

REPUBLIKA NG PILIPINAS
SANGGUNIANG PANLUNGSOD
LUNGSOD NG ORMOC

DATE OUT
DATE: 12-12-94
BY: [Signature]
NGSOD NG ORMOC

RECEIVED
DATE: 12-12-94
BY: [Signature]
SANGGUNIANG PANLUNGSOD NG ORMOC

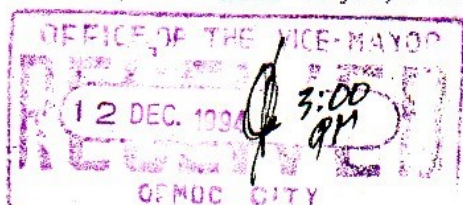
EXCERPT FROM THE MINUTES OF THE REGULAR SESSION OF THE SIXTH
SANGGUNIANG PANLUNGSOD NG ORMOC HELD AT THE HONORABLE
PLACIDO ENECIO SESSION HALL, SANGGUNIANG PANLUNGSOD
BUILDING ON DECEMBER 8, 1994

PRESENT:

Hon. Benjamin F. Tugonon,	Vice-Mayor & Presiding Officer
Hon. Sotero M. Pepito,	Majority Floor Leader, Kagawad
Hon. Jose B. Conejos,	Assist. Majority Floor Leader, Kagawad
Hon. Celso P. Adolfo,	Kagawad
Hon. Sixto T. Pongos,	Kagawad
Hon. Mariano Y. Corro,	Kagawad
Hon. Nestor C. Penserga,	Kagawad
Hon. Claudio P. Larrazabal,	Kagawad
Hon. Jose C. Alfaro, Jr.,	Kagawad
Hon. Alfredo F. Capahi,	Kagawad
Hon. Fernando P. Parrilla,	Chapter Pres. Liga ng mga Brgy. ng Ormoc, Ex-Officio, Kagawad

ABSENT:

Hon. Benjamin B. Lladoc,	(On Leave),	Kagawad
Hon. Angelyn R. Paca,	(Force Leave),	SK Fed. President, Ex-Officio, Kagawad



RESOLUTION NO. 223

One of the natural resources which Ormoc City is richly endowed is a high quality sand and gravel which resources however, is non renewable and must therefore be properly safeguarded and regulated for sustainability.

Last the degradation and over exploitation and the sad plight of the community of Mananga, Cebu happen in our Community, this Ordinance needs speedy action and approval.

NOW, THEREFORE, on motion of Kagawad Jose C. Alfaro, Jr., Chairman, Committee on Natural Resources and Environmental Control, severally seconded by mga Kagawad Alfredo F. Capahi, Mariano Y. Corro and Sotero M. Pepito; be it

RESOLVED, to adopt:

ORDINANCE NO. 94-47

AN ORDINANCE GOVERNING THE ISSUANCE OF PERMITS FOR THE TAKING, REMOVAL AND DISPOSITION OF ORDINARY EARTH, GRAVEL, SAND, PEBBLES, BOULDERS AND OTHER LOOSE OR UNCONSOLIDATED MATERIALS FROM THE BEDS OF SEAS, LAKES, RIVERS, STREAMS, CREEKS, AND OTHER PUBLIC WATERS AND FROM PUBLIC LAND AND PRIVATE LANDS.

ARTICLE I

SECTION I. DEFINITION OF TERMS - unless otherwise specified, the terms and phrases used in this ordinance shall have the following meaning:

- 1.1 Ordinance - this Ordinance
- 1.2 Government - the Government of the Republic of the Philippines
- 1.3 Bureau - Mines and Geo-Sciences Bureau
- 1.4 Department - the Department of Environment and Natural Resources
- 1.5 Secretary - the Secretary of Environment and Natural Resources.
- 1.6 Regional Executive Director - the head of DENR Regional Office
- 1.7 Director - the Director of Mines and Geo-Sciences Bureau
- 1.8 PENRO Officer - the head of the Provincial Environment and Natural Resources Office
- 1.9 CENRO Officer - the head of the Community Environment and Natural Resources Office
- 1.10 Treasurer - City Treasurer
- 1.11 Pollution Control Officer - the head of the City Pollution Control Division
- 1.12 Sand - particles of rocks passing 2mm sieve
- 1.13 Gravel - particles of rocks passing 75mm sieve
- 1.14 Boulders - are fragments of rocks which are retained on a 75mm (3 in.) U.S. standard mesh sieve.
- 1.15 Ordinary Earth - ordinary soil (lupa)
- 1.16 Extraction - the act or process of taking, excavating and removing.
- 1.17 Public Waters - bodies of waters belonging to the public domain such as but not limited to seas, bays, lakes, ponds, creeks, streams, rivers and swamps.
- 1.18 Public Lands - the portion of public domain to which title is still vested in the Government
- 1.19 Private Lands - those belonging to private person with complete titles as well as those lands claimed by bonafide holder, claimant, or occupant with imperfect title.
- 1.20 Permit - commercial, foreshore, gratuitous, industrial, and special permits issued under this Ordinance.
- 1.21 Permittee - one to whom a permit is issued under this Ordinance.

- 1.22 Foreshore - the area offshore beyond 100 meters from the watermark at the mean low tide extending seaward or lakeward.
- 1.23 River Bed - bed of creeks, streams, brooks, etc., the ground covered by water during its highest flood without causing inundation.
- 1.24 Puka - portion of a shell that are sometimes found mixed with sand and gravel.

ARTICLE II

TAKING AND DISPOSAL OF MATERIALS

SECTION 2. PERMIT TO TAKE AND DISPOSE OF MATERIALS. No person, corporation, partnership, or government entity/instrumentality shall be allowed to take and dispose of materials covered by these ordinance from public waters or in public or private lands unless authorized by a permit issued in accordance with this Ordinance.

ARTICLE III

GENERAL PROVISIONS

SECTION 3. KINDS OF PERMITS AND TERMS THEREIN. Under this Ordinance, there are five (5) kinds of Permits that may be issued namely:

(a) COMMERCIAL PERMIT - shall cover an area of not more than one (1) hectare in public waters or in public and private lands and is granted for a period of not more than one (1) year, renewable for the same period;

(b) FORESHORE PERMIT - shall embrace an area of not more than one (1) hectare in beds of lakes, ponds, and seas and is issued for a period of not more than one (1) year, renewable for the same period;

(c) GRATUITOUS PERMIT - shall be granted to any government entity/instrumentality in need of materials for infrastructure projects over an area of not more than two (2) hectares for a period coterminous with the duration of the project, but not more than one (1) year, renewable for a like period.

(d) INDUSTRIAL PERMIT - shall cover an area of not more than eight (8) hectares for an individual and not more than sixty-four (64) hectares for a partnership/corporation in public waters and/or in public and private lands and is granted for a period of five (5) years, renewable for a series of five-year periods but not exceeding a total of twenty-five (25) years; and

(e) SPECIAL PERMIT - shall be issued to those applying to dispose of materials covered by this Ordinance abandoned by the mining operators/government/private contractor in the course of the operation/construction, or to those for their personal use not to exceed fifty (50) cubic meters, for a period not exceeding sixty (60) days.

SECTION 4. FILING AND REGISTRATION FEES. - all applications/renewals and other related documents shall be filed and/or registered with the City Pollution Control Division of the City Mayor's Office. The prescribed application forms and other related documents are available at said office upon payment of FIFTEEN PESOS (P15.00) per form. The following charges shall be paid upon filing and/or registration of the same:

- (1) Commercial, Foreshore, Special and Gratuitous Permit Application P 470.00
Processing fee P100.00
Filing fee. 25.00
PD 1856. 10.00
Verification fee. 335.00

- (2) Industrial Permit Application 1,110.00
Processing fee P 200.00
Filing fee. 50.00
PD 1856. 10.00
Verification fee 850.00

- (3) Deed of Assignment/Transfer, Special Power of Attorney and other registrable documents 40.00
- (4) Shipment Clearance Application 300.00
Application fee P 100.00
Verification fee 200.00

There shall be an additional fee of 50% of the extraction fee for sand and gravel materials to be shipped/transported outside the jurisdiction of Ormoc City.

SECTION 5. WHO MAY BE GRANTED PERMIT/S - a permit shall be issued to any applicant who has complied with the requirements prescribed by this Ordinance and other pertinent laws and who possesses the following qualifications:

(a) In case of an individual, he must be of legal age and a citizen of the Philippines;

(b) In case of a corporation or partnership, it shall be organized under the laws of the Philippines duly registered with the Securities and Exchange Commission and at least 60% of the capital of which shall be at all times be owned and controlled by citizens of the Philippines; and

(c) In case of a government agency/office, it must be duly recognized and existing and in need of materials for infrastructure projects as certified to by the head of the agency or any other authorized person.

SECTION 6. AUTHORITY. - The applicant/permittee may be represented by another in applying for or renewing a permit provided the latter's authority is contained in a public instrument duly registered with the City Pollution Control Office.

SECTION 7. DEPUTIES OF THE CITY MAYOR. - The City Treasurer, City Permits & Licensing Officer, and the City Pollution Control Officer shall be the deputies of the City Mayor and as such deputies shall have the powers and duties as described in the succeeding section.

SECTION 8. POWER AND DUTIES OF DEPUTIES. - The City Mayor may grant Industrial, Commercial, Foreshore, Gratuitous, and Special Permits for personal use or for abandoned materials, copies of which shall be furnished by the Permittee to the Regional Executive Director, DENR, and to the City Treasurer within five (5) days from grant thereof.

In case of conflict involving mining claim with a sand and gravel application/permit, original jurisdiction shall be vested with the Regional Executive Director, DENR.

All applications under this Ordinance shall be reviewed by the City Mining Regulatory Board (CMRB) which shall submit its recommendation within fifteen (15) working days from receipt thereof to the City Mayor who shall approve or disapprove the same. In case of disapproval the City Mayor shall state the reason therefor.

In addition to the City Treasurer's duty of collecting sand and gravel extraction fees, he shall concurrently with the representatives of the CMRB and/or the Licensing Officer conduct inspection of book of accounts, check production against allowable volume, conduct inventory of active operations and report in writing to the City Mayor copy furnished CMRB, from time to time or as may be required, the activities performed in connection with this Ordinance.

SECTION 9. CONDITIONS FOR THE ISSUANCE OF THE PERMIT. Permits issued under this Ordinance shall be subject to the following terms and conditions:

- (a) the permit may be suspended or revoked at any time by the City Mayor, motu proprio, or through the recommendation of the CMRB as the case maybe when in his/their opinion, public interest so requires or upon failure of the Permittee to comply with the terms stipulated in the Environmental Compliance Certificate (ECC) and other terms and conditions stated in the Permit;
- (b) The statements made in the application or those made later in support thereof shall be considered as conditions and essential parts of the Permit and any misrepresentation contained therein shall be a cause for the suspension or revocation of the Permit;
- (c) The Permit shall be inoperative over areas covered by Mining Leases, unless the prior authority of the licensee/permittee or leasee is obtained.
- (d) No extraction or removal of materials shall be allowed within a distance of one (1) kilometer from the boundaries of reservoirs established for public water supply and of any public or private works or structures, unless the prior clearance in writing of the agency or owner concerned is obtained;

- (e) The removal or taking of materials under the Permit shall be confined within the area specified therein, the boundaries of which, according to the application, are established on the ground with prominent markers;
- (f) The Permittees shall assume full responsibility and shall be liable for damages to private and/or public property that may be occasioned by his extraction or operation under the Permit;
- (g) The Permit is issued for the exclusive use and benefit of the Permittee and shall not be transferred to any person, partnership or corporation without prior approval of the City Mayor;
- (h) The Permittee or his agent or representative shall post a copy of the Permit at the place of removal or taking of materials and make available at all times for inspection or examination by any representative of the City Mayor, CMRB, Pollution Control Office, and the City Treasurer;
- (i) The Permittee shall keep a book of accounts wherein there shall be entered everyday the quantity and kind of materials removed from the area covered by the permit, the fees paid therefor as well as the quantity and kind of materials disposed of or sold their selling prices, the names and addresses of the persons of parties to whom the same were sold or disposed of, and their transactions in connection with the business. Such book of accounts shall at all times be open to inspection by the representative of the City Mayor, CMRB, Pollution Control Officer and the City Treasurer;
- (j) The Permittee shall within ten (10) days after the end of each month, submit to the City Treasurer, the Director, and the Issuing Officer copies of sworn reports stating the quantity and kinds of materials removed or taken by the Permittee, the amount of fees paid, the quantity and kind of materials sold or disposed of during the period covered by the report, their selling prices, the name and addresses of the persons to whom the same were sold, and the quantity and kind of materials left in the stock.
- (k) Unless otherwise renewed or amended, the permit shall ipso facto terminate after the whole quantity and kind of materials specified therein have been removed or taken;

SECTION 10. SURVEY PLAN. All applications under this Ordinance shall be supported by a survey plan duly prepared, signed and sealed by a Licensed Geodetic Engineer. Such plan shall contain general information including technical description, reference point, location map, etc.. In case of Industrial Permit Application, the area shall be surveyed by a Deputized Mineral Geodetic Engineer of the Mines Geo-Science Bureau.

W
PA

SECTION 11. SAND AND GRAVEL TAX. Except for gratuitous permittees, holders of other permits under this Ordinance shall pay in advance to the City Treasurer a fee as required in the Local Tax Code for the materials to be extracted and disposed of; Provided, that in case of large scale operation, the City Treasurer may allow staggered payment of fees, the conditions of which shall be stated in an instrument signed by the parties concerned. The provision herein repeals Sec. 4 of Ordinance No. 32 Series of 1992.

SECTION 12. VERIFICATION OF AREAS. The City Geodetic Engineer authorized by the City Mayor shall conduct field verification of the area applied for, the applicant paying therefor the amount of P470.00 for Commercial, Foreshore and Special Permit Application and P1,110.00 for Industrial Permit Application; Provided, further, that no industrial permit shall be recommended for approval without the accompanying Geodetic Engineers' verification report.

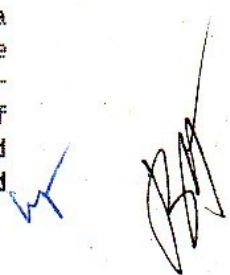
SECTION 13. REHABILITATION OF EXCAVATED AREAS IN PUBLIC AND PRIVATE LANDS. - Holders of permits other than special permits covering public and private lands shall rehabilitate the excavated area to a condition suitable for agriculture or other economic activities. Provided, that to guarantee faithful compliance with the said obligation, a surety bond in the amount of Twenty Thousand Pesos (P20,000.00) per hectare or fraction thereof shall be posted by the applicant before the grant of the permit with surety acceptable to the City Mayor or to the City Treasurer.

SECTION 14. SUSPENSION AND REVOCATION OF PERMIT. Permits issued under this Ordinance may be suspended or revoked by the City Mayor, motu proprio, or upon recommendation of the CMRB for violation of its term and conditions, the provisions of this Ordinance, when public interest or peace and order conditions so demand, or for ecological reasons.

SECTION 15. RECORDS AND INSPECTION. The permittee shall keep a book of accounts in which shall be entered everyday, the quantity and kind of materials removed, the fees paid therefor, their selling price, the names and addresses of the persons or entity to whom the same have been sold or disposed of and other transactions relative to the business. Said book shall at all times be available for inspection by the duly authorized representatives of the City Mayor, CMRB, City Treasurer and the City Licensing Officer.

SECTION 16. MONTHLY REPORTS. The permittee shall submit to the City Pollution Control Officer copy furnished Community Environment & Natural Resources (CENRO), Ormoc City within ten (10) days after the end of each calendar month a sworn report in the prescribed form stating, among other, the quantity and kind of materials extracted, the fees paid therefor and the names and addresses of the buyer.

SECTION 17. ASSIGNMENT AND TRANSFER. An application or a permit can be assigned or transferred by the applicant/permittee to any qualified individual/entity in an instrument duly notarized and registered with the City Pollution Control Division of the City Mayor's Office concerned upon payment of the required registration fee. Such assignment or transfer shall be approved by the City Mayor upon recommendation of the CMRB.



SECTION 18. PERIODIC INSPECTION BY GOVERNMENT OFFICIALS. All operations under this Ordinance shall be subject to periodic inspection by the duly authorized representative of the City Mayor or his Deputies for the purpose of determining:

- a) that the operation is confined within the permit area;
- b) that the materials removed are in accordance with the terms and conditions of the permit;
- c) that the aesthetic and ecological value in the permit area is not seriously damaged;
- d) that the operation does not threaten the ground stability of any public/private structure;
- e) that peace and order condition is maintained in the area; and
- f) that there is no violation with the ECC granted.

SECTION 19. PRIORITY IN REGISTRATION. In case of conflict involving areas of public domain, the application first registered and accompanied by standard requirements shall be entertained and given priority in granting the permit.

SECTION 20. DELIVERY RECEIPT. The permittee shall at all times issue to truck drivers engaged in hauling sand and gravel materials from the permit area, delivery receipts in the prescribed forms for the purpose of inspection by the duly authorized representatives of the City Mayor or his deputies. The original shall be issued to and carried by the truck drivers while in transit which shall be shown upon demand. The duplicate copy shall be attached to the monthly report to be accomplished by the permittee and the triplicate copy shall be kept by the permittee and made available at all times for inspection by proper authorities.

Permittees are required to secure delivery receipts from the City Pollution Control Office and pay the corresponding fee for the same as approved by the City Mayor through the recommendation of the City Treasurer.

SECTION 21. FAILURE TO CARRY DELIVERY RECEIPTS. Truck drivers and haulers of sand and gravel materials who fail to present the required delivery receipt upon demand shall pay a fine of Two Hundred Pesos (P200.00) per cubic meter of the materials being transported. Failure to pay the fine shall be a cause for the impounding of materials and vehicles to be released only upon payment of the required amount to the City Treasurer.

SECTION 22. FAILURE TO ISSUE DELIVERY RECEIPTS OR ISSUING FRAUDULENT RECEIPTS. Failure to issue genuine delivery receipts or issuing fraudulent delivery receipts shall be sufficient ground for the suspension/revocation of the permit.

SECTION 23. TO REQUIRE THE COVERING OF THE VEHICLE TRANSPORTING SOIL, GRAVEL, ETC. To require motor vehicles loaded and transporting soil, sand, gravel, and the like to be covered with canvass or other similar strong materials and to impose on the operator of the said vehicle a fine for violation of the same in accordance with the following:

First Offense	-	P30.00
Second Offense	-	40.50
Third Offense and thereafter	-	50.00

ARTICLE IV
ISSUANCE OF SHIPMENT CLEARANCE FOR SAND AND GRAVEL

SECTION 24. SHIPMENT CLEARANCE. - Effective immediately, a Shipment Clearance shall be required in the inter-island and/or inter-regional movement or transport of sand and gravel materials.

Any permittee or its authorized buyer who shall ship sand and gravel materials from one port to another port in an island within and outside the region shall secure the aforesaid Shipment Clearance from the Office of the City Mayor/Pollution Control Office.

As such, no shipment of sand and gravel materials shall be allowed from Ormoc City to another island without the required Shipment Clearance duly issued in accordance with this Ordinance, except, that, the required Delivery Receipt/s shall continue to support the movement or transport of sand and gravel materials from Ormoc City to any part of the province with the use of hauling truck/s in accordance with Mines Administrative Order No. MRD-27, Series of 1980.

SECTION 25. Procedures in the issuance of Shipment Clearance. - the Shipment Clearance shall be issued only after fulfillment of the following requirements:

(a) Where to apply - A duly accomplished application form for issuance of Shipment Clearance shall be filed with the Office of the City Mayor/Pollution Control Office.

(b) When to apply - No Shipment Clearance shall be issued without prior verification as to the legitimacy of the source and procedure of extraction of sand and gravel materials. As such, an application for issuance of Shipment Clearance shall be filed at least one (1) week prior to the actual loading of the sand and gravel materials from the extraction/loading area to the pier area.

(c) Application requirements - In addition to the application form, duly accomplished by the applicant or his authorized representative, an application for issuance of Shipment Clearance shall be given due course only after satisfactory compliance of the following requirements:

c.1 submission of xerox copy of the charter and/or contract between the shipper/permittee and the owner of the conveyance.

c.2 payment of Application fee P100.00 ✓



c.3 the applicant or his authorized representative shall be responsible for the transportation expenses of the technical personnel of the Pollution Control Office from official station to the area, and return as provided for under Section 147(d) of the Consolidated Mines Administrative Order, Series of 1987, as amended.

(d) Field Inspection and Verification - After completion of application requirements, the Pollution Control Officer shall cause the inspection and verification of the subject sand and gravel materials for shipment. The Inspecting Officer shall indicate his findings on the Information Sheet for Shipment Clearance which shall be submitted to the City Mayor, among others, the following informations: (a) whether the actual location/s and manner of extraction was undertaken in accordance with existing mining laws, rules and regulations and the terms and conditions of the sand and gravel permit; (b) the actual volume as scaled on site; and (c) the kind, size and quantity of sand and gravel materials subject for shipment.

SECTION 26. Issuing Officer - The City Mayor or his duly authorized representative, the Pollution Control Officer shall have the authority to issue Shipment Clearance.

SECTION 27. Duration of the Shipment Clearance - The Shipment Clearance shall be good for a maximum period of five (5) days from the date of issuance thereof or upon discharge at the port of destination, whichever comes first.


SECTION 28. Notice of Shipment - Immediately upon issuance of the Shipment Clearance for sand and gravel materials, the Office of the City Mayor/Pollution Control Office shall inform by fastest means of communication the Office of the City Mayor/Pollution Control Office at the port of destination regarding the sand and gravel shipment.

ARTICLE V COMMERCIAL PERMIT

SECTION 29. COMMERCIAL PERMIT. A commercial permit shall be issued to dispose of sand and gravel and other loose or unconsolidated materials which are taken in their natural or original state without undergoing mechanical processing. The permittee shall be entitled to extract and remove the materials covered by the permit to the exclusion of others except to holders of gratuitous permit.

SECTION 30. REQUIREMENTS. The application shall be supported by a survey plan prepared by a Licensed Geodetic Engineer, Initial Environment Examination Report, and an operational plan which shall contain a rehabilitation plan of the area applied for, when necessary.

No commercial permit shall be issued without the ECC duly validated by the CMRB or its representative.



SECTION 31. SURETY BOND. To answer for a guarantee payment for whatever actual damage that may be incurred by reason of the sand and gravel operation, the permittee shall post a surety bond in the amount of Ten Thousand Pesos (P10,000.00) with surety acceptable to the City Mayor or his Deputies.

ARTICLE VI FORESHORE PERMIT

SECTION 32. FORESHORE PERMIT. A Foreshore Permit is issued covering an offshore area beyond one hundred (100) meters from the watermark at the mean low tide extending seaward or lakeward to extract and dispose materials consisting of rounded or flattened fragments of rocks, limestone, quartz, including materials commonly known as "Wash out" or "gravitas" that have been detached from their source, carried and transported by waves and accumulated in the beds of seas and lakes.

SECTION 33. REQUIREMENTS. The application shall be supported by a survey plan prepared by a Licensed Geodetic Engineer, Initial Environment Examination Report and an operational plan.

No foreshore permit shall be issued without the ECC duly validated by the CMRB or its representative.

SECTION 34. LIMITATIONS AND CONDITIONS OF THE PERMIT. Only one (1) permit embracing not more than one (1) hectare shall be granted to an applicant.

The taking of "puka" is not covered by these rules.

The foreshore area shall be marked with vertical poles of distinct colors at the corners visible at all times above the water. Unauthorized removal or transfer of the said poles by the permittee or his agent shall be a sufficient ground for the suspension or revocation of the permit.

SECTION 35. SURETY BOND. To guarantee faithful compliance with the terms and conditions stated in the permit, a surety bond in the amount of Ten Thousand Pesos (P10,000.00) shall be posted by the applicant with surety acceptable to the City Mayor or his Deputies.

ARTICLE VI GRATUITOUS PERMIT

SECTION 36. PRIVILEGES GRANTED TO GOVERNMENT OFFICES AND INSTRUMENTALITIES. The conditions, limitations and/or requirements prescribed in this Ordinance may be suspended or dispensed with by the City Mayor or his deputies, upon recommendation of the CMRB or in cases of gratuitous permit granted to government offices/entities, or instrumentalities in need of materials for infrastructure projects.

SECTION 37. CONDITION AND LIMITATIONS. Gratuitous permits may be issued under the following conditions:

- (a) that the period of the grant shall be coterminous with the terms of the projects but not to exceed one (1) year.

- (b) that the applicant shall submit a project proposal where the materials to be taken shall be used and the estimated volume needed;
- (c) that the government offices concerned shall, whenever practicable, use and utilize its own vehicle and equipment in extracting, hauling and transporting the materials; Provided, however, that the permittee may enter into a contract with a private person/entity for the purpose of hauling and transporting such materials, contract duly approved by the City Mayor, as the case may be.
- (d) that the material authorized to be removed shall be strictly for infrastructure project and in no case shall be same to be disposed of commercially, otherwise persons responsible therefor shall be liable for prosecution under appropriate laws.
- (e) that the permittee shall submit to the City Pollution Control Division & the City Treasurer a monthly report in the prescribed form, copy furnished CMRB & CENRO.
- (f) in exceptional cases, more than one (1) permit may be granted to the applicant depending upon the volume of materials needed, project proposal, proximity, size and other factors.

SECTION 38. EXEMPTION FROM FEES. A gratuitous permittee shall not be required to pay sand and gravel fees; Provided, that delivery receipt shall be issued and carried by hauling and/or transporting vehicles.

The aforesaid conditions shall be applicable only to projects undertaken by the government under administration.

ARTICLE VII INDUSTRIAL PERMIT

SECTION 39. INDUSTRIAL PERMIT. An industrial permit covering an area of not more than eight (8) hectares for an individual and sixty-four (64) hectares for a partnership/corporation shall be issued for the removal of sand and gravel and other loose or unconsolidated materials that necessitate the use of mechanical processing.

SECTION 40. CONDITION PRECEDENT. No operation shall be allowed until after the processing machinery or crushing equipment shall have been installed by the permittee; Provided, that the permittee may enter into an operating agreement with an owner of the existing processing plant; Provided, Further, that failure of the permittee to install the required processing equipment or crushing equipment within six months from grant of the permit, may cause the revocation of the permit. Provided, Finally, that the required permits for the installation of the said processing or crushing equipment are secured from the government agency concerned prior to the installation and operation of the same.

No industrial permit shall be issued without the ECC duly validated by the CMRB or its representative.

SECTION 41. REQUIREMENTS. The application for industrial permit shall be supported by the following documents:

- a) Plan of the area duly surveyed by transit and tape by a Mineral Land Geodetic Engineer deputized by the DENR;
- b) Clearance from the government agencies concerned that may be affected by the operation, or written permission from the owner of the area applied for;
- c) Project study prepared, signed and sealed, by a registered engineer stating, among others, the nature and kind of the materials applied for, production rate, equipment and machineries to be used, estimated volume of the deposit, financing scheme, marketing, technical personnel operational, and rehabilitate plans and the economic feasibility of the proposed operation;
- d) Initial Environment Examination Report (IEE) or Environmental Impact Statement (EIS), as the case may be, and the required Environmental Compliance Certificate (ECC);
- e) Land Management Bureau/DENR certification as to whether the area is public or private property;
- f) Certification by Barangay Captain attesting to the fact of survey conducted;
- g) Proof of financial and technical capability of the applicant to develop and exploit the materials applied for and to rehabilitate excavated areas; and
- h) Written authority of the agent or representative stated in a public instrument registered with the City Pollution Control Office.

SECTION 42. SURETY BOND. To answer for a guarantee payment for whatever damages that may result in the extraction/operation, the applicant shall post a surety bond in the amount of TWENTY THOUSAND PESOS (P20,000.00) with surety acceptable to the City Treasurer and to the City Mayor.

SECTION 43. SPECIAL/TEMPORARY PERMIT. Pending approval of the permit by the City Mayor, the applicant may, upon request in writing, be granted a special permit to conduct commercial operations for a period of not more than sixty (60) days, renewable only once, subject to the terms and conditions provided therein; and Provided, further, that a written clearance from the Barangay Captain concerned is secured that such extraction is not harmful to the community.

ARTICLE VIII PENAL CLAUSE

SECTION 44. UNLAWFUL ACTS. The following shall constitute unlawful acts under this Ordinance, to wit:

1. Any extraction and removal or sale of sand and gravel and other loose and unconsolidated materials from its source without a permit duly issued;

2. Any extraction and removal or sale of materials in excess of the allowable quantity specified in the permit; and
3. Any extraction and removal or sale of materials outside the permit area.

All persons responsible for committing any of the foregoing acts shall be prosecuted for theft and penalized in accordance with the succeeding section.

SECTION 45. PENALTY. Conviction of any of the acts referred to in the preceeding section shall be subject to a fine of not less than P1,000.00 nor not more than P5,000.00, or an imprisonment of not less than one (1) month nor more than six (6) months or both at the discretion of the court upon conviction. (As provided for in the Local Government Code Sec. 516)

ARTICLE IX MISCELLANEOUS PROVISIONS

SECTION 46. RECOGNITION OF EXISTING MINING RIGHTS. All existing and valid mining claims, perfected and non-perfected registered under the provisions of Commonwealth Act No. 137, as amended, Presidential Decree No. 463, as amended, and other laws relating to mining, shall be recognized and the rights acquired thereunder respected.

SECTION 47. PREFERENTIAL RIGHT. Owners/leasees of private lands shall have the preferential right to extract and remove sand and gravel materials that may be found in their lands. Lands with imperfect title be recognized if supported by up-to-date payment of realty taxes.

SECTION 48. ABANDONED MATERIALS. Any persons desiring to dispose of abandoned materials may apply for a special permit subject to the condition that the fees corresponding to the quantity applied for shall have been paid in advance and to such other conditions that may be imposed.

SECTION 49. INSPECTION AND VISITORIAL POWER. The City Mayor and the CMRB or their duly designated representatives shall inspect and visit from time to time the operations of the permittee to find out the latter is faithfully complying with the terms and conditions of the permit or this Ordinance.

SECTION 50. FAILURE TO KEEP THE BOOKS OF ACCOUNTS AND SUBMIT MONTHLY REPORTS, ETC. Failure of the permittee, as required in this Ordinance, to keep book of accounts containing the records of transactions related to the materials removed and disposed of, or repeated failure to submit the monthly reports without justifiable reasons shall be sufficient grounds for the suspension or revocation of permit, the confiscation of the bond and forfeiture of all payments made by the permittee.

SECTION 51. REPEALING CLAUSE/PROVISION. All Ordinances, Resolutions, and Local Executive Orders related to sand and gravel, and inconsistent herewith, are hereby repealed and rendered unenforceable.

SECTION 52. SEPARABILITY CLAUSE. Any portion, Articles, or provisions of this Ordinance be declared unconstitutional, ultra vires or invalid, said declaration shall not have the effect of nullifying other portions and provisions hereof as long as such remaining portions or provisions can still subsist and be given effect in their entirety.

SECTION 53. EFFECTIVITY. In conformity with Section 511 of the Local Government Code of 1991 this Ordinance shall be posted at prominent places in the City Hall for a period of three (3) consecutive weeks after which this Ordinance shall become effective.

ENACTED: December 8, 1994.

RESOLVED, FURTHER, to furnish copies of this Resolution Ordinance, one each, to His Honor, the City Mayor; the City Administrator, the City Legal Officer, the City Prosecutors Office, the City Treasurer, the City Auditor, the City Engineer, the Regional Trial Court, the Municipal Trial Court in Cities (MTCC), the PNP Chief Inspector, the CENRO- Ormoc Office, and others concerned, -all in Ormoc City;

CARRIED UNANIMOUSLY.

I HEREBY CERTIFY to the correctness of the foregoing Resolution-Ordinance.

BENJAMIN F. TUGONON
Vice-Mayor & Presiding Officer

ATTESTED:

for *for* *for*
OSCAR P. LASAM
City Secretary 12/12/94

APPROVED:

EUFROCINO M. CODILLA, SR.
City Mayor

12/12/94
(Date)

REPUBLIKA NG PILIPINAS
SANGGUNIANG PANLUNGSOD
LUNGSOD NG ORMOC

26 DEC. 1994 10:55 AM
RECEIVED
GEORGE CITY

EXCERPT FROM THE MINUTES OF THE REGULAR SESSION OF THE SANGGUNIANG PANLUNGSOD NG ORMOC HELD AT THE HONORABLE PLACIDO ENECIO SESSION HALL, SANGGUNIANG PANLUNGSOD BUILDING ON DECEMBER 23, 1994 IN LIEU OF DECEMBER 22, 1994

SANGGUNIANG PANLUNGSOD NG ORMOC
RECEIVED
DATE: 12-27-94
BY: [Signature]
LUNGSOD NG ORMOC

PRESENT:

Hon. Benjamin F. Tugonon,	Vice-Mayor & Presiding Officer
Hon. Sotero M. Papito,	Majority Floor Leader, Kagawad
Hon. Celso P. Adolfo,	Kagawad
Hon. Sixto T. Pongos,	Kagawad
Hon. Benjamin B. Lladoc,	Kagawad
Hon. Mariano Y. Corro,	Kagawad
Hon. Nestor C. Penserga,	Kagawad
Hon. Claudio P. Larrazabal,	Kagawad
Hon. Jose C. Alfaro, Jr.,	Kagawad
Hon. Alfredo F. Capahi,	Kagawad
Hon. Fernando P. Parrilla,	ABC President, Ex-Officio, Kagawad
Hon. Angelyn R. Paca,	SK Fed. Pres., Ex-Officio, Kagawad

ABSENT:

Hon. Jose B. Conejos, (On Leave), Asst. Maj. Floor Leader, Kagawad

RESOLUTION NO. 232

WHEREAS, Section 336 of Republic Act No. 7160, otherwise known as the "Local Government Code of 1991" has provided (in part) as follows:

"X X X, the local chief executive or the presiding officer of the sangguniang 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."

WHEREAS, pursuant to the above and, "in order not to delay the flow of transactions in our respective offices", the Honorable City Mayor, through a letter dated 18 November 1994, has requested the Honorable Sangguniang Panlungsod for authority to effectively enforce the said provision of law;

WHEREAS, the City Legal Officer, through 3rd Indorsement dated 2 December 1994, has made the following comments:

"Respectfully returned X X X with the comment that pursuant to the cited Sec. 336 of the Local Government Code, the same may be effected by the Sangguniang Panlungsod (through) passing an ordinance granting general authority to the incumbent City Mayor or the Presiding Officer of the SP (and successors) which will become their basis 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."

WHEREFORE, foregoing premises considered, on motion of Kagawad Alfredo F. Capahi, Chairman, Committee on Finance, duly seconded by mga Kagawad Benjamin B. Lladoc and Fernando P. Parrilla; be it

RESOLVED, to adopt:

ORDINANCE NO. 94-48

AN ORDINANCE AUTHORIZING THE CHIEF EXECUTIVE AND THE VICE-MAYOR TO APPROVE REQUESTS FOR AUGMENTATION AND/OR TRANSFER OF ANY ITEMS FROM SAVINGS WITHIN THE SAME EXPENSE CLASS OF THEIR RESPECTIVE APPROPRIATIONS PURSUANT TO SECTION 336 OF THE 1991 LOCAL GOVERNMENT CODE.

BE IT ORDAINED, by the Sixth Sangguniang Panlungsod ng Ormoc,

That:

SECTION 1. Importance. This Ordinance speeds up the flow of transactions in offices and a time saving device.

SECTION 2. That pursuant to the provisions of Section 336 of Republic Act 7160, otherwise known as the Local Government Code of 1991, the Chief Executive and the Vice Mayor of Ormoc City, are hereby 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 3. Effectivity. This Ordinance shall take effect immediately upon its approval.

ENACTED, December 23, 1994.

RESOLVED, FURTHER, to furnish copies of this Resolution-Ordinance each to His Honor, the City Mayor; all Department Heads, -all in Ormoc City.

CARRIED by Ten (10) Affirmative votes with One (1) Abstention registered by Kayawa Sixto T. Pongos.

I HEREBY CERTIFY the correctness of the foregoing Resolution-Ordinance.

BENJAMIN TUGONON
Vice-Mayor & Presiding Officer

ATTESTED:

OSCAR LASAM
City Secretary

APPROVED:

EUFROCINO M. CODILLA, SR.
City Mayor

12/22/94
(Date)