiction of the local government unit concerned in relation to the implementation of tax ordinances, pursuant to the provisions under Book II of this Code;

(5) Maintain and update the tax information system of the local government unit;

(6) In the case of the provincial treasurer, exercise technical supervision over all treasury offices of component cities and municipalities; and

(e) Exercise such other powers and perform such other duties and functions as may be prescribed by law or ordinance.

Section 471. Assistant Treasurer.

(a) An assistant treasurer may be appointed by the Secretary of Finance from a list of at least three (3) ranking, eligible recommendees of the governor or mayor, subject to civil service law, rules and regulations.

(b) No person shall be appointed assistant treasurer unless he is a citizen of the Philippines, a resident of the local government unit concerned, of good moral character, a holder of a college degree preferably in commerce, public administration, or law from a recognized college or university, and a first grade civil service eligible or its equivalent. He must have acquired at least five (5) years experience in the treasury or accounting service in the case of the city or provincial assistant treasurer and three (3) years in the case of municipal assistant treasurer.

The appointment of an assistant treasurer shall be optional for provincial, city and municipal governments;

(c) The assistant treasurer shall assist the treasurer and perform such duties as the latter may assign to him. He shall have authority to administer oaths concerning notices and notifications to those delinquent in the payment of real property tax and concerning official matters relating to the accounts of the treasurer or otherwise arising in the offices of the treasurer and the assessor.

**ARTICLE III
The Assessor**

Section 472. Qualifications, Powers and Duties.

(a) No person shall be appointed assessor unless he is a citizen of the Philippines, a resident of the local government unit concerned, of good moral character, a holder of a college degree preferably in civil or mechanical engineering, commerce, or any other related course from a recognized college or university, and a first grade civil service eligible or its equivalent. He must have acquired experience in real property assessment work or in any related field for at least five (5) years in the case of the city or provincial assessor, and three (3) years in the case of the municipal assessor.

The appointment of an assessor shall be mandatory for provincial, city and municipal governments.

(b) The assessor shall take charge of the assessor's office, perform the duties provided under Book II of this Code, and shall:

(1) Ensure that all laws and policies governing the appraisal and assessment of real properties for taxation purposes are properly executed;

(2) Initiate, review, and recommend changes in policies and objectives, plans and programs, techniques, procedures and practices in the valuation and assessment of real properties for taxation purposes;

(3) Establish a systematic method of real property assessment;

(4) Install and maintain a real property identification and accounting system;

(5) Prepare, install and maintain a system of tax mapping, showing graphically all property subject to assessment and gather all data concerning the same;

- (6) Conduct frequent physical surveys to verify and determine whether all real property within the province are properly listed in the assessment rolls;
 - (7) Exercise the functions of appraisal and assessment primarily for taxation purposes of all real properties in the local government unit concerned;
 - (8) Prepare a schedule of the fair market value for the different classes of real properties, in accordance with Title Two under Book II of this Code;
 - (9) Issue, upon request of any interested party, certified copies of assessment records of real property and all other records relative to its assessment, upon payment of a service charge or fee to the treasurer;
 - (10) Submit every semester a report of all assessments, as well as cancellations and modifications of assessments to the local chief executive and the sanggunian concerned;
 - (11) In the case of the assessor of a component city or municipality attend, personally or through an authorized representative, all sessions of the local board of assessment appeals whenever his assessment is the subject of the appeal, and present or submit any information or record in his possession as may be required by the board; and
 - (12) In the case of the provincial assessor, exercise technical supervision and visitorial functions over all component city and municipal assessor, coordinate with component city or municipal assessors in the conduct of tax mapping operations and all other assessment activities, and provide all forms of assistance therefor: Provided, however, That, upon full provision by the component city or municipality concerned to its assessor's office of the minimum personnel, equipment, and funding requirements as may be prescribed by the Secretary of Finance, such functions shall be delegated to the said city or municipal assessor; and
- (c) Exercise such other powers and perform such other duties and functions as may be prescribed by law or ordinance.

Section 473. Assistant Assessor.

(a) No person shall be appointed assistant assessor unless he is a citizen of the Philippines, a resident of the local government unit concerned, of good moral character, a holder of a college degree preferably in civil or mechanical engineering, commerce, or any related course from a recognized college or university, and a first grade civil service eligible or its equivalent. He must have acquired experience in assessment or in any related field for at least three (3) years in the case of the city or provincial assistant assessor, and one (1) year in the case of the city or provincial assistant assessor.

The appointment of an assistant assessor shall be optional for provincial, city and municipal governments.

(b) The assistant assessor shall assist the assessor and perform such other duties as the latter may assign to him. He shall have the authority to administer oaths on all declarations of real property for purposes of assessments.

ARTICLE IV
The Accountant

Section 474. Qualifications, Powers and Duties.

(a) No person shall be appointed accountant unless he is a citizen of the Philippines, a resident of the local government unit concerned, of good moral character, and a certified public accountant. He must have acquired experience in the treasury or accounting service for at least five (5) years in the case of the provincial or city accountant, and three (3) years in the case of the municipal accountant.

The appointment of an accountant is mandatory for the provincial, city and municipal governments.

(b) The accountant shall take charge of both the accounting and internal audit services of the local government unit concerned and shall:

- (1) Install and maintain an internal audit system in the local government unit concerned;
- (2) Prepare and submit financial statements to the governor or mayor, as the case may be, and to the sanggunian concerned;
- (3) Appraise the sanggunian and other local government officials on the financial condition and operations of the local government unit concerned;
- (4) Certify to the availability of budgetary allotment to which expenditures and obligations may be properly charged;
- (5) Review supporting documents before preparation of vouchers to determine completeness of requirements;
- (6) Prepare statements of cash advances, liquidation, salaries, allowances, reimbursements and remittances pertaining to the local government unit;
- (7) Prepare statements of journal vouchers and liquidation of the same and other adjustments related thereto;
- (8) Post individual disbursements to the subsidiary ledger and index cards;
- (9) Maintain individual ledgers for officials and employees of the local government unit pertaining to payrolls and deductions;
- (10) Record and post in index cards details of purchased furniture, fixtures, and equipment, including disposal thereof, if any;
- (11) Account for all issued requests for obligations and maintain and keep all records and reports related thereto;
- (12) Prepare journals and the analysis of obligations and maintain and keep all records and reports related thereto; and
- (13) Exercise such other powers and perform such other duties and functions as may be provided by law or ordinance.

(c) The incumbent chief accountant in the office of the treasurer shall be given preference in the appointment to the position of accountant.

ARTICLE V
The Budget Officer

Section 475. Qualifications, Powers and Duties.

(a) No person shall be appointed budget officer unless he is a citizen of the Philippines, a resident of the local government unit concerned, of good moral character, a holder of a college degree preferably in accounting, economics, public administration or any related course from a recognized college or university, and a first grade civil service eligible or its equivalent. He must have acquired experience in government budgeting or in any related field for at least five (5) years in the case of the provincial or city budget officer, and at least three (3) years in the case of the municipal budget officer.

The appointment of a budget officer shall be mandatory for the provincial, city, and municipal governments.

(b) The budget officer shall take charge of the budget office and shall:

(1) Prepare forms, orders, and circulars embodying instructions on budgetary and appropriation matters for the signature of the governor or mayor, as the case may be;

(2) Review and consolidate the budget proposals of different departments and offices of the local government unit;

(3) Assist the governor or mayor, as the case may be, in the preparation of the budget and during budget hearings;

(4) Study and evaluate budgetary implications of proposed legislation and submit comments and recommendations thereon;

(5) Submit periodic budgetary reports to the Department of Budget and Management;

(6) Coordinate with the treasurer, accountant, and the planning and development coordinator for the purpose of budgeting;

(7) Assist the sanggunian concerned in reviewing the approved budgets of component local government units;

(8) Coordinate with the planning and development coordinator in the formulation of the local government unit development plan; and

(c) Exercise such other powers and perform such other duties and functions as may be prescribed by law or ordinance.

(d) The appropriations for personal services of the budget officer provided under the Department of Budget and Management shall, upon effectivity of this Code, be transferred to the local government unit concerned. Thereafter, the appropriations for personal services of the budget officer shall be provided for in full in the budget of the local government unit.

ARTICLE VI
The Planning and Development Coordinator

Section 476. Qualifications, Powers and Duties.

(a) No person shall be appointed planning and development coordinator unless he is a citizen of the Philippines, a resident of the local government unit concerned, of good moral character, a holder of a college degree preferably in urban planning, development studies, economics, public administration, or any related course from a recognized college or university, and a first grade civil service eligible or its equivalent. He must have acquired experience in development planning or in any related field for at least five (5) years in the case of the provincial or city planning and development coordinator, and three (3) years in the case of the municipal planning and development coordinator.

The appointment of a planning and development coordinator shall be mandatory for provincial, city and municipal governments.

(b) The planning and development coordinator shall take charge of the planning and development office and shall:

(1) Formulate integrated economic, social, physical, and other development plans and policies for consideration of the local government development council;

(2) Conduct continuing studies, researches, and training programs necessary to evolve plans and programs for implementation;

(3) Integrate and coordinate all sectoral plans and studies undertaken by the different functional groups or agencies;

(4) Monitor and evaluate the implementation of the different development programs, projects, and activities in the local government unit concerned in accordance with the approved development plan;

(5) Prepare comprehensive plans and other development planning documents for the consideration of the local development council;

(6) Analyze the income and expenditure patterns, and formulate and recommend fiscal plans and policies for consideration of the finance committee of the local government unit concerned as provided under Title Five, Book II of this Code;

(7) Promote people participation in development planning within the local government unit concerned;

(8) Exercise supervision and control over the secretariat of the local development council; and

(c) Exercise such other powers and perform such other functions and duties as may be prescribed by law or ordinance.

ARTICLE VII
The Engineer

Section 477. Qualifications, Powers and Duties.

(a) No person shall be appointed engineer unless he is a citizen of the Philippines, a resident of the local government unit concerned, of good moral character, and a licensed civil engineer. He must have acquired experience in the practice of his profession for at least five (5) years in the case of the provincial or city engineer, and three (3) years in the case of the municipal engineer.

The appointment of an engineer shall be mandatory for the provincial, city and municipal governments. The city and municipal engineer shall also act as the local building official.

(b) The engineer shall take charge of the engineering office and shall:

(1) Initiate, review and recommend changes in policies and objectives, plans and programs, techniques, procedures and practices in infrastructure development and public works in general of the local government unit concerned;

(2) Advise the governor or mayor, as the case may be, on infrastructure, public works, and other engineering matters;

(3) Administer, coordinate, supervise, and control the construction, maintenance, improvement, and repair of roads, bridges, and other engineering and public works projects of the local government unit concerned;

(4) Provide engineering services to the local government unit concerned, including investigation and survey, engineering designs, feasibility studies, and project management;

(5) In the case of the provincial engineer, exercise technical supervision over all engineering offices of component cities and municipalities; and

(c) Exercise such other powers and perform such other duties and functions as may be prescribed by law or ordinance.

ARTICLE VIII

The Health Officer

Section 478. *Qualifications, Powers and Duties.*

(a) No person shall be appointed health officer unless he is a citizen of the Philippines, a resident of the local government unit concerned, of good moral character, and a licensed medical practitioner. He must have acquired experience in the practice of his profession for at least five (5) years in the case of the provincial or city health officer, and three (3) years in the case of the municipal health officer.

The appointment of a health officer shall be mandatory for provincial, city and municipal governments.

(b) The health officer shall take charge of the office on health and shall:

(1) Take charge of the office on health services, supervise the personnel and staff of said office, formulate program implementation guidelines and rules and regulations for the operation of the said office for the approval of the governor or mayor, as the case may be, in order to assist him in the efficient, effective and economical implementation of a health services program geared to implementation of health-related projects and activities;

(2) Formulate measures for the consideration of the sanggunian and provide technical assistance and support to the governor or mayor, as the case may be, in carrying out activities to ensure the delivery of basic services and provisions of adequate facilities relative to health services provided under Section 17 of this Code;

(3) Develop plans and strategies and upon approval thereof by the governor or mayor as the case may be, implement the same, particularly those which have to do with health programs and projects which the governor or mayor, is empowered to implement and which the sanggunian is empowered to provide for under this Code;

(4) In addition to the foregoing duties and functions, the health officer shall:

(i) Formulate and implement policies, plans, programs and projects to promote the health of the people in the local government unit concerned;

(ii) Advise the governor or mayor, as the case may be, and the sanggunian on matters pertaining to health;

(iii) Execute and enforce laws, ordinances and regulations relating to public health;

(iv) Recommend to the sanggunian, through the local health board, the passage of such ordinances as he may deem necessary for the preservation of public health;

(v) Recommend the prosecution of any violation of sanitary laws, ordinances or regulations;

(vi) Direct the sanitary inspection of all business establishments selling food items or providing accommodations such as hotels, motels, lodging houses, pension houses, and the like, in accordance with the Sanitation Code;

(vii) Conduct health information campaigns and render health intelligence services;

(viii) Coordinate with other government agencies and non-governmental organizations involved in the promotion and delivery of health services; and

(ix) In the case of the provincial health officer, exercise general supervision over health officers of component cities and municipalities; and

(5) Be in the frontline of health services, delivery, particularly during and in the aftermath of man-made and natural disasters and calamities; and

(c) Exercise such other powers and perform such other duties and functions as may be prescribed by law or ordinance.

ARTICLE IX

The Civil Registrar

Section 479. Qualifications, Powers and Duties.

(a) No person shall be appointed civil registrar unless he is a citizen of the Philippines, a resident of the local government unit concerned, of good moral character, a holder of a college degree from a recognized college or university, and a first grade civil service eligible or its equivalent. He must have acquired experience in civil registry work for at least five (5) years in the case of the city civil registrar and three (3) years in the case of the municipal civil registrar.

The appointment of a civil registrar shall be mandatory for city and municipal governments.

(b) The civil registrar shall be responsible for the civil registration program in the local government unit concerned, pursuant to the Civil Registry Law, the Civil Code, and other pertinent laws, rules and regulations issued to implement them.

(c) The Civil Registrar shall take charge of the office of the civil registry and shall:

(1) Develop plans and strategies and upon approval thereof by the governor or mayor, as the case may be, implement the same, particularly those which have to do with civil registry programs and projects which the mayor is empowered to implement and which the sanggunian is empowered to provide for under this Code;

(2) In addition to the foregoing duties and functions, the civil registrar shall:

(i) Accept all registrable documents and judicial decrees affecting the civil status of persons;

(ii) File, keep and preserve in a secure place the books required by law;

(iii) Transcribe and enter immediately upon receipt all registrable documents and judicial decrees affecting the civil status of persons in the appropriate civil registry books;

(iv) Transmit to the Office of the Civil Registrar-General, within the prescribed period, duplicate copies of registered documents required by law;

(v) Issue certified transcripts or copies of any certificate or registered documents upon payment of the prescribed fees to the treasurer;

(vi) Receive applications for the issuance of a marriage license and, after determining that the requirement and supporting certificates and publication thereof for the prescribed period have been complied with, issue the license upon payment of the authorized fee to the treasurer;

(vii) Coordinate with the National Statistics Office in conducting educational campaigns for vital registration and assist in the preparation of demographic and other statistics for the local government unit concerned; and

(3) Exercise such other powers and perform such other duties and functions as may be prescribed by law or ordinance.

ARTICLE X

The Administrator

Section 480. Qualifications, Terms, Powers and Duties.

(a) No person shall be appointed administrator unless he is a citizen of the Philippines, a resident of the local government unit concerned, of good moral character, a holder of a college degree preferably in public administration, law, or any other related course from a recognized college or university, and a first grade civil service eligible or its equivalent. He must have acquired experience in management and administration work for at least five (5) years in the case of the provincial or city administrator, and three (3) years in the case of the municipal administrator.

The term of administrator is coterminous with that of his appointing authority.

The appointment of an administrator shall be mandatory for the provincial and city governments, and optional for the municipal government.

(b) The administrator shall take charge of the office of the administrator and shall:

(1) Develop plans and strategies and upon approval thereof by the governor or mayor, as the case may be, implement the same particularly those which have to do with the management and administration-related programs and projects which the governor or mayor is empowered to implement and which the sanggunian is empowered to provide for under this Code;

(2) In addition to the foregoing duties and functions, the administrator shall:

(i) Assist in the coordination of the work of all the officials of the local government unit, under the supervision, direction, and control of the governor or mayor, and for this purpose, he may convene the chiefs of offices and other officials of the local government unit;

(ii) Establish and maintain a sound personnel program for the local government unit designed to promote career development and uphold the merit principle in the local government service;

(iii) Conduct a continuing organizational development of the local government unit with the end in view of the instituting effective administrative reforms;

(3) Be in the frontline of the delivery of administrative support services, particularly those related to the situations during and in the aftermath of man-made and natural disasters and calamities;

(4) Recommend to the sanggunian and advise the governor and mayor, as the case may be, on all other matters relative to the management and administration of the local government unit; and

(5) Exercise such other powers and perform such other duties and functions as may be prescribed by law or by ordinance.

ARTICLE XI

The Legal Officer

Section 481. *Qualifications, Terms, Powers and Duties.*

(a) No person shall be appointed legal officer unless he is a citizen of the Philippines, a resident of the local government concerned, of good moral character, and a member of the Philippine Bar.

He must have practiced his profession for at least five (5) years in the case of the provincial and city legal officer, and three (3) years in the case of the municipal legal officer.

The term of the legal officer shall be coterminous with that of his appointing authority.

The appointment of legal officer shall be mandatory for the provincial and city governments and optional for the municipal government.

(b) The legal officer, the chief legal counsel of the local government unit, shall take charge of the office of legal services and shall:

(1) Formulate measures for the consideration of the sanggunian and provide legal assistance and support to the governor or mayor, as the case may be, in carrying out the delivery of basic services and provisions of adequate facilities as provided for under Section 17 of this Code;

(2) Develop plans and strategies and upon approval thereof by the governor or mayor, as the case may be, implement the same, particularly those which have to do with programs and projects related to legal services which the governor or mayor is empowered to implement and which the sanggunian is empowered to provide for under this Code;

(3) In addition to the foregoing duties and functions, the legal officer shall:

(i) Represent the local government unit in all civil actions and special proceedings wherein the local government unit or any official thereof, in his official capacity, is a party: Provided, That, in actions or proceedings where a component city or municipality is a party adverse to the provincial government or to another component city or municipality, a special legal officer may be employed to represent the adverse party;

(ii) When required by the governor, mayor or sanggunian, draft ordinances, contracts, bonds, leases and other instruments, involving any interest of the local government unit and provide comments and recommendations on any instrument already drawn;

(iii) Render his opinion in writing on any question of law when requested to do so by the governor, mayor or sanggunian;

(iv) Investigate or cause to be investigated any local official or employee for administrative neglect or misconduct in office, and recommend appropriate action to the governor, mayor or sanggunian, as the case may be;

(v) Investigate or cause to be investigated any person, firm or corporation holding any franchise or exercising any public privilege for failure to comply with any term or condition in the grant of such franchise or privilege, and recommending appropriate action to the governor, mayor or sanggunian, as the case may be;

(vi) When directed by the governor, mayor, or sanggunian, initiate and prosecute in the interest of the local government unit concerned any civil action on any bond, lease or other contract upon any breach or violation thereof; and

(vii) Review and submit recommendations on ordinances approved and execute orders issued by component units;

(3) Recommend measures to the sanggunian and advise the governor or mayor as the case may be on all other matters related to upholding the rule of law;

(4) Be in the frontline of protecting human rights and prosecuting any violations thereof, particularly those which occur during and in the aftermath of man-made or natural disasters or calamities; and

(5) Exercise such other powers and perform such other duties and functions as may be prescribed by law or ordinance.

ARTICLE XII

The Agriculturist

Section 482. *Qualifications, Powers and Duties.*

(a) No person shall be appointed agriculturist unless he is a citizen of the Philippines, a resident of the local government unit concerned, of good moral character, a holder of a college degree in agriculture or any related course from a recognized college or university and a first grade civil service eligible or its equivalent. He must have practiced his profession in agriculture or acquired experience in a related field for at least five (5) years in the case of the provincial and city agriculturist, and three (3) years in the case of the municipal agriculturist.

The position of the agriculturist shall be mandatory for the provincial government and optional for the city and municipal governments.

(b) The agriculturist shall take charge of the office for agricultural services, and shall:

(1) Formulate measures for the approval of the sanggunian and provide technical assistance and support to the governor or mayor, as the case may be, in carrying out said measures to ensure the delivery of basic services and provisions of adequate facilities relative to agricultural services as provided for under Section 17 of this Code;

(2) Develop plans and strategies and upon approval thereof by the governor or mayor, as the case may be, implement the same, particularly those which have to do with agricultural programs and projects which the governor or mayor is empowered to implement and which the sanggunian is empowered to provide for under this Code;

(3) In addition to the foregoing duties and functions, the agriculturist shall:

(i) Ensure that maximum assistance and access to resources in the production, processing and marketing of agricultural and aqua-cultural and marine products are extended to farmers, fishermen and local entrepreneurs;

(ii) Conduct or cause to be conducted location-specific agricultural researches and assist in making available the appropriate technology arising out of and disseminating information on basic research on crops, preventive and control of plant diseases and pests, and other agricultural matters which will maximize productivity;

(iii) Assist the governor or mayor, as the case may be, in the establishment and extension services of demonstration forms or aqua-culture and marine products;

(iv) Enforce rules and regulations relating to agriculture and aqua-culture;

(v) Coordinate with government agencies and non-governmental organizations which promote agricultural productivity through appropriate technology compatible with environmental integrity;

(4) Be in the frontline of delivery of basic agricultural services, particularly those needed for the survival of the inhabitants during and in the aftermath of man-made and natural disasters;

(5) Recommend to the sanggunian and advise the governor or mayor, as the case may be, on all other matters related to agriculture and aqua-culture which will improve the livelihood and living conditions of the inhabitants; and

(c) Exercise such other powers and perform such other duties and functions as may be prescribed by law or ordinance;

ARTICLE XIII

The Social Welfare and Development Officer

Section 483. *Qualifications, Powers and Duties*

(a) No person shall be appointed social welfare and development officer unless he is a citizen of the Philippines, a resident of the local government concerned, of good moral character, a duly licensed social worker or a holder of a college degree preferably in sociology or any other related course from a recognized college or university, and a first grade civil service eligible or its equivalent. He must have acquired experience in the practice of social work for at least five (5) years in the case of the provincial or city social welfare and development officer, and three (3) years in the case of the municipal social welfare and development officer.

The appointment of a social welfare and development officer is mandatory for provincial and city governments, and optional for municipal government.

(b) The social welfare and development officer shall take charge of the office on social welfare and development services and shall:

(1) Formulate measures for the approval of the sanggunian and provide technical assistance and support to the governor or mayor, as the case may be, in carrying out measures to endure the delivery of basic services and provisions of adequate facilities relative to social welfare and development services as provided for under Section 17 of this Code;

(2) Develop plans and strategies and upon approval thereof by the governor or mayor, as the case may be, implement the same particularly those which have to do with social welfare programs and projects which the governor or mayor is empowered to implement and which the sanggunian is empowered to provide for under this Code;

(3) In addition to the foregoing duties, the social welfare and development officer shall:

(i) Identify the basic needs of the needy, the disadvantaged and the impoverished and develop and implement appropriate measures to alleviate their problems and improve their living conditions;

(ii) Provide relief and appropriate crisis intervention for victims of abuse and exploitation and recommend appropriate measures to deter further abuse and exploitation;

(iii) Assist the governor or mayor, as the case may be, in implementing the barangay level program for the total development and protection of children up to six (6) years of age;

(iv) Facilitate the implementation of welfare programs for the disabled, elderly, and victims of drug addiction, the rehabilitation of prisoners and parolees, the prevention of juvenile delinquency and such other activities which would eliminate or minimize the ill-effects of poverty;

(v) Initiate and support youth welfare programs that will enhance the role of the youth in nation-building;

(vi) Coordinate with government agencies and non-governmental organizations which have for their purpose the promotion and the protection of all needy, disadvantaged, underprivileged or impoverished groups or individuals, particularly those identified to be vulnerable and high-risk to exploitation, abuse and neglect;

(4) Be in the frontline or service delivery, particularly those which have to do with immediate relief during and assistance in the aftermath of man-made and natural disaster and natural calamities;

(5) Recommend to the sanggunian and advise the governor or mayor, as the case may be, on all other matters related to social welfare and development services which will improve the livelihood and living conditions of the inhabitants; and

(c) Exercise such other powers and perform such other duties and functions as may be prescribed by law or ordinance;

ARTICLE XIV

The Environment and Natural Resources Officer

Section 484. Qualifications, Powers and Duties.

(a) No person shall be appointed environment and natural resources officer unless he is a citizen of the Philippines, a resident of the local government unit concerned, of good moral character, a holder of a college degree preferably in environment, forestry, agriculture or any related course from a recognized college or university, and a first grade civil service eligible or its equivalent. He must have acquired experience in environmental and natural resources management, conservation, and utilization, of at least five (5) years in the case of the provincial or city environment and natural resources officer, and three (3) years in the case of the municipal environment and natural resources officer.

The appointment of the environment and natural resources officer is optional for provincial, city, and municipal governments.

(b) The environment and natural resources management officer shall take charge of the office on environment and natural resources and shall:

(1) Formulate measures for the consideration of the sanggunian and provide technical assistance and support to the governor or mayor, as the case may be, in carrying out measures to ensure the delivery of basic services and provision of adequate facilities relative to environment and natural resources services as provided for under Section 17 of this Code;

(2) Develop plans and strategies and upon approval thereof, by the governor or mayor, as the case may be, implement the same, particularly those which have to do with environment and natural resources programs and projects which the governor or mayor is empowered to implement and which the sanggunian is empowered to provide for under this Code;

(3) In addition to the foregoing duties and functions, the environment and natural resources officer shall:

(i) Establish, maintain, protect and preserve communal forests, watersheds, tree parks, mangroves, greenbelts and similar forest projects and commercial forest, like industrial tree farms and agro-forestry projects;

(ii) Provide extension services to beneficiaries of forest development projects and technical, financial and infrastructure assistance;

(iii) Manage and maintain seed banks and produce seedlings for forest and tree parks;

(iv) Provide extension services to beneficiaries of forest development projects and render assistance for natural resources-related conservation and utilization activities consistent with ecological balance;

(v) Promote the small-scale mining and utilization of mineral resources, particularly mining of gold;

(vi) Coordinate with government agencies and non-governmental organizations in the implementation of measures to prevent and control land, air and water pollution with the assistance of the Department of Environment and Natural Resources;

(4) Be in the frontline of the delivery of services concerning the environment and natural resources, particularly in the renewal and rehabilitation of the environment during and in the aftermath of man-made and natural calamities and disasters;

(5) Recommend to the sanggunian and advise the governor or mayor, as the case may be, on all matters relative to the protection, conservation maximum utilization, application of appropriate technology and other matters related to the environment and natural resources; and

(c) Exercise such other powers and perform such other duties and functions as may be prescribed by law or ordinance.

ARTICLE XV
The Architect

Section 485. Qualifications, Powers and Duties.

(a) No person shall be appointed architect unless he is a citizen of the Philippines, a resident of the local government unit concerned, of good moral character, a duly licensed architect. He must have practiced his profession for at least five (5) years in the case of the provincial or city architect, and three (3) years in the case of the municipal architect.

The appointment of the architect is optional for provincial, city and municipal governments.

(b) The Architect shall take charge of the office on architectural planning and design and shall:

(1) Formulate measures for the consideration of the sanggunian and provide technical assistance and support to the governor or mayor, as the case may be, in carrying out measures to ensure the delivery of basic services and provision of adequate facilities relative to architectural planning and design as provided for under Section 17 of this Code;

(2) Develop plans and strategies and upon approval thereof by the governor or mayor, as the case may be, implement the same, particularly those which have to do with architectural planning and design programs and projects which the governor or mayor is empowered to implement and which the sanggunian is empowered to provide for under this Code;

(3) In addition to foregoing duties and functions, the architect shall:

(i) Prepare and recommend for consideration of the sanggunian the architectural plan and design for the local government unit or a part thereof, including the renewal of slums and blighted areas, land reclamation activities, the greening of land, and appropriate planning of marine and foreshore areas;

(ii) Review and recommend for appropriate action of the sanggunian, governor or mayor, as the case may be, the architectural plans and design submitted by governmental and non-governmental entities or individuals, particularly those for undeveloped, underdeveloped, and poorly-designed areas; and

(iii) Coordinate with government and non-government entities and individuals involved in the aesthetics and the maximum utilization of the land and water within the jurisdiction of the local government unit, compatible with environmental integrity and ecology balance;

(4) Be in the frontline of the delivery of services involving architectural planning and design, particularly those related to the redesigning of spatial distribution of basic facilities and physical structures during and in the aftermath of man-made and natural calamities and disasters;

(5) Recommend to the sanggunian and advise the governor or mayor, as the case may be, on all matters relative to the architectural planning and design as it relates to the total socio-economic development of the local government units; and

(c) Exercise such other powers and perform such other duties and functions as may be prescribed by law or ordinance.

ARTICLE XVI
The Information Officer

Section 486. Qualifications, Powers and Duties.

(a) No person shall be appointed information officer unless he is a citizen of the Philippines, a resident of the local government unit concerned, of good moral character, a holder of a college degree preferably in journalism, mass communication or any related course from a recognized college or university, and a first grade civil service eligible or its equivalent. He must have experience in writing articles and research papers, or in writing for print, television or broadcast media of at least three (3) years in the case of the provincial or city information officer, and at least one (1) year in the case of municipal information officer.

The appointment of the information officer is optional for the provincial, city and municipal governments.

The term of the information officer is coterminous with that of his appointing authority.

(b) The information officer shall take charge of the office on public information and shall:

(1) Formulate measures for the consideration of the sanggunian and provide technical assistance and support to the governor or mayor, as the case may be, in providing the information and research data required for the delivery of basic services and provision of adequate facilities so that the public becomes aware of said services and may fully avail of the same;

(2) Develop plans and strategies and, upon approval thereof by the governor or mayor, as the case may be, implement the same, particularly those which have to do with public information and research data to support programs and projects which the governor or mayor is empowered to implement and which the sanggunian is empowered to provide for under this Code;

(3) In addition to the foregoing duties and functions, the information officer shall:

(i) Provide relevant, adequate, and timely information to the local government unit and its residents;

(ii) Furnish information and data on local government units to government agencies or offices as may be required by law or ordinance; and non-governmental organizations to be furnished to said agencies and organizations;

(iii) Maintain effective liaison with the various sectors of the community on matters and issues that affect the livelihood and the quality of life of the inhabitants and encourage support for programs of the local and national government;

(4) Be in the frontline in providing information during and in the aftermath of man-made and natural calamities and disasters, with special attention to the victims thereof, to help minimize injuries and casualties during and after the emergency, and to accelerate relief and rehabilitation;

(5) Recommend to the sanggunian and advise the governor or mayor, as the case may be, on all matters relative to public information and research data as it relates to the total socio-economic development of the local government unit; and

(c) Exercise such other powers and perform such other duties and functions as may be prescribed by law or ordinance.

ARTICLE XVII
The Cooperatives Officer

Section 487. Qualifications, Powers and Duties.

(a) No person shall be appointed cooperative officer unless he is a citizen of the Philippines, a resident of the local government unit concerned, of good moral character, a holder of a college degree preferably in business administration with special training in cooperatives or any related course from a recognized college or university, and a first grade civil service eligible or its equivalent. He must have experience in cooperatives organizations and management of at least five (5) years in the case of provincial or city cooperatives officer, and three (3) years in the case of municipal cooperatives officer.

The appointment of the cooperatives officer is optional for the provincial and city governments.

(b) The cooperatives officer shall take charge of the office for the development of cooperatives and shall:

(1) Formulate measures for the consideration of the sanggunian, and provide technical assistance and support to the governor or mayor, as the case may be, in carrying out measures to ensure the delivery of basic services and provision of facilities through the development of cooperatives, and in providing access to such services and facilities;

(2) Develop plans and strategies and, upon approval thereof by the governor or mayor, as the case may be, implement the same, particularly those which have to do with the integration of cooperatives principles and methods in programs and projects which the governor or mayor is empowered to implement and which the sanggunian is empowered to provide for under this Code;

(3) In addition to the foregoing duties and functions, the cooperatives officer shall:

(i) Assist in the organization of cooperatives;

(ii) Provide technical and other forms of assistance to existing cooperatives to enhance their viability as an economic enterprise and social organization;

(iii) Assist cooperatives in establishing linkages with government agencies and non-government organizations involved in the promotion and integration of the concept of cooperatives in the livelihood of the people and other community activities;

(4) Be in the frontline of cooperatives organization, rehabilitation or viability-enhancement, particularly during and in the aftermath of man-made and natural calamities and disasters, to aid in their survival and, if necessary subsequent rehabilitation;

(5) Recommend to the sanggunian, and advise the governor or mayor, as the case may be, on all matters relative to cooperatives development and viability- enhancement which will improve the livelihood and quality of life of the inhabitants; and

(c) Exercise such other powers and perform such other duties and functions as may be prescribed by law or ordinance.

ARTICLE XVIII
The Population Officer

Section 488. Qualification, Powers and Duties. -

(a) No person shall be appointed population officer unless he is a citizen of the Philippines, a resident of the local government unit concerned, of good moral character, a holder of a college degree with specialized training in population development from a recognized college or university, and a first grade civil service eligible or its equivalent. He must have experience in the implementation of programs on population development or responsible parenthood for at least five (5) years in the case of the provincial or city population officer, and three (3) years in the case of the municipal population officer.

The appointment of a population officer shall be optional in the local government unit: Provided, however, That provinces and cities which have existing population offices shall continue to maintain such offices for a period of five (5) years from the date of effectivity of this Code, after which said offices shall become optional.

(b) The population officer shall take charge of the office on population development and shall:

(1) Formulate measures for the consideration of the sanggunian and provide technical assistance and support to the governor or mayor, as the case may be, in carrying out measures to ensure the delivery of basic services and provision of adequate facilities relative to the integration of the population development principles and in providing access to said services and facilities;

(2) Develop plans and strategies and upon approval thereof by the governor or mayor, as the case may be, implement the same, particularly those which have to do with the integration of population development principles and methods in programs and projects which the governor or mayor is empowered to implement and which the sanggunian is empowered to provide for under this Code;

(3) In addition to the foregoing duties and functions, the population officer shall:

(i) Assist the governor or mayor, as the case may be, in the implementation of the Constitutional provisions relative to population development and the promotion of responsible parenthood;

(ii) Establish and maintain an updated data bank for program operations, development planning and an educational program to ensure the people's participation in and understanding of population development;

(iii) Implement appropriate training programs responsive to the cultural heritage of the inhabitants; and

(c) Exercise such other powers and perform such other duties and functions as may be prescribed by law or ordinance.

ARTICLE XIX
The Veterinarian

Section 489. Qualifications, Powers and Duties.

(a) No person shall be appointed veterinarian unless he is a citizen of the Philippines, a resident of the local government unit concerned, of good moral character, a licensed doctor of veterinary medicine. He must have practiced his profession for at least three (3) years in the case of provincial or city veterinarian and at least one (1) year in the case of the municipal veterinarian.

The appointment of a veterinarian officer is mandatory for the provincial and city governments.

(b) The veterinarian shall take charge of the office for veterinary services and shall:

(1) Formulate measures for the consideration of the sanggunian, and provide technical assistance and support to the governor or mayor, as the case may be, in carrying out measures to ensure the delivery of basic services and provision of adequate facilities pursuant to Section 17 of this Code;

(2) Develop plans and strategies and upon approval thereof by the governor or mayor, as the case may be, implement the same, particularly those which have to do with the veterinary-related activities which the governor or mayor is empowered to implement and which the sanggunian is empowered to provide for under this Code;

(3) In addition to the foregoing duties and functions, the veterinarian shall:

(i) Advise the governor or the mayor, as the case may be, on all matters pertaining to the slaughter of animals for human consumption and the regulation of slaughterhouses;

(ii) Regulate the keeping of domestic animals;

(iii) Regulate and inspect poultry, milk and dairy products for public consumption;

(iv) Enforce all laws and regulations for the prevention of cruelty to animals; and

(v) Take the necessary measures to eradicate, prevent or cure all forms of animal diseases;

(4) Be in the frontline of veterinary related activities, such as in the outbreak of highly-contagious and deadly diseases, and in situations resulting in the depletion of animals for work and human consumption, particularly those arising from and in the aftermath of man-made and natural calamities and disasters;

(5) Recommend to the sanggunian and advise the governor or mayor, as the case may be, on all other matters relative to veterinary services which will increase the number and improve the quality of livestock, poultry and other domestic animals used for work or human consumption; and

(c) Exercise such other powers and perform such other duties and functions as may be prescribed by law or ordinance.

**ARTICLE XX
The General Services Officer**

Section 490. Qualifications, Powers and Duties.

(a) No person shall be appointed general services officer unless he is a citizen of the Philippines, a resident of the local government unit concerned, of good moral character, a holder of a college degree on public administration, business administration and management from a recognized college or university, and a first grade civil service eligible or its equivalent. He must have acquired experience in general services, including management of supply, property, solid waste disposal, and general sanitation, of at least five (5) years in the case of the provincial or city general services officer, and at least three (3) years in the case of the municipal general services officer.

The appointment of a general services officer is mandatory for the provincial and city governments,

(b) The general services officer shall take charge of the office on general services and shall:

(1) Formulate measures for the consideration of the sanggunian and provide technical assistance and support to the governor or mayor, as the case may be, in carrying out measures to ensure the delivery of basic services and provision of adequate facilities pursuant to Section 17 of this Code and which require general services expertise and technical support services;

(2) Develop plans and strategies and upon approval thereof by the governor or mayor, as the case may be, implement the same, particularly those which have to do with the general services supportive of the welfare of the inhabitants which the governor or mayor is empowered to implement and which the sanggunian is empowered to provide for under this Code;

(3) In addition to the foregoing duties and functions, the general services officer shall:

(i) Take custody of and be accountable for all properties, real or personal, owned by the local government unit and those granted to it in the form of donation, reparation, assistance and counterpart of joint projects;

(ii) With the approval of the governor or mayor, as the case may be, assign building or land space to local officials or other public officials, who by law, are entitled to such space;

(iii) Recommend to the governor or mayor, as the case may be, the reasonable rental rates for local government properties, whether real or personal, which will be leased to public or private entities by the local government;

(iv) Recommend to the governor or mayor, as the case may be, reasonable rental rates of private properties which may be leased for the official use of the local government unit;

(v) Maintain and supervise janitorial, security, government public buildings and other real property, whether owned or leased by the local government unit;

(vi) Collate and disseminate information regarding prices, shipping and other costs of supplies and other items commonly used by the local government unit;

(vii) Perform archival and record management with respect to records of offices and departments of the local government unit; and

(viii) Perform all other functions pertaining to supply and property management heretofore performed by the local government treasurer; and enforce policies on records creation, maintenance, and disposal;

(4) Be in the frontline of general services related activities, such as the possible or imminent destruction or damage to records, supplies, properties, and structures and the orderly and sanitary clearing up of waste materials or debris, particularly during and in the aftermath of man-made and natural calamities and disasters;

(5) Recommend to the sanggunian and advise the governor or mayor, as the case may be, on all matters relative to general services; and

(c) Exercise such other powers and perform such other duties and functions as may be prescribed by law or ordinance.

TITLE VI LEAGUES OF LOCAL GOVERNMENT UNITS AND ELECTIVE OFFICIALS

CHAPTER I Leagues of Local Government Units

ARTICLE I Liga ng Mga Barangay

Section 491. Purpose of Organization. - There shall be an organization of all barangays to be known as the liga ng mga barangay for the primary purpose of determining the representation of the Liga in the sanggunians, and for ventilating, articulating and crystallizing issues affecting barangay government administration and securing, through proper and legal means, solutions thereto.

Section 492. Representation, Chapters, National Liga. - Every barangay shall be represented in said liga by the punong barangay, or in his absence or incapacity, by a sanggunian member duly elected for the purpose among its members, who shall attend all meetings or deliberations called by the different chapters of the liga.

The liga shall have chapters at the municipal, city, provincial and metropolitan political subdivision levels.

The municipal and city chapters of the liga shall be composed of the barangay representatives of municipal and city barangays respectively. The duly elected presidents of component municipal and city chapters shall constitute the provincial chapter or the metropolitan political subdivision chapter. The duly elected presidents of highly-urbanized cities, provincial chapters, the Metropolitan Manila chapter and metropolitan political subdivision chapters shall constitute the National Liga ng mga Barangay.

Section 493. Organization. - The liga at the municipal, city, provincial, metropolitan political subdivision, and national levels directly elect a president, a vice-president, and five (5) members of the board of directors. The board shall appoint its secretary and treasurer and create such other positions as it may deem necessary for the management of the chapter. A secretary-general shall be elected from among the members of the national liga and shall be charged with the overall operation of the liga on national level. The board shall coordinate the activities of the chapters of the liga.

Section 494. *Ex-Officio Membership in Sanggunians.* - The duly elected presidents of the liga at the municipal, city and provincial levels, including the component cities and municipalities of Metropolitan Manila, shall serve as ex-officio members of the sangguniang bayan, sangguniang panlungsod, sangguniang panlalawigan, respectively. They shall serve as such only during their term of office as presidents of the liga chapters, which in no case shall be beyond the term of office of the sanggunian concerned.

Section 495. *Powers, Functions and Duties of the Liga.* - The liga shall:

- (a) Give priority to programs designed for the total development of the barangays and in consonance with the policies, programs and projects of the national government;
- (b) Assist in the education of barangay residents for people's participation in local government administration in order to promote united and concerted action to achieve country-wide development goals;
- (c) Supplement the efforts of government in creating gainful employment within the barangay;
- (d) Adopt measures to promote the welfare of barangay officials;
- (e) Serve as a forum of the barangays in order to forge linkages with government and non-governmental organizations and thereby promote the social, economic and political well-being of the barangays; and
- (f) Exercise such other powers and perform such other duties and functions which will bring about stronger ties between barangays and promote the welfare of the barangay inhabitants.

ARTICLE II

League of Municipalities

Section 496. *Purpose of Organization.* - There shall be an organization of all municipalities to be known as league of municipalities for the primary purpose of ventilating, articulating and crystallizing issues affecting municipal government administration, and securing, through proper and legal means, solutions thereto.

The league shall form provincial chapters composed of the league presidents for all component municipalities of the province.

Section 497. *Representation.* - Every municipality shall be represented in the league by the municipal mayor or in his absence, by the vice-mayor or a sanggunian member duly elected for the purpose by the members, who shall attend all meetings and participate in the deliberations of the league.

Section 498. *Powers, Functions and Duties of the League of Municipalities.* - The league of municipalities shall:

- (a) Assist the national government in the formulation and implementation of the policies, programs and projects affecting municipalities as a whole;
- (b) Promote local autonomy at the municipal level;
- (c) Adopt measures for the promotion of the welfare of all municipalities and its officials and employees;

- (d) Encourage people's participation in local government administration in order to promote united and concerted action for the attainment of country-wide development goals;
- (e) Supplement the efforts of the national government in creating opportunities for gainful employment within the municipalities;
- (f) Give priority to programs designed for the total development of the municipalities in consonance with the policies, programs and projects of the national government;
- (g) Serve as a forum for crystallizing and expressing ideas, seeking the necessary assistance of the national government, and providing the private sector avenues for cooperation in the promotion of the welfare of the municipalities; and
- (h) Exercise such other powers and perform such other duties and functions as the league may prescribe for the welfare of the municipalities.

ARTICLE III

League of Cities

Section 499. Purpose of Organization. - There shall be an organization of all cities to be known as the League of Cities for the primary purpose of ventilating, articulating and crystallizing issues affecting city government administration, and securing, through proper and legal means, solutions thereto.

The league may form chapters at the provincial level for the component cities of a province. Highly-urbanized cities may also form a chapter of the League. The National League shall be composed of the presidents of the league of highly-urbanized cities and the presidents of the provincial chapters of the league of component cities.

Section 500. Representation. - Every city shall be represented in the league by the city mayor or in his absence, by the city vice-mayor or a sanggunian member duly elected for the purpose by the members, who shall attend all meetings and participate in the deliberations of the league.

Section 501. Powers, Functions and Duties of the League of City. - The league of cities shall:

- (a) Assist the national government in the formulation and implementation of the policies, programs and projects affecting cities as a whole;
- (b) Promote local autonomy at the city level;
- (c) Adopt measures for the promotion of the welfare of all cities and its officials and employees;
- (d) Encourage people's participation in local government administration in order to promote united and concerted action for the attainment of country-wide development goals;
- (e) Supplement the efforts of the national government in creating opportunities for gainful employment the cities;
- (f) Give priority to programs designed for the total development of cities in consonance with the policies, programs and projects of the national government;

(g) Serve as a forum for crystallizing and expressing ideas, seeking the necessary assistance of the national government and providing the private sector avenues for cooperation in the promotion of the welfare of the cities; and

(h) Exercise such other powers and perform such other duties and functions as the league may prescribe for the welfare of the cities.

ARTICLE IV **League of Provinces**

Section 502. Purpose of Organization. - There shall be an organization of all provinces to be known as the League of Provinces for the primary purpose of ventilating, articulating and crystallizing issues affecting provincial and metropolitan political subdivision government administration, and securing, through proper and legal means, solutions thereto. For this purpose, the Metropolitan Manila Area and any metropolitan political subdivision shall be considered as separate provincial units of the league.

Section 503. Representation. - Every province shall be represented in the league by the provincial governor or in his absence, by the provincial vice-governor or a sanggunian member duly elected for the purpose by the members, who shall attend all meetings and participate in the deliberations of the league.

Section 504. Powers, Functions and Duties of the League of Provinces. - The league of provinces shall:

(a) Assist the national government in the formulation and implementation of the policies, programs and projects affecting provinces as a whole;

(b) Promote local autonomy at the provincial level;

(c) Adopt measures for the promotion of the welfare of all provinces and its officials and employees;

(d) Encourage people's participation in local government administration in order to promote united and concerted action for the attainment of countrywide employment within the province;

(e) Supplement the efforts of the national government in creating opportunities for gainful employment within the province;

(f) Give priority to programs designed for the total development of the provinces in consonance with the policies, programs and projects of the national government;

(g) Serve as a forum for crystallizing and expressing ideas, seeking the necessary assistance of the national government and providing the private sector avenues for cooperation in the promotion of the welfare of the provinces; and

(h) Exercise such other powers and perform such other duties and functions as the league may prescribe for the welfare of the provinces and metropolitan political subdivisions.

ARTICLE V **Provisions Common to All Leagues**

Section 505. Funding.

(a) All leagues shall derive its funds from contributions of member local government units and from fund-raising projects and activities without the necessity of securing permits therefor: Provided, That the proceeds from said fund-raising projects and activities shall be used primarily to fund the projects for which the said proceeds have been raised, subject to the pertinent provision of this Code and the pertinent provisions of the Omnibus Election Code.

(b) All funds of leagues shall be deposited as trust funds with its treasurer and shall be disbursed in accordance with the board of director's resolutions, subject to pertinent accounting and auditing rules and regulations: Provided, That the treasurer shall be bonded in an amount to be determined by the board of directors. The funds of a chapter shall be deposited as chapter funds and funds of the national league shall be deposited as national funds.

Section 506. *Organizational Structure.* - To ensure the effective and efficient administration, the leagues for municipalities, cities and provinces shall elect chapter-level and national-level boards of directors and a set of officers headed by the president. A secretary-general shall be chosen from among the national league members to manage the day to day operation and activities of the national league. The board of directors on the chapter or national level may create such other positions as may be deemed necessary for the management of the chapters and of the national league. The national board of directors of the leagues for municipalities, cities or provinces shall coordinate programs, projects and activities of chapter and the national-level league.

Section 507. *Constitution and By-laws of the Liga and the Leagues.* - All other matters not herein otherwise provided for affecting the internal organization of the leagues of local government units shall be governed by their respective constitution and by-laws which are hereby made suppletory to the provision of this Chapter: Provided, That said Constitution and By-laws shall always conform to the provisions of the Constitution and existing laws.

CHAPTER II

Leagues and Federation of Local Elective Officials

Section 508. *Organization.*

(a) Vice-governors, vice-mayors, sanggunian members of barangays, municipalities, component cities, highly-urbanized cities and provinces, and other elective local officials of local government units, including those of the Metropolitan Manila Area and any metropolitan political subdivisions, may form their respective leagues or federation, subject to applicable provisions of this Title and pertinent provisions of this Code;

(b) Sanggunian members of component cities and municipalities shall form a provincial federation and elect a board of directors and a set of officers headed by the president. The duly elected president of the provincial federation of sanggunian members of component cities and municipalities shall be an ex-officio member of the sangguniang panlalawigan concerned and shall serve as such only during his term of office as president of the provincial federation of sanggunian members of component cities and municipalities, which in no case shall be beyond the term of office of the sanggunian panlalawigan concerned.

Section 509. *Constitution and By-laws.* - The leagues or federations shall adopt a Constitution and by-laws which shall govern their internal organization and operation: Provided, That said Constitution and by-laws shall always conform to the provision of the Constitution and existing laws.

Section 510. *Funding.* - The leagues and federations may derive funds from contributions of individual league or federation members or from fund-raising projects or activities. The local government unit concerned may appropriate funds to support the leagues or federation organized pursuant to this Section, subject to the availability of funds.

**BOOK IV
MISCELLANEOUS AND FINAL PROVISIONS**

**TITLE I
PENAL PROVISIONS**

Section 511. *Posting and Publication of Ordinances with Penal Sanctions.*

(a) Ordinances with penal sanctions shall be posted at prominent places in the provincial capitol, city, municipal or barangay hall, as the case may be, for a minimum period of three (3) consecutive weeks. Such ordinances shall also be published in a newspaper of general circulation, where available, within the territorial jurisdiction of the local government unit concerned, except in the case of barangay ordinances. Unless otherwise provided therein, said ordinances shall take effect on the day following its publication, or at the end of the period of posting, whichever occurs later.

(b) Any public officer or employee who violates an ordinance may be meted administrative disciplinary action, without prejudice to the filing of the appropriate civil or criminal action.

(c) The secretary to the sanggunian concerned shall transmit official copies of such ordinances to the chief executive officer of the Office Gazette within seven (7) days following the approval of the said ordinance for publication purposes. The Official Gazette may publish ordinances with penal sanctions for archival and reference purposes.

Section 512. *Withholding of Benefits Accorded to Barangay Officials.* - Willful and malicious withholding of any of the benefits accorded to barangay officials under Section 393 hereof shall be punished with suspension or dismissal from office of the official or employee responsible therefor.

Section 513. *Failure to Post and Publish the Itemized Monthly Collections and Disbursements.* - Failure by the local treasurer of the local chief accountant to post the itemized monthly collections and disbursements of the local government unit concerned within ten (10) days following the end of every month and for at least two (2) consecutive weeks at prominent places in the main office building of the local government unit concerned, its plaza and main street, and to publish said itemization in a newspaper of general circulation, where available, in the territorial jurisdiction of such unit, shall be punished by a fine not exceeding Five hundred pesos (P500.00) or by imprisonment not exceeding one (1) month, or both such fine and imprisonment, at the discretion of the court.

Section 514. *Engaging in Prohibited Business Transactions or Possessing Illegal Pecuniary Interest.* - Any local official and any person or persons dealing with him who violate the prohibitions provided in Section 89 of Book I hereof, shall be punished with imprisonment for six months and one day to six years, or a fine of not less than Three thousand pesos (P3,000.00) nor more than Ten thousand pesos (P10,000.00), or both such imprisonment and fine at the discretion of the court.

Section 515. *Refusal or Failure of Any Party or Witness to Appear before the Lupon or Pangkat.* - Refusal or willful failure of any party or witness to appear before the lupon or pangkat in compliance with a summons issued pursuant to the provisions on the Katarungang Pambarangay under Chapter 7, Title III of this Code may be punished by the city or municipal court as for indirect contempt of court upon application filed therewith by the lupon chairman, the pangkat chairman, or by any of the contending parties. Such refusal or willful failure to appear shall be reflected in the records of the lupon secretary or in the minutes of the pangkat secretary and shall bar the complainant who fails to appear, from seeking judicial recourse for the same cause of action, and the respondent who refuses to appear, from filing any counterclaim arising out of, or necessarily connected with the complaint.

A pangkat member who serves as such shall be entitled to an honorarium, the amount of which is to be determined by the sanggunian concerned subject to the provisions in this Code cited above.

Section 516. Penalties for Violation of Tax Ordinances. - The sanggunian of a local government unit is authorized to prescribe fines or other penalties for violation of tax ordinances but in no case shall such fines be less than One thousand pesos (P1,000.00) nor more than Five thousand pesos (P5,000.00), nor shall imprisonment be less than one (1) month nor more than six (6) months. Such fine or other penalty, or both, shall be imposed at the discretion of the court. The sangguniang barangay may prescribe a fine of not less than One hundred pesos (P100.00) nor more than One thousand pesos (P1,000.00).

Section 517. Omission of Property from Assessment or Tax Rolls by Officers and Other Acts. - Any officer charged with the duty of assessing real property who willfully fails to assess, or who intentionally omits from the assessment or tax roll any real property which he knows to be taxable, or who willfully or negligently under assesses any real property, or who intentionally violates or fails to perform any duty imposed upon him by law relating to the assessment of taxable real property shall, upon conviction, be punished by a fine of not less than One thousand pesos (P1,000.00) nor more than Five thousand pesos (P5,000.00), or by imprisonment of not less than one (1) month nor more than six (6) months, or both such fine and imprisonment, at the discretion of the court.

The same penalty shall be imposed upon any officer charged with the duty of collecting the tax due on real property who willfully or negligently fails to collect the tax and institute the necessary proceedings for the collection of the same.

Any other officer required by this Code to perform acts relating to the administration of the real property tax or to assist the assessor or treasurer in such administration, who willfully fails to discharge such duties shall, upon conviction be punished by a fine of not less than Five hundred pesos (P500.00) nor more than Five thousand pesos (P5,000.00) or imprisonment of not less than one (1) month nor more than six (6) months, or both such fine and imprisonment, at the discretion of the court.

Section 518. Government Agents Delaying Assessment of Real Property and Assessment Appeals. - Any government official who intentionally and deliberately delays the assessment of real property or the filing of any appeal against its assessment shall, upon conviction, be punished by a fine of not less than Five hundred pesos (P500.00) nor more than Five thousand pesos (P5,000.00), or by imprisonment of not less than one (1) month nor more than six (6) months, or both such fine and imprisonment, at the discretion of the court.

Section 519. Failure to Dispose of Delinquent Real Property at Public Auction. - The local treasurer concerned who fails to dispose of delinquent real property at public auction in compliance with the pertinent provisions of this Code, and any other local government official whose acts hinder the prompt disposition of delinquent real property at public auction shall, upon conviction, be subject to a fine of not less than One thousand pesos (P1,000.00) nor more than Five thousand pesos (P5,000.00), or imprisonment of not less than one (1) month nor more than six (6) months, or both such fine and imprisonment, at the discretion of the court.

Section 520. Prohibited Acts Related to the Award of Contracts Under the Provisions on Credit Financing. - It shall be unlawful for any public official or employee in the provincial, city, or municipal government, or their relatives within the fourth civil degree of consanguinity or affinity, to enter into or have any pecuniary interest in any contract for the construction, acquisition, operation or maintenance of any project awarded pursuant to the provisions of Title Four in Book II hereof, or for the procurement of any supplies, materials, or equipment of any kind to be used in the said project. Any person convicted for violation of the provisions of said Title shall be removed from office and shall be punishable by imprisonment of not less than one (1) month, nor more than two (2) years, at the discretion of the court, without prejudice to prosecution under other laws.

TITLE II PROVISIONS FOR IMPLEMENTATION

Section 521. *Mandatory Review Every Five Years.* - Congress shall undertake a mandatory review of this Code at least once every five (5) years and as often as it may deem necessary, with the primary objective of providing a more responsive and accountable local government structure.

Section 522. *Insurance Coverage.* - The Government Service Insurance System (GSIS) shall establish and administer an appropriate system under which the punong barangay, the members of the sangguniang barangay, the barangay secretary, the barangay treasurer, and the members of the barangay tanod shall enjoy insurance coverage as provided in this Code and other pertinent laws. For this purpose, the GSIS is hereby directed to undertake an actuarial study, issue rules and regulations, determine the premiums payable, and recommend to Congress the amount of appropriations needed to support the system. The amount needed for the implementation of the said insurance shall be included in the annual General Appropriations Act.

Section 523. *Personnel Retirement and/or Benefits.* - An official or employee of the national government or local government unit separated from the service as a result of reorganization effected under this Code shall, if entitled under the laws then in force, receive the retirement and other benefits accruing thereunder: Provided, however, That such benefits shall be given funding priority by the Department of Budget and Management in the case of national officials and employees, and the local government unit concerned in the case of local officials and employees.

Where the employee concerned is not eligible for retirement, he shall be entitled to a gratuity from the national government or the local government unit concerned, as the case may be, equivalent to an amount not lower than one (1) month salary for every year of service over and above the monetary value of the leave credits said employee is entitled to receive pursuant to existing laws.

Section 524. *Inventory of Infrastructure and Other Community Facilities.*

(a) Each local government unit shall conduct a periodic inventory of infrastructure and other community facilities and undertake the maintenance, repair, improvement, or reconstruction of these facilities through a closer cooperation among the various agencies of the national government operating within the province, city, or municipality concerned.

(b) No infrastructure or community project within the territorial jurisdiction of any local government unit shall be undertaken without informing the local chief executive and the sanggunian concerned.

Section 525. *Records and Properties.* - All records, equipment, buildings, facilities, and other properties of any office or body of a local government unit abolished or reorganized under this Code shall be transferred to the office or body to which its powers, functions, and responsibilities are substantially devolved.

TITLE III TRANSITORY PROVISIONS

Section 526. *Application of this Code to Local Government Units in the Autonomous Regions.* - This Code shall apply to all provinces, cities, municipalities and barangays in the autonomous regions until such time as the regional government concerned shall have enacted its own local government code.

Section 527. *Prior Approval or Clearance on Regular and Recurring Transactions.* - Six (6) months after effectivity of this Code, prior approval of or clearance from national agencies or offices shall no longer be required for regular and recurring transactions and activities of local government units.

Section 528. *Deconcentration of Requisite Authority and Power.* - The national government shall, six (6) months after the effectivity of this Code, effect the deconcentration of requisite authority and power to the appropriate regional offices or field offices of national agencies or offices whose major functions are not devolved to local government units.

Section 529. *Tax Ordinances or Revenue Measures.* - All existing tax ordinances or revenue measures of local government units shall continue to be in force and effect after the effectivity of this Code unless amended by the sanggunian concerned, or inconsistent with, or in violation of, the provisions of this Code.

Section 530. *Local Water Districts.* - All powers, functions, and attributes granted by Presidential Decree Numbered One hundred ninety-eight (P.D. No. 198), otherwise known as "The Provincial Water Utility Act of 1973," to the Local Water Utilities Administration (LWUA) may be devolved in toto to the existing local water districts should they opt or choose to exercise, in writing, such powers, functions and attributes: Provided, That all obligations of the local government unit concerned to the LWUA shall first be settled prior to said devolution.

Section 531. *Debt Relief for Local Government Units.* -

(a) Unremitted national collections and statutory contributions. - All debts owed by local government units to the national government in unremitted contributions to the Integrated National Police Fund, the Special Education Fund, and other statutory contributions as well as in unremitted national government shares of taxes, charges, and fees collected by the local government units, are hereby written off in full.

(b) Program loans. -

(1) Program loans secured by local government units which were relented to private persons, natural or juridical, shall likewise be written off from the books of the local government units concerned: Provided, however, That the national government agency tasked with the implementation of these programs shall continue to collect from the debtors belonging to the private sector concerned.

(2) Program loans granted to local government units by national government agencies and which were utilized by the local units for community development, livelihood, and other small-scale projects are hereby written off in full.

(c) Settlement of debts due to government financing institutions (GFIs), government-owned and controlled corporations (GOCCs), and private utilities. The national government shall assume all debts incurred or contracted by local government units from GFIs, GOCCs, and private utilities that are outstanding as of December 31, 1988, in accordance with the following schemes:

(1) Debts due GFIs. - The national government may buy outstanding obligations incurred by local government units from government financing institutions at a discounted rate.

(2) Debts due GOCCs. - The national government may settle such obligations at discounted rate through offsetting, only to the extent of the obligations of local governments against the outstanding advances made by the National Treasury in behalf of the government-owned and controlled corporations concerned.

(3) Debts Due Private Utilities. - The national government may settle these obligations at a discounted rate by offsetting against the outstanding obligations of such private utilities to government-owned corporation. GOCCs may in turn offset these obligations against the outstanding advances made by the National Treasury in their behalf.

In the case of obligation owed by local government units to private utilities which are not indebted to any GOCC or national government agency, the national government may instead buy the obligations of the local government units from the private utilities at a discounted rate, upon concurrence by the private utilities concerned.

(d) Limitations. - Obligations to the Home Development and Mutual Fund (Pag-ibig), Medicare, and those pertaining to premium contributions and amortization payments of salary and policy loans to the Government Service Insurance System are excluded from the coverage of this Section.

(e) Recovery schemes for the national government. - Local government units shall pay back the national government whatever amounts were advanced or offset by the national government to settle their obligations to GFIs, GOCCs, and private utilities. The national government shall not charge interest or penalties on the outstanding balance owed by the local government units.

These outstanding obligations shall be restructured and an amortization schedule prepared, based on the capability of the local government unit to pay, taking into consideration the amount owed to the national government.

The national government is hereby authorized to deduct from the quarterly share of each local government unit in the internal revenue collections an amount to be determined on the basis of the amortization schedule of the local unit concerned: Provided, That such amount shall not exceed five percent (5%) of the monthly internal revenue allotment of the local government unit concerned.

As incentive to debtor-local government units to increase the efficiency of their fiscal administration, the national government shall write off the debt of the local government unit concerned at the rate of five percent (5%) for every one percent (1%) increase in revenues generated by such local government unit over that of the preceding year. For this purpose, the annual increase in local revenue collection shall be computed starting from the year 1988.

(f) Appropriations. - Such amount as may be necessary to implement the provisions of this Section shall be included in the annual General Appropriations Act.

Section 532. Elections for the Sangguniang Kabataan. -

(a) The first elections for the sangguniang kabataan to be conducted under this Code shall be held thirty (30) days after the next local elections: Provided, That, the regular elections for the sangguniang kabataan shall be held one hundred twenty (120) days after the barangay elections thereafter.

(b) The amount pertaining to the ten percent (10%) allocation for the kabataang barangay as provided for in Section 103 of Batas Pambansa Blg. 337 is hereby reappropriated for the purpose of funding the first elections mentioned above. The balance of said funds, if there by any after the said elections, shall be administered by the Presidential Council for Youth Affairs for the purpose of training the newly elected sangguniang kabataan officials in the discharge of their functions.

(c) For the regular elections of the sangguniang kabataan, funds shall be taken from the ten percent (10%) of the barangay funds reserved for the sangguniang kabataan, as provided for in Section 328 of this Code.

(d) All seats reserved for the pederasyon ng mga sangguniang kabataan in the different sanggunians shall be deemed vacant until such time that the sangguniang kabataan chairmen shall have been elected and the respective pederasyon presidents have been selected: Provided,

That, elections for the kabataang barangay conducted under Batas Pambansa Blg. 337 at any time between January 1, 1988 and January 1, 1992 shall be considered as the first elections provided for in this Code. The term of office of the kabataang barangay officials elected within the said period shall be extended correspondingly to coincide with the term of office of those elected under this Code.

Section 533. Formulation of Implementing Rules and Regulations. -

(a) Within one (1) month after the approval of this Code, the President shall convene the Oversight shall formulate and issue the appropriate rules and regulations necessary for the efficient and effective implementation of any and all provisions of this Code, thereby ensuring compliance with the principles of local autonomy as defined under the Constitution.

(b) The Committee shall be composed of the following:

(1) The Executive Secretary, who shall be the Chairman;

(2) Three (3) members of the Senate to be appointed by the President of the Senate, to include the Chairman of the Committee on Local Government;

(3) Three (3) members of the House of Representatives to be appointed by the Speaker, to include the Chairman of the Committee on Local Government;

(4) The Cabinet, represented by the following:

(i) Secretary of the Interior and Local Government;

(ii) Secretary of Finance;

(iii) Secretary of Budget and Management; and

(5) One (1) representative from each of the following:

(i) The League of Provinces;

(ii) The League of Cities;

(iii) The League of Municipalities; and

(iv) The Liga ng mga Barangay.

(c) The Committee shall submit its report and recommendation to the President within two (2) months after its organization. If the President fails to act within thirty (30) days from receipt thereof, the recommendation of the Oversight Committee shall be deemed approved. Thereafter, the Committee shall supervise the transfer of such powers and functions mandated under this Code to the local government units, together with the corresponding personnel, properties, assets and liabilities of the offices or agencies concerned, with the least possible disruptions to existing programs and projects. The Committee shall likewise recommend the corresponding appropriations necessary to effect the said transfer.

For this purpose, the services of a technical staff shall be enlisted from among the qualified employees of Congress, the government offices, and the leagues constituting the Committee.

(d) The funding requirements and the secretariat of the Committee shall be provided by the Office of the Executive Secretary.

(e) The sum of Five million pesos (P5,000,000), which shall be charged against the Contingent Fund, is hereby allotted to the Committee to fund the undertaking of an information campaign on this Code. The Committee shall formulate the guidelines governing the conduct of said campaign, and shall determine the national agencies or offices to be involved for this purpose.

TITLE IV FINAL PROVISIONS

Section 534. *Repealing Clause.* -

(a) Batas Pambansa Blg. 337, otherwise known as the Local Government Code, Executive Order No. 112 (1987), and Executive Order No. 319 (1988) are hereby repealed.

(b) Presidential Decree Nos. 684, 1191, 1508 and such other decrees, orders, instructions, memoranda and issuances related to or concerning the barangay are hereby repealed.

(c) The provisions of Sections 2, 3, and 4 of Republic Act No. 1939 regarding hospital fund; Section 3, a (3) and b (2) of Republic Act No. 5447 regarding the Special Education Fund; Presidential Decree No. 144 as amended by Presidential Decree Nos. 559 and 1741; Presidential Decree No. 231 as amended; Presidential Decree No. 436 as amended by Presidential Decree No. 558; and Presidential Decree Nos. 381, 436, 464, 477, 526, 632, 752, and 1136 are hereby repealed and rendered of no force and effect.

(d) Presidential Decree No. 1594 is hereby repealed insofar as it governs locally-funded projects.

(e) The following provisions are hereby repealed or amended insofar as they are inconsistent with the provisions of this Code: Sections 2, 16 and 29 of Presidential Decree No. 704; Section 12 of Presidential Decree No. 87, as amended; Section 52, 53, 66, 67, 68, 69, 70, 71, 72, 73, and 74 of Presidential Decree No. 463, as amended; and Section 16 of Presidential Decree No. 972, as amended, and

(f) All general and special laws, acts, city charters, decrees, executive orders, proclamations and administrative regulations, or part or parts thereof which are inconsistent with any of the provisions of this Code are hereby repealed or modified accordingly.

Section 535. *Separability Clause.* - If, for any reason or reasons, any part or provision of this Code shall be held to be unconstitutional or invalid, other parts or provisions hereof which are not affected thereby shall continue to be in full force and effect.

Section 536. *Effectivity Clause.* - This Code shall take effect on January first, nineteen hundred ninety-two, unless otherwise provided herein, after its complete publication in at least one (1) newspaper of general circulation.

Approved: October 10, 1991

Sample Ordinances

BASIC PARTS OF AN ORDINANCE:

- a) Title
- b) Declaration of General Purpose
- c) Definition of Terms
- d) Application
- e) Prohibition
- f) Penal Provision
- g) Repealing Clause
- h) Effectivity
- i) Attested and Approved

Republic of the Philippines
PROVINCE OF SAMAR
Catbalogan

Tanggapan ng Sangguniang Panlalawigan

EXCERPT FROM THE MINUTES OF THE 78TH REGULAR SESSION OF THE 10TH SANGGUNIANG PANLALAWIGAN, THIS PROVINCE, HELD AT THE SESSION HALL CAPITOL, CATBALOGAN, SAMAR, ON THE 25TH DAY OF SEPTEMBER 2003

PRESENT: Hon. ERNESTO C. ARCALES- Vice-Governor/Presiding Officer
Hon. MA. LOURDES C .UY - Acting Floor Leader
Hon. FE T. ARCALES - MemberHon. JIMMY R. DY- “
Hon. JUAN C. LATORRE, JR.- “
Hon. ANTONIO L. BOLASTIG III - “
Hon. RAMON P. DEAN, JR - “
Hon. JOSEPH E. ESCOBER - ABC Prov'l Fed. President

ABSENT: Hon. FELIX T. BABALCON, JR. - Majority Floor Leader(O.B.)
Hon. BIENVENIDA P. REPOL -Member (O.B.)
Hon. ROSENAIDA A. ROSALES - “ (O.B.)
Hon. SUSANO D. SALURIO - “ (O.B.)
Hon. BARTOLOE R. CASTILLO - PCL Prov'l Fed. Pres. (O.B.)
Hon. EDGARDO F. TIOPEs - SK Prov'l Fed. President

ORDINANCE NO. 541

AN ORDINANCE IMPOSING A FIFTY (50) - YEAR MORATORIUM ON THE CONDUCT OF LARGE SCALE MINING OPERATIONS IN THE PROVINCE OF SAMAR AND PROVIDING EXEMPTIONS, PENALTIES AND FOR OTHER PURPOSES THEREOF

WHEREAS, in the past, the three provinces of Samar have suffered and sustained extensive damages to life and property caused by devastating flashfloods and landslide and the denudation caused by rampant and unabated logging and other exploitative activities have been pinpointed as the causal factor of the catastrophic calamities which resulted in unwarranted loss of human lives and misery to thousand of Samareños, burying their homes, villages and farmlands and destroying roads, bridges and numerous infrastructure projects;

WHEREAS, in 1989, in the interest of the people of Samar Island and to protect them from natural calamities brought by typhoons, a logging moratorium was imposed by the Department of Environment and Natural Resources (DENR) in the whole island.

WHEREAS, in 1996, after the people of the three provinces of Samar have petitioned the government to act expeditiously and with resolved in order to preserve, conserve and manage on a sustainable basis the remaining forest cover of Samar, to protect human lives and property, promote environmental and socio-economic security and provide sanctuary and refuge for many endangered flora and fauna such as the Philippine Tarsier, the Philippine Eagle, the Rufus Hornbill, the Bleeding Heart Pigeon and the Philippine Cockatoo, in order to protect the vast terrestrial natural resources of the island, President Fidel V. Ramos declared the remaining forest of Samar island as the Samar Island Forest Reserve (SIFR);

WHEREAS, in 2001, after a detailed study conducted by the DENR and upon popular demand of the civil society of Samar Island, the Government of the Philippines entered into an international agreement with the United Nations Development Programme (UNDP) – Global Environment Facility (GEF) for the establishment of the SIFR

as a protected area under the NIPAS Act (Republic Act 7586), to be known as the Samar Island Natural Park (SINP), of which significant portions of one (1) city and thirteen (13) municipalities within the province are covered;

WHEREAS, the livelihood of several downstream coastal fishing communities are very dependent on the clean water from the different major river system of Samar such as the Pan-as Hayiban Watershed, Gandara Watershed, Catbalogan Watershed, Pabanog Watershed, Calbiga Watershed, Silaga Watershed, Basey Watershed and Marabut Watershed, including the headwaters of Ulot (Can-avid) Watershed in Paranas and Taft Watershed in Hinabangan that drain eastward into the Pacific Ocean;

WHEREAS, several communities along the Taft River have been suffering from polluted and contaminated rivers and water supply caused by the mining activities in Bagacay, Hinabangan, for more than a decade since its last operation;

WHEREAS, there is a strong need to stem the further depletion of Samar Island's forest resources to prevent considerable loss of lives during typhoons and to protect the downstream communities who are dependent on clean water for their life and livelihood.

NOW THEREFORE, on motion of Hon. JOSEPH E. ESCOBER, duly seconded by the Body, be it -

RESOLVED, as it is hereby resolved, to enact the following:

Section 1. **Title of the Ordinance** – This Ordinance is entitled: AN ORDINANCE IMPOSING A FIFTY (50) - YEAR MORATORIUM ON THE CONDUCT OF LARGE SCALE MINING OPERATIONS IN THE PROVINCE OF SAMAR AND PROVIDING EXEMPTIONS, PENALTIES AND FOR OTHER PURPOSES THEREOF;

Section 2. **Preliminary considerations** –

A. Section 16, Article II, Constitution. The State shall protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature.

B. Section 2-A (Rep. Act of 7160). It is hereby declared, the policy of the state that the territorial and political subdivisions of the State shall enjoy genuine and meaningful local autonomy to enable them to attain their fullest development as self-reliant communities and make them more effective partners in the attainment of national goals. Toward this end, the State shall provide for [a] more responsive and accountable local government structure instituted through a system of decentralization whereby local government units shall be given more powers, authority, responsibilities and resources.

C. Section 5-A (R.A. 7160). Any provision on a power of [a] local government unit shall be liberally interpreted in its favor, and in case of doubt, any question thereon shall be resolved in favor of devolution of powers and of the lower government units. "Any fair and reasonable doubts as to the existence of the power shall be interpreted in favor of all the Local Government Unit concerned."

D. Section 5-C (R.A. 7160). The general welfare provisions in this Code shall be liberally interpreted to give more powers to local government units in accelerating economic development and upgrading the quality of life for the people in the community.

E. Section 16 (R.A. 7160). General Welfare. – Every local government unit shall exercise the powers expressly granted, those necessarily implied therefrom, as well as powers necessary, appropriate, or incidental for its efficient and effective governance, and those which are essential to the promotion of the general welfare. Within their respective territorial jurisdictions, local government units shall ensure and support, among other things, the preservation and enrichment of culture, promote health and safety, enhance the right of the people to a balanced ecology, encourage and support the development of appropriate and self-reliant scientific and technological capabilities, improve public morals, enhance economic prosperity and social justice, promote full employment among their residents, maintain peace and order, and preserve the comfort and convenience of their inhabitants.

Section 3. **Declaration of Policy** – It is hereby declared to be the policy of the Province of Samar to protect the conserve its forest and water resources, not only for the greatest good of the majority of the present generation but moreover, to reassure existence of the same natural resources to adequately satisfy the needs of the future generations, and to attain this end, the Sangguniang Panlalawigan henceforth declares that it shall be unlawful for any person or any business entity to engage in any large

scale mining operations, as defined in Section 5 hereof, within the Province of Samar for the period of fifty (50) years from the effectivity of this Ordinance.

Section 4. **Purpose, Scope and Coverage** – To prevent further degradation, pollution and contamination of the river and water systems of Samar and its neighboring areas and to stem the wanton destruction of the forest resources of Samar province, this ordinance shall cover all persons and/or entities engaged in large scale mining activities as defined in this ordinance. The moratorium shall cover all large scale mining operations and its preparatory activities, such as explorations. However exploration activities covered by the proper permits already issued by the DENR before the effectivity of this Ordinance may be allowed to continue its activities but shall not be allowed to develop or utilize the subject mineral resources within the period of this moratorium. Likewise, the mining activities within the jurisdiction of the Provincial/City Mining Regulatory Board shall not be covered by this moratorium.

All permits for large-scale mining operations already existing prior to the effectivity of this ordinance shall, subject to existing laws, rules and regulations, be respected. However, no expansion, of whatever size of area, shall be allowed on the subject existing extraction activities.

Section 5. Definition of terms. – For the purpose of this Ordinance, the following are hereby defined:

A. **LARGE SCALE MINING OPERATIONS** – mean mining activities involving exploration, feasibility, development, utilization and processing over areas of more than five (5) hectares;

B. **MINING OPERATIONS** – mean mining activities involving exploration, feasibility study, development and utilization;

C. **MORATORIUM** – means the suspension of any mining operations within the Province of Samar within the specified period of time.

Section 6. **Penalty Clause.** – Any person/s and or business entity violating this Ordinance shall be penalized with a fine of not more than P5,000.00 and/or imprisonment of six (6) months to twelve (12) months and the confiscation and forfeiture of paraphernalia and equipment in favor of the government, upon the discretion of the court.

Section 7. **Creation of a Task Force.** – To ensure the implementation of this ordinance, the Provincial Governor shall issue an Executive Order creating a Provincial Task Force to be composed of officials appointed by him.

Section 8. **Seperability Clause.** – If for any reason, a section or provision of this Ordinance shall be held as unconstitutional or contrary to existing national laws, it shall not affect the other provisions hereof.

Section 9. **Repealing Clause.** – Any existing Ordinance or a provision of any ordinance inconsistent herewith is deemed modified, amended or repealed accordingly.

Section 10. **Effectivity.** – This Ordinance shall take effect ten (10) days after its publication.

SO ORDAINED.

RESOLVED FURTHER, to request the DENR Secretary to deny any existing application or petition for extension/renewal of existing permits for mining or other forms of commercial mining operations.

RESOLVED FURTHER, that a copy of this ordinance be sent to the DENR Secretary, Directors of the Forest and Management Bureau (FMB) and the Mines and Geosciences Bureau (MGB) of the DENR.

Carried unanimously.

I HEREBY CERTIFY to the correctness of the foregoing Ordinance.

(Sgd) **ALFREDO C. DELECTOR**

Provincial Secretary

ATTESTED BY:

(Sgd) **ERNESTO C. ARCALES**

Vice-Governor

Presiding Officer

APPROVED: , 2003

MILAGROSA T. TAN

Governor

Republic of the Philippines
Province of South Cotabato
MUNICIPALITY OF TAMPAKAN
Office of the Sangguniang Bayan

MUNICIPAL ORDINANCE NO. 01

Series of 1992

**AN ORDINANCE PROHIBITING LOGGING, KAINGIN AND
EXTRACTING OF FOREST PRODUCTS**

Section 1. DECLARATION OF GENERAL PURPOSE. While the whole world is concerned about its general survival, we should as individuals and nations know our responsibility to protect our country from ecological disasters by preserving and conserving our forest resources. The challenge of reversing the tide of environmental destruction is not for the Department of Environment and Natural Resources alone, but for all sectors of society.

Among the most urgent problems of the Municipality's ecosystem, which is true to the entire country as the destruction of our forest through irresponsible utilization by loggers and kaingeneros, which action lead to the acceleration demise of our forest.

The Sangguniang Bayan of Tampakan is deeply alarmed of the great possibility that those denuded areas will keep on losing its top soil in the near future and will no longer be productive and useful for whatever purpose. It is deemed wise and proper to take bold and decisive actions to save and conserve our natural resources, balance our ecology and make our present environment wholesome for everybody to live and enjoy.

Section 2. DEFINITION OF TERMS.

ECOLOGICAL DISASTERS (CATASTROPHIES) – are events which caused for damages to our surroundings/ environment.

FOREST RESOURCES – refer to those raw materials or assets that are available in the forest like watershed, trees, wildlife and etc.

ENVIRONMENTAL DESTRUCTION – refers to those damages to our environment like kaingin, floods, typhoons or earthquakes.

ECOSYSTEM – the basic ecological unit made up of a community of organisms interacting with their inanimate environment.

DENUDED AREAS – are those areas stripped of trees

TOP SOIL – are fairly loose, porous, usually dark top soil.

Section 3. APPLICATION. This ordinance shall apply to all persons actually engage and/ or planning to engage in logging, slash-and-burn or kaingin activity in any area in the jurisdiction of the Municipality of Tampakan.

Section 4. PROHIBITION. It shall be unlawful for any individual to engage in logging, slash-and-burn or kaingin activity in any area of the Municipality.

Section 5. PENAL PROVISION. Any violation of this ordinance will subject the offender upon conviction, to an imprisonment of not more than 6-months or a fine of not more than P 2,500.00 or both at the discretion of the court.

Section 6. REPEALING CLAUSE. Previous ordinances inconsistent with this Ordinance is hereby deemed null and void.

Section 7. EFFECTIVITY. This ordinance shall take effect immediately upon approval.

Unanimously approved, August 10, 1992

I HEREBY CERTIFY to the correctness of the foregoing Ordinance.

(Sgd) PEDRO A. CAGAS
Municipal Vice Mayor/ Presiding Officer

Attested:

(Sgd. MARIA GRACE A. BARROSO
Secretary to the Mayor/ Acting SB Secretary

Approved:

(Sgd) ROBERTO Y. BARROSO, JR.
Municipal Mayor

Republic of the Philippines
Province of South Cotabato
MUNICIPALITY OF TAMPAKAN
Office of the Sangguniang Bayan

MUNICIPAL ORDINANCE NO. 01
Series of 1991

**AN ORDINANCE REGULATING THE OPERATION OF SMALL-SCALE MINING OF
PRECIOUS MINERALS WITHIN THE TERRITORIAL JURISDICTION OF TAMPAKAN,
SOUTH COTABATO**

Be enacted by the Sangguniang Bayan of Tampakan, South Cotabato that:

Section 1. SPECIFIC PURPOSE/ SCOPE. The purpose of this Ordinance is to regulate and safeguard all small-scale mining operation within the territorial jurisdiction of the Municipality of Tampakan, South Cotabato.

Section II. DEFINITION OF TERMS:

REGULATE – to control, direct or govern according to a rule, principle or system.

SAFEGUARD – any person or thing that protects or guards against loss or injury; to protect and guard against loss or injury.

PRECIOUS – rare and costly gem, such as gold, copper, etc.

CLEAVAGE – the tendency of some minerals to break in definite planes, producing smooth surfaces.

EXCAVATION – to dig or hollow out; unearth; something unearth by excavating.

MERCURY – a heavy, silver-white liquid metallic element used in scientific instrument and for industrial purposes.

CYANIDE – a substance composed of a cyanide group in combination with some element or radical; especially Potassium Cyanide extremely poisonous, whit crystalline compounds with an odor or bitter almonds used in extracting gold from low-grades ores, electroplating, case hardening of steel and fluxing materials.

REVOCATION – a revoking or being revoked; cancellations; repeal; annulment.

Section III. A Mayor's permit fee in the amount of P 1,000.00 shall be collected from persons who shall engage in mining of precious minerals in the Municipality of Tampakan, which will cover costs of periodic inspection, supervision, regulation and surveillance to see to it that proper health, sanitary, safety and environmental protections are being practiced and implemented.

Section IV – All tunnels shall be reinforced with timber sufficient to prop or support any cleavage of the land under excavation.

Section V – Ball mills and Hand mills operators for small-scale operators shall be confined in one place to be designated by the municipal government and in accordance with plans and specifications prepared by local government and in coordination with the Bureau of Environment Protection and Public Safety of the DENR.

Section VI – Mercury and Cyanide laden waste shall be emptied in a place designated by the municipal government in accordance with the preceding section.

Section VII – Violations thereof shall be fined P 10,000.00 and revocation of permit or imprisonment of 1-month, or both, fine and imprisonment at the discretion of the court.

Section VIII – This Ordinance shall take effect upon approval of the Honorable Sangguniang Panlalawigan upon recommendation of the Provincial Treasurer.

I HEREBY CERTIFY to the correctness of the foregoing Ordinance.

(Sgd) ARTURO L. SEGUI, JR.
Municipal Secretary

Approved:

(Sgd) ROBERTO Y. BARROSO, JR.
Municipal Mayor/ Presiding Officer

REFERENCES:

1. <http://www.lawphil.net/>
2. Chan Robles Virtual Law Library (<http://www.chanrobles.com/virtuallibrary1.htm>)
3. <http://sunsite.nus.edu.sg/apcel/dbase/filipino/primary/phdfor.html>.
4. <http://www.emb.gov.ph/>