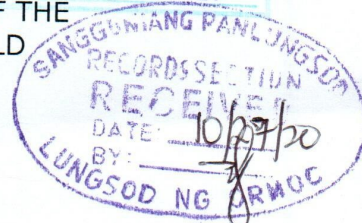
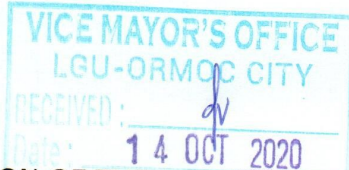


SANGGUNIANG PANLUNGSOD  
LUNGSOD NG ORMOC

EXCERPT FROM THE MINUTES OF THE REGULAR SESSION OF THE  
FIFTEENTH SANGGUNIANG PANLUNGSOD NG ORMOC HELD  
AT THE SANGGUNIANG PANLUNGSOD SESSION HALL,  
ORMOC CITY HALL BUILDING  
ON OCTOBER 13, 2020



PRESENT:

Leo Carmelo L. Locsin, Jr.  
Benjamin S. Pongos, Jr.,  
Roiland H. Villasencio,  
Tomas R. Serafica,  
Nolito M. Quilang,  
Eusebio Gerardo S. Penserga,  
Jasper M. Lucero,  
Peter M. Rodriguez,  
Vincent L. Rama,  
Gregorio G. Yrastorza III,  
Lalaine A. Marcos,  
Esteban V. Laurente,

City Vice Mayor & Presiding Officer  
SP Member, Majority Floor Leader

SP Member

SP Member

SP Member

SP Member, Asst. Majority Floor Leader

SP Member

SP Member

SP Member

SP Member

SP Member

Ex-Officio SP Member, Chapter President,

Liga ng mga Barangay ng Ormoc

Joan Marbie C. Simbajon,

Ex-Officio SP Member, Chapter President,

Panlungsod na Pederasyon ng mga Sangguniang Kabataan ng Ormoc

**PREFATORY STATEMENT**

Ordinance No. 94-47 entitled, "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", was signed into law on December 13, 1994.

A significant number of years have already passed since the enactment of Ordinance No. 94-47, there is a need to update said Ordinance to ensure environmental protection in this time and day.

NOW, THEREFORE, on motion of SP Member Lalaine A. Marcos, Chairman, Committee on Environment, Natural Resources & Energy Conservation, severally seconded by SP Members Tomas R. Serafica, Esteban V. Laurente, Joan Marbie C. Simbajon, Peter M. Rodriguez, Jasper M. Lucero and Gregorio G. Yrastorza III; be it

RESOLVED, to enact:

**ORDINANCE NO. 043  
(Series of 2020)**

**AN ORDINANCE PRESCRIBING POLICIES AND GUIDELINES  
TO ENSURE ENVIRONMENTAL PROTECTION AND  
RESPONSIBLE MINING ACTIVITIES, AMENDING, FOR THE  
PURPOSE, ORDINANCE NO. 94-47, AND FOR OTHER  
PURPOSES.**

Be it enacted by the Fifteenth Sangguniang Panlungsod ng Ormoc in Regular Session assembled:

**SECTION 1.** There is hereby an open season for Sand and Gravel activities. Accordingly, there shall be incorporated into Article II of Ordinance No. 94-47, a new section to be known as Section 2-A, to read as follows:



"Section 2-A. **Open season for Sand and Gravel only mining activities.** Commercial or Industrial Sand and Gravel shall be undertaken only during open season for mining, which shall fall on the months of January to March and from October to December of every year. Provided that the City Mayor, with the recommendation of the City ENRO, and approval of the City Mining Regulatory Board (CMRB), may amend the periods for open season; provided further, that there shall be a maximum of six (6) months in any given calendar year where mining operation/activity shall be allowed. Provided, furthermore, that after typhoons and/or torrential rains, mining activity may be allowed for a period of not more than five (5) days and over a volume prescribed, by the City Mayor, upon recommendation of the ENRO that sediment management is required brought about by the weather disturbance: provided, finally, that extraction shall be made pursuant to an effective river management and rehabilitation plan approved by the ENRO and subject to implementing guidelines issued by the City Mayor."

**SECTION 2.** There are hereby set areas which shall remain closed to mining activities, whether on private or public land. Accordingly, there shall be incorporated into Article II of Ordinance 94-47, a new section to be known as Section 2-B, to read as follows:

"Section 2-B. **Areas closed to mining activities.** In addition to the areas enumerated in RA 7942 and its implementing rules and regulations, the following areas within Ormoc City are declared closed to any form of mining activity:

- (a) For sand and gravel operations, if outside the river system;
- (b) Old growth or virgin forests, proclaimed watershed forest reserves, wilderness areas, mangrove forests, mossy forests, national parks, provincial/municipal forests, tree parks, greenbelts, game refuge, bird sanctuaries and areas proclaimed as marine reserves/marine parks and tourist zones;
- (c) Protected areas categorized and established under the National Integrated Protected Areas System (NIPAS) under RA No. 7586;
- (d) River tributaries with an elevation above one hundred (100) meters above sea level along steep slope and gorges that are susceptible to flooding and landslide;
- (e) Inland bodies of water less than five (5) meters in width or can be classified as a stream, creek, or brook;
- (f) Anilao, Malbasag and Pagsangahan River where majority of the residential areas are located and serve as major drain to Ormoc Bay, unless for the purpose of rehabilitation, dredging and desilting.

**SECTION 3.** A mineral processing permit shall be required for operators of mineral processing plants without industrial quarry/sand and gravel permits. Accordingly, there shall be incorporated into Section 3, Article III of Ordinance 94-47, a new subsection to be known as Section 3. (f), to read as follows:

"Section 3. (f). **Mineral Processing Permit (MPP).** No person shall engage in the processing of minerals without first securing a MPP as clarified in MGB Memorandum Circular No. 2017-02 and MGB Memorandum Circular 2019-001. Any qualified person, corporation, partnership, association and cooperation may apply for a Mineral Processing Permit to the Mines and Geosciences Bureau (MGB) Regional Office VIII (RO VIII), for mineral and non-mineral reservation areas following the mandatory requirements in Section 110 of DAO No. 2010-21 and aforesaid issuances. MPP shall be required prior to the issuance of Business Permits to mineral processors."



**SECTION 4.** The use of backhoes, excavators, and trucks with more than 26,000kg (26 MT) or trucks with an axle load of more than 8,500 kg (8.5 MT) for transporting mineral resources; excavations more than one (1) meter in depth; annual extractions of volumes more than twenty thousand (20,000) cubic meters, are hereby prohibited.

Accordingly, there shall be incorporated into Section 9 of Article III of Ordinance 94-47 new subsections (l), (m), (n), and (o), to read as follows:

"Section 9. Xxx

Xxx

- (l) The use of backhoes and excavators in sand and gravel mining operations in river systems within the city's jurisdiction is prohibited;
- (m) The extraction of materials shall be limited to a depth of one (1) meter ONLY and shall only be done by scraping. Digging holes is strictly prohibited;
- (n) The use of ten-wheeler trucks and above in all roads within the jurisdiction of Ormoc City with a Gross Vehicle Weight (GVW) of more than 26,000 kg (26 MT) or trucks with an axle load of more than 8,500 kg (8.5 MT) for transporting mineral resources shall be prohibited. For this purpose, and upon effectivity of this ordinance, all vehicles used in mining operations shall be registered with the ENRO;
- (o) The maximum annual volume for extraction allowed shall not be more than twenty thousand (20,000) cubic meters.

**SECTION 5.** To answer for and guarantee payment for whatever actual damages that may be incurred by operations made pursuant to permits issued under Ordinance 94-47, a cash bond shall be posted by the applicants, except for those applying for gratuitous permits.

Accordingly, Section 31 of Article V, Section 35 of Article VI, and Section 42 of Article VII, are hereby repealed, and Section 13 of Article III is hereby amended to read as follows:

"Section 13. **Rehabilitation of excavated areas in public and private lands.** Holders of permits covering public and private lands shall rehabilitate the excavated area to a condition suitable for agriculture or other economic activities. To answer for and guarantee payment for whatever actual damages that may be incurred by operations made pursuant to permits issued under Ordinance 94-47, a cash bond for Three Hundred Thousand Philippines Pesos (Php300,000.00) per hectare, or a fraction thereof, OR 10% of the total project cost indicated in the work program, whichever is higher, shall be posted by the applicants, except for those applying for Gratuitous Permits. The cash bond shall be confiscated if, after due process, the permit holder is found to have violated the pertinent provisions of this ordinance. The City ENRO shall draft the procedures for observance of due process and confiscation of bonds, subject to the approval of the City Mayor.

**SECTION 6.** For the purpose of monitoring and evaluation of the permitted areas, and hearing and deciding on forfeiture of bond for violations and environmental damage assessment, a City Mining Monitoring and Adjudicatory Committee (CMMAC) is hereby constituted. Accordingly, there shall be incorporated into Article III of Ordinance 94-47a new section, to be known as Section 13-A, to read as follows:



"Section 13-A. City Mining Monitoring and Adjudicatory Committee.

- (a) For purpose of monitoring and evaluation of the permitted areas, and hearing and deciding on forfeiture of bond for violations and environmental damage assessment, a City Mining Monitoring and Adjudicatory Committee shall be formed by the City Mayor composed of representatives of the following:

Chairperson : City Mayor

Vice-chairperson: City Environment and Natural Resource Officer (City ENRO)

Members : Representative, City Agriculture Office (CAO)  
Representative, City Engineering Office (CEO)  
Representative, City Assessor's Office (CAO)  
Representative, Community Environment and Natural Resource Office (DENR-CENRO)  
Representative, Department of Public Works and Highways (DPWH)  
Representative, National Irrigation Administration (NIA)  
Representative, Philippine National Police (PNP)  
Representative, Environmental Non-government Organization (NGO)  
One Barangay Official of covered permit area

The City Mayor may appoint such other member deemed necessary to achieve herein purpose.

- (b) Functions. The CMMAC shall have the following functions:

- i. Accept, and evaluate permit holders' mining operations report;
- ii. Consolidate stockpile assessment reports, delivery receipts, and related documents for purposes of local quarry tax assessment, and furnish copy thereof to the Bureau of Internal Revenue;
- iii. Conduct inspection of permit areas to evaluate compliance to rehabilitation and environmental protection plans proposed during application, and to environmental clearance certificate conditions;
- iv. Accept and investigate complaints against mining operations for appropriate action;
- v. Such other function as the City Mayor may direct, in furtherance of this, and related ordinance, and rules/issuances.

- (c) Committee Secretariat. The ENRO-Mining Management Section Head shall serve as the secretariat of the CMMAC. The secretariat shall:

- i. Accept, process, and submit mining permit applications for deliberations;
- ii. Accept reports on mining operations of permit holders;
- iii. Consolidate and inventory compliant and non-compliant permit holders, for endorsement on proper administrative sanctions;
- iv. Take custody of database on mining operation reports and assessments;
- v. Assist CMMAC members during deliberation on monitoring results, complaints, apprehension, and damage assessment.



**SECTION 7.** All vehicles transporting materials covered in this Ordinance, including, but not limited to sand, gravel, ordinary earth, and boulders, shall be completely covered with canvass or other similar strong materials. Accordingly, Section 23 of Article III is hereby amended to read as follows:

"Section 23. To Require Covering of the Vehicle Transporting Soil, Gravel, etc. All vehicles transporting materials covered in this Ordinance, including, but not limited to sand, gravel, ordinary earth, and boulders, shall be completely covered with canvass or other similar strong materials, to the end that no material shall of any amount shall fall or be displaced from subject vehicle during transport."

**SECTION 8.** The violation of any of the provisions of Ordinance No. 94-47, as amended hereby and orders issued by the City Mayor as conditions of the permit, shall have a uniform penalty. Accordingly, penalties imposed under Section 23 of Article III are hereby repealed, and Section 45 of Article VIII of Ordinance 94-97, is hereby amended, to read as follows:

"Section 45. **Penalties.** All violations of Ordinance No. 94-47, as amended, and violations of order and conditions of the permit issued by the City Mayor, shall be punishable by imprisonment of six (6) months to one (1) year AND a fine of Five Thousand Philippine Pesos (Php5,000.00) upon conviction by the proper court. However, the violator may opt to pay an administrative fine of Five Thousand Philippine Pesos (Php5,000.00) for every act constituting a violation thereof, except in cases of theft of minerals, as defined in Republic Act No. 7942, otherwise known as the Philippine Mining Act, which shall be prosecuted under said law.

Violators who opt to pay an administrative fine shall directly pay to the Office of the City Treasurer by presenting the citation ticket issued by the PNP and/or Deputized Law Enforcement agencies or body or personnel within three (3) days from the date of apprehension. After the lapse of three (3) days from the date of apprehension without payment of the administrative fine to the Office of the City Treasurer, a case shall be filed against the violator in court.

The imposition of penalties and fines herein shall not preclude the suspension and/or revocation of permits issued pursuant to the Ordinance, after due process."

**SECTION 9.** A special account shall be created for purposes of this Ordinance. Accordingly, there shall be incorporated into Article III of Ordinance 94-47, a new section to be known as Section 17-A, to read as follows:

"Section 17-A. **Establishment of Special Account.** All monies paid for purposes of satisfying judgment upon conviction of herein Ordinance, including settlement of administrative fines, and forfeiture of cash bond, shall be placed in a special environmental fund, for use of monitoring and management of affected mining areas and surrounding environment."

**SECTION 10. APPROPRIATION.** The funds to be utilized for purposes of implementing this Ordinance shall be taken from the current year's appropriation for the Environment and Natural Resources Office.

**SECTION 11. IMPLEMENTING GUIDELINES.** The Environment and Natural Resources Office, in coordination with BPLO, IT, CTO, shall establish Implementing Rules and Regulations for this mining ordinance, as amended, within sixty days from approval of this Ordinance.



**SECTION 12. REPEALING CLAUSE.** Any provision, ordinance, rule, regulation, order, resolution, or part thereof inconsistent with the provisions of this Ordinance is hereby repealed.

**SECTION 13. SEPARABILITY CLAUSE.** - If any part, Section, or provision of this Ordinance is declared invalid or unconstitutional, the other parts thereof not affected thereby shall remain valid.

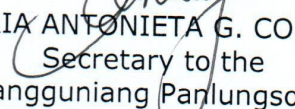
**SECTION 14. EFFECTIVITY.** - This Ordinance shall take effect ten (10) days after completion of its posting, and publication in a newspaper of local general circulation.

ENACTED, October 13, 2020.


RESOLVED, FURTHER, to furnish copies of this of Ordinance one each to the City Mayor Richard I. Gomez, the City Administrator; the City Legal Officer; the City Treasurer; the City Auditor; ENRO; the City Agriculture Office; the City Engineering Office; the City Assessor's Office; DENR-CENRO; DPWH; NIA; PNP; BPLO; IT; City Treasurer's Office; the City Prosecutor; the Municipal Trial Court; MGB - Regional Office VIII; the City Local Government Operations Officer-DILG; and other offices concerned.

CARRIED by Eleven (11) Affirmative Votes with One (1) Inhibition registered by SP Member Roiland H. Villasencio.


I HEREBY CERTIFY to the correctness of the above ordinance.

  
MARIA ANTONIETA G. CO HAT  
Secretary to the  
Sangguniang Panlungsod

ATTESTED:

  
LEO CARMELO L. LOCSIN, JR.  
City Vice Mayor & Presiding Officer

APPROVED:

  
RICHARD I. GOMEZ  
City Mayor

27 OCT 2020

(Date)