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Excerpt from the Minutes of the 60th Regular Session of the Sixteenth Sangguniang Panlungsod held on August 22, 2023 at the Sangguniang Panlungsod Session Hall, 3rd Floor, Ormoc City Hall Building, Cogon Ormoc City, Leyte.

ORDINANCE NO. 124
Series of 2023

**AN ORDINANCE ESTABLISHING THE ORMOC CITY
MINING CODE OF 2023**

Authored by: SP Member LALAINA A. MARCOS

EXPLANATORY NOTE

Ormoc City is favored to have high-quality mineral resources ranging from its rivers for sand and gravel and to its mountains for quarry or filling materials. Reality also shows that it is a boon, yes, but also a bane; a blessing yet a curse. It has lined the pockets of a few with millions, even billions, but it has also caused countless damage to communities, impoverished farmers, fishermen and the ordinary people, and has destroyed the environment.

Our laws state that mineral resource exploration, development, utilization and conservation shall be governed by the principle of sustainable mining, which provides that the use of mineral wealth and shall be pro-environment and pro-people in sustaining wealth creation and improved quality of life.

It shall also be the responsibility of the State to promote the rational exploration, development, utilization and conservation of the mineral resources through the combined efforts of the Government, both national and the Local Government Units, and private sector in order to enhance national growth in a way that effectively safeguards the environment and protects the rights of affected communities.

These statements are music to the ears. The reality, however, is different. The "pro-environment" and "pro-people" protection that these laws seek to impose is not happening. Instead, it has become pro-business and only that, with the national agencies that we hope could regulate the rape of our resources inutile to do so.

Many times, since 2017, the LGU of Ormoc City has sought to dialogue with these businesses, seeking a win-win solution that would balance the interests of business, the community and protect the environment. To no avail. The rape of Ormoc's rivers and mountains continued, as businessmen tried to fill the increasing demand of soil, sand and gravel for reclamation and filling materials, and a construction boom due to the Build-Build-Build policy of the national government.



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On the ground, however, communities suffered. Contrary to efforts to increase rice productivity, rice farmers had to sell their lands to the SAG businesses because their irrigations were destroyed. Ironically, the "build-build-build" mania destroyed what it sought to build like irrigations dams and canals. A newly constructed Php 100-million road leading to Ormoc's lone golf course did not last long, as truckloads of mineral resources passed through it, day and night. Calls by then Ormoc Mayor Richard I. Gomez for the involved businessmen to put alternative access roads beside the rivers being extracted fell on deaf ears. An alternative access road, in the eyes of these parties, was after all the very mineral they sought to make money from, even export to Cebu City and from some accounts, Singapore. Calls for river rehabilitation would always hit a wall.

To compare the revenues raised from the industry to the coffers of the LGU versus the damage it has done, records obtained from the City Treasurer's Office show that:

TAX ON SAND AND GRAVEL AND MOUNTAIN QUARRY RESOURCES (60%) FOR 2014-2023									
2014	2015	2016	2017	2018	2019	2020	2021	2022	2023 (as of 2nd Quarter)
2,587,733.40	3,966,362.52	4,570,427.76	10,571,835.90	16,656,816.00	15,464,533.20	8,087,536.20	8,985,917.37	19,426,458.67	834,608.00

Note: Displayed revenue represents only 60% of the total amount. The remaining 40% is allocated to the respective barangay where the quarry resources were extracted.

On December 2019, no less than the DENR itself sent the LGU a copy of a comprehensive report on the state of the industry and how it was affecting the environment. Aside from confirming the wanton rape of resources and other violations, they even told the sad story of only two out of 10 giant clams surviving in the Macabug fish sanctuary which is already deeply silted. However, no concrete action was ever taken by the same agency.

To mitigate the situation, Ordinance No. 43 entitled "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" was passed in 2020 to amend Ordinance 94-97 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" and to put more teeth into the regulation of the SAG/Quarry industry. It sought to empower the LGU and its Environment and Natural Resources Office (ENRO) to help in regulating it by introducing an "open and closed season" for extraction activities; limit the areas in the river where concessions can be applied for; protect some river systems from SAG applications; put a cap on how much can be extracted in a year; prohibiting the use of backhoes and excavators; even limiting the tonnage of the trucks carrying the materials so as to protect our barangay, city and national roads.



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To enforce Ordinance No. 43 and gather a baseline, the ENRO with the technical assistance of the MGB, conducted an inventory of all businesses involved in sand-and-gravel and quarrying. Concession areas, their stockyards and crushing plants were inspected. Everybody was found to have violated every rule in the book. Their crushing plants didn't have building permits, their wastewater and sludge ponds were a joke, and glaringly, all exceeded their extraction limits as found in their Environmental Compliance Certificates (ECC). Some, if not most, were even operating without business permits.

Nonetheless, the Gomez administration sought to be benevolent against these violators by giving them the opportunity to pay their over-extracted stockpiles and apply for new permits, on the condition that they rehabilitate the river. Except for a few, the mayor's appeal was merely given lip service.

The ordinance also sought to fill in the gap of the inability of the Department of Environment and Natural Resources (DENR), through its line agencies like the Mines and Geo-Sciences Bureau (MGB) and the Environmental Management Bureau (EMB), to discipline and regulate the industry. This inability was monumental that on April 19, 2022, the majority of Sangguniang Panlungsod members of Ormoc City had to pass a resolution seeking the help of the Ombudsman to investigate the MGB in its inaction against two businessmen who were involved in the industry.

These series of unfortunate events have led incumbent Mayor Lucy Torres-Gomez to seek the repeal of Ordinance No. 43, Series of 2020 and for the SP to craft a new Mining Code that would put the sole responsibility of governing and regulating our SAG and Quarry industry within the power of the LGU.

This is in consonance to the provision of the Philippine Constitution that The Constitution of the Philippines contains five references to the general welfare: "The maintenance of peace and order, the protection of life, liberty, and property, and promotion of the general welfare are essential for the enjoyment by all the people of the blessings of democracy."

Section 16 of RA No. 7160 or the Local Government Code of 1991 states under the General Welfare Clause that "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."

Furthermore, we draw inspiration from the Supreme Court ruling in Oposa vs. Factoran (GR No. 101083) that imposes on the government and the people itself the principle of "intergenerational responsibility." It is an intergenerational responsibility to maintain a clean environment, meaning each generation has a responsibility to the next to preserve that environment, and children may sue to enforce that right on behalf of both their generation and future generations.

In the case of Ormoc, it is our responsibility to take matters into our hands, protect our rivers, mountains and rivers from the greed of men, and in doing so, protect the people and their future children, preserve our resources for their use today and the future, restore food production and sustainability, and even protect the health of our communities.



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In addition, Section 138 of Republic Act No. 7160 also authorizes cities to levy and collect tax on Sand, Gravel and Other Quarry Resources which is vital for the progress of the communities and projects in the City of Ormoc.

A public hearing was conducted last July 21, 2023 in Brgy. Can-untog, Ormoc City in compliance with the legal requirement under the Local Government Code of 1991.

BE IT ORDAINED by the 16th Sangguniang Panlungsod of Ormoc City, that:

ARTICLE I
GENERAL PROVISIONS

SECTION 1. TITLE. This Ordinance shall be known as the **Ormoc City Mining Code of 2023.**

SECTION 2. SCOPE. The provisions of this Ordinance shall apply to all persons engaged in the extraction and/or removal of non-metallic minerals in private and public lands and the disposition thereof, including entities engaged in business involving non-metallic minerals within the territorial jurisdiction of Ormoc City.

SECTION 3. DEFINITION OF TERMS. – unless otherwise specified, the terms and phrases used in this ordinance shall have the following meaning:

Bureau	-	shall refer to the Mines and Geo-Sciences Bureau Regional Office 8 of the Department of Environment and Natural Resources Office;
Boulders	-	are fragments of rocks which are retained on a 75mm 3 in. U.S. standard mesh sieve;
Director	-	shall refer to the Director of the Mines and Geo-Sciences Bureau Regional Office 8;
Extraction	-	shall mean the act or processing of taking, excavating, and removing;
Gravel	-	shall mean particles of rocks passing 75mm sieve;
Mining Operations	-	mean mining activities involving exploration, feasibility study, development and utilization;
Non-metallic Minerals	-	refers to a mineral usually having a dull luster, generally light-colored, transmits light, usually giving either colorless or light-colored streak from which a nonmetallic element/component can be extracted/utilized for a profit;
Ordinary Earth	-	shall mean ordinary soil (<i>lupa</i>);
Permit	-	refer to commercial, gratuitous, industrial, quarry and special permits issued under this Ordinance;



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Permittee	-	refer to a person to whom a mining permit is issued under this Code;
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;
Public Lands	-	refer to the portion of public domain to which title is vested in the Government;
Public Waters	-	refer to bodies of waters belonging to the public domain such as but not limited to seas, bays, lakes, ponds, creeks, streams, rivers, and swamps;
Quarry Materials	-	limestone that is primarily composed of calcium carbonate that contains amount of clay and silt; also known as "buga" or filling materials;
River Bed	-	bed of creeks, streams, brooks, etc., the ground covered by water during its highest flood without causing inundation;
Sand	-	shall refer to particles of rocks passing 2mm sieve.

ARTICLE II
TAKING AND DISPOSAL OF MINERALS

SECTION 4. PERMIT TO EXTRACT AND DISPOSE OF MINERALS. No person, corporation, partnership, or government entity/instrumentality shall be allowed to take and dispose of minerals from public or private lands unless authorized by a permit issued in accordance with this Ordinance.
Agendum No. 2023-305

SECTION 5. 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. And *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 by the City Mayor.



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SECTION 6. AREAS CLOSED TO MINING ACTIVITIES. There are hereby set areas which shall remain closed to mining activities, whether in private or public land. In addition to the areas enumerated in R.A. 7942 and its implementing rules and regulations, the following areas within Ormoc City are declared closed to any form of mining activity:

- For sand and gravel operation, if outside the river system;
- 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;
- Protected areas categorized and established under the Expanded National Integrated Protected Areas System (NIPAS) under R.A. No. 11038;
- 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;
- Inland bodies of water less than five (5) meters in width or can be classified as a stream, creek or brook;
- Anilao, Malbasag and Pagsangahan River where majority of the residential areas are to be located and serve as major drain to Ormoc Bay, unless for the purpose of rehabilitation, dredging and desilting.

SECTION 7. CONDITIONS ON THE USE OF EQUIPMENT AND EXTRACTION DURING MINING OPERATION.

- The use of backhoes and excavators with more than 26,000kg (26 MT) in sand and gravel mining operations in river systems within the city's jurisdiction is hereby prohibited;
- The extraction of materials shall be limited to a depth of one (1) meter ONLY and shall be done by scraping. Digging of holes shall be strictly prohibited;
- 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 26,000kg (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 ENRO; and
- The maximum annual volume of extraction allowed shall not be more than twenty thousand (20,000) cubic meters.

SECTION 8. COVERING OF VEHICLE TRANSPORTING SOIL, GRAVEL AND OTHER MINERAL RESOURCES. 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 fall or be displaced from the subject vehicle during transport.



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SECTION 9. REGISTRATION AND ISSUANCE OF CAR STICKER TO VEHICLES TRANSPORTING SAND, GRAVEL AND OTHER MINERAL RESOURCES. All vehicles engaged in the transportation of sand, gravel and other mineral resources shall be registered with ENRO and shall be issued car stickers. The issuance of car stickers is subject to the following fee:

Car Sticker Fee	Php 100.00
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The car sticker shall serve as proof of compliance and shall be prominently displayed on the registered vehicles at all times. The validity of the car sticker shall be coterminous with the duration of the issued permit.

SECTION 10. LIMITATION ON AREAS COVERED BY MINING PERMITS. All applications for mining permits within the territorial jurisdiction of Ormoc City shall be limited only to a total area of not more than five (5) hectares.

**ARTICLE III
ISSUANCE OF PERMITS**

SECTION 11. KINDS OF PERMITS ISSUED. – 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 lands and is granted for a period of not more than one (1) year, renewable for the same period;
- B. **GRATUITOUS PERMIT** – shall be granted to any government entity/instrumentality or any private individual 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. The following are two types of gratuitous permit application:
 1. **Government Gratuitous Permit** – any government entity/instrumentality in need of quarry, sand and gravel or loose/unconsolidated materials in the construction of building(s) and/or infrastructure for public use or other purposes may apply for a Government Gratuitous Permit with the City Mayor, through the City ENRO, for a period coterminous with the project but not to exceed one (1) year in public lands covering an area of not more than two (2) hectares. The applicant shall submit a project proposal stating where the materials to be taken shall be used and the estimated volume needed.
 2. **Private Gratuitous Permit**



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- i. MOUNTAIN SOIL - Any landowner may apply for a Private Gratuitous Permit with the City Mayor through the recommendation of City ENRO for the extraction, removal and utilization of quarry or loose unconsolidated materials from his/her land for a non-renewable period of sixty (60) calendar days and not to exceed fifty (50) cubic meters: Provided, that there is adequate proof of ownership and that the materials shall be for personal use.
- ii. SAND AND GRAVEL - Any person may apply for a Private Gratuitous Permit with the City Mayor through the recommendation of City ENRO for the extraction, removal and utilization of sand and gravel materials for a non-renewable period of thirty (30) calendar days and not to exceed twenty (20) cubic meters: Provided, that the materials requested shall be for personal use.
- C. INDUSTRIAL PERMIT - shall be issued to any qualified person for the extraction, removal and disposition of sand and gravel and other loose or unconsolidated materials that necessitate the use of mechanical processing. This shall cover an area not exceeding five (5) hectares in public waters and is granted for a period of five (5) years, renewable for a series of five-year periods but not to exceed a total term of twenty-five (25) years;
- D. QUARRY PERMIT - shall be issued to any Qualified Person for the extraction, removal and disposition of quarry resources covering an area of not more than five (5) hectares, and a production rate of not more than twenty thousand (20,000) cubic meters annually and/or whose project cost is not more than Ten Million Pesos (PhP10,000,000.00), for a term of five (5) years from the date of issuance thereof, renewable for like periods but not to exceed a total term of twenty-five (25) years:
- E. SPECIAL PERMIT TO DISPOSE - shall be issued to those applying to dispose of materials covered by this Ordinance abandoned by the mining operators/private contractor in the course of the operation/construction and those applying for disposal after the expiration of the validity of the extraction permit, except for all gratuitous permit.
- For purposes of this Ordinance, materials shall be considered as abandoned when the operator has ceased any operations for two (2) consecutive years; and

SECTION 12. 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;



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- 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 by the head of the agency or any other authorized person; and
- d) Financially and technically capable with no records of any violations committed and not convicted by the court or penalized by any administrative body in relation to the provisions of this Code, of R.A. 7942 and its Implementing Rules and Regulations (IRR).

The applicant/permittee may be represented by any other person in applying for or renewing a permit provided that the latter's authority is contained in a public instrument duly registered with the Environment and Natural Resources Office.

SECTION 13. FILING AND REGISTRATION FEES. All applications/renewals and other related documents shall be filed and registered with the City ENRO. The prescribed application forms and other related documents are available at said office. The following charges shall be paid upon filing and/or registration of application for mining permits:

(1) Commercial Permit	Php 5,000.00
(2) Industrial and Quarry Permit	Php10,000.00
(3) Special Permit to Dispose	Php 5,000.00
(4) Temporary Permit	Php 5,000.00
(5) Government Gratuitous Permit	Php 50.00
(6) Private Gratuitous Permit	Php 100.00
(7) Deed of Assignments/Transfer, Special Power of Attorney and other registrable documents	Php 100.00
(8) Shipment Clearance Application Fee	Php6,000.00

SECTION 14. TAX ON SAND, GRAVEL AND OTHER QUARRY RESOURCES. - Any person who extracts sand, gravel, earth and other quarry resources from public and private lands within the territorial jurisdiction of Ormoc City shall pay an ad valorem tax of 10% based on the fair market value in the locality per cubic meter, of the aforementioned products extracted. This ad valorem tax, except for gratuitous permits, holders of other permits under this Ordinance, shall be paid in advance before any extraction activity, based on the determined and approved allowable volume.

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

The volume of extracted materials allowed for exportation shall be subject to an Executive Order (EO) upon the recommendation of the City ENRO.

SECTION 15. TAX PROCEEDS. - The proceeds of the tax on sand, gravel and other quarry resources shall be distributed as follows:

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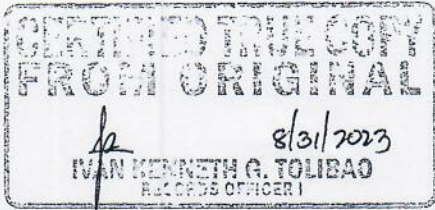
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1. 60 percent (60%) to the City Government of Ormoc where the sand, gravel, and other quarry resources are extracted, and
2. 40 percent (40%) to the Barangay/s where the sand, gravel, and other quarry resources are extracted

The share of each barangay shall be released without need of any further action, directly to the barangay fund on a quarterly basis within thirty (30) days after the end of each quarter.

SECTION 16. TERMS AND CONDITIONS OF A MINING 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 may be 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 the Mining Leases unless the prior authority of the licensee/permittee or lease 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 and 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 representatives shall post a copy of the Permit at the place of removal or taking of materials and make available at all times for inspection, monitoring or examination by any representative of the City Mayor, CMRB, Environment and Natural Resources Office, and the City Treasurer;
- i) The Permittee shall keep a book of accounts wherein there shall be entered every day the quantity and kind of materials removed from the area covered by the permit, the fees paid therefore 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, Environment and Natural Resources Office and the City Treasurer;



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- j) The Permittee shall within ten (10) days after the end of each calendar month, submit to the Environment and Natural Resources Office, copy furnished the Regional Director of the Mines and Geosciences Bureau Region 8 copies of sworn monthly reports stating the quantity and kinds of materials removed or taken by the Permittee, 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 as prescribed in MGB Form 29-10;
- 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;
- l) The term of the Permit shall be for a period as specified therein from date of issuance thereof: Provided, that no renewal of Permit shall be allowed unless the Permit Holder has complied with the terms and conditions of the Permit and shall not have been found guilty of violation of any provision of the Act and these implementing rules and regulations; and
- m) In the event that the permittee fails to fully dispose the extracted materials within the validity of his/her permit, the undisposed stockpile shall be forfeited in favor of the government.

SECTION 17. ASSIGNMENT AND TRANSFER. A mining permit may be assigned or transferred by the permittee to any qualified individual/entity upon payment of the required registration fee and upon submission of the necessary documents. Such assignment or transfer is subject to the approval of the City Mayor, through the recommendation of the CMRB.

The permittee and/or assignee shall submit the following documents for assignment or transfer:

- A. Deed of Assignment (DOA) executed by and between the Assignor and Assignee
- B. Proof of payment of Transfer/Assignment Fee
- C. For the Contractor
 1. Corporate Secretary's Certificate attesting to the authority of the signatory to the DOA
 2. Certification by the Regional Office as to the Contractor's compliance with the terms and conditions of the MPSA
- D. For the Assignee
 1. Certificate of Environmental Management and Community Relations Record (CEMCRR) or Certificate of Exemption (COE);
 2. Photocopy of Articles of Incorporation/Partnership/ Association, By-Laws and Certificate of Registration, duly certified by the SEC or authorized Government agency(ies) concerned, for corporations, partnerships, associations or cooperatives; or proof of Filipino citizenship for individual;
 3. Proof of technical competence to undertake the implementation of the activities under the Work Program:



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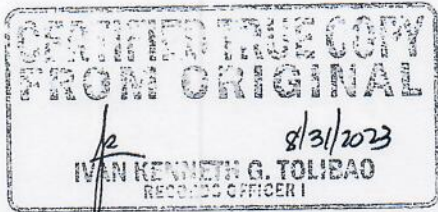
- a. Curricula vitae and track records in mining operations/exploration and environmental management;
 - b. Sworn statement/employment contract/proof of availed services of the technical person/s who will undertake the implementation of the Work Programs.
4. Proof of financial capability to undertake the implementation of the activities under the Work Program:
- a. For corporation/partnership/association/ cooperative:
 - i. Latest audited Financial Statement and/or Annual Report
 - ii. Credit Lines/Bank Guarantees/Deposits
 - b. For an individual:
 - i. Copy of Income Tax Return for the preceding year
 - ii. Proof of bank deposit or credit line in the amount of at least PhP2,500,000.00
5. Affidavit of Undertaking pursuant to DMO No. 99-10.

SECTION 18. SUSPENSION AND REVOCATION OF PERMIT. Permits issued under this Code may be suspended or revoked by the City Mayor, motu proprio, or upon recommendation of the CMRB based on the following:

- a. For violation of the terms and conditions of the permit, Environmental Compliance Certificate (ECC);
- b. When public interest and welfare or peace and order conditions so demand, or for environmental protection or ecological reasons;
- c. Non-payment of taxes and fees due the Government for two (2) consecutive years;
- d. Any misrepresentation in any statement made in the application or those made later in support thereof;
- e. Failure to perform all other obligations, including abandonment, under the permits or agreements; and
- f. Violation of any provisions of this Code, R.A. 7942 and its IRR.

SECTION 19. DELIVERY RECEIPT. The permittee shall at all times issue to truck drivers engaged in hauling sand, gravel, and mountain quarry 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 first copy shall be issued to and carried by the truck drivers while in transit which shall be shown upon demand. The duplicate copy shall be collected by the checkers and such copy will be for ENRO. The triplicate copy shall be kept by the permittee and will be attached to the monthly report. Meanwhile, the quadruplicate copy must also be accomplished by the permittee and such delivery receipt be collected by the concerned barangay where the permit issued is situated.

Permittees are required to secure delivery receipts from the Environment and Natural Resources Office. The delivery receipt shall be issued after payment of the corresponding extraction fees equal to the volume to be extracted. The payment of Delivery Receipt is subject to the following fee:



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Delivery Receipt/Booklet	Php 500.00
Delivery Receipt/Sheet (Series Number)	Php 10.00

Further, a Dispatch Receipt shall be used by the permittee if the extraction area is with a distance of more than one-kilometer from its mineral processing plant and can be secured with the same amount as the above delivery receipt fee.

SECTION 20. FAILURE TO CARRY DELIVERY RECEIPT. Truck drivers and haulers of sand and gravel, and mountain quarry materials who fail to present the required delivery receipt upon demand shall pay a fine of Five Thousand Pesos for 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 21. FAILURE OF THE PERMIT HOLDER TO ISSUE DELIVERY RECEIPTS OR ISSUING FRAUDULENT RECEIPTS. Failure of the permit holder to issue genuine delivery receipts or issuing fraudulent delivery receipts shall be sufficient ground for the suspension/revocation of the permit.

ARTICLE IV
ISSUANCE OF SHIPMENT CLEARANCE FOR SAND AND GRAVEL

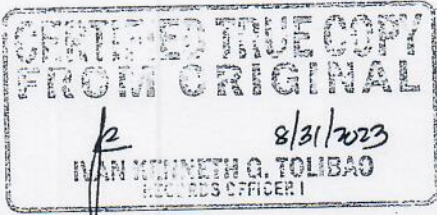
SECTION 22. SHIPMENT CLEARANCE. A Shipment Clearance shall be required in the inter-island and/or inter-regional movement or transport of sand, gravel, and mountain quarry materials and proof of payment of the materials to be transported thereof.

Any permittee or its authorized buyer who shall ship sand, gravel, and mountain quarry materials from one port to another port on an island within and outside the region shall secure the aforesaid Shipment Clearance from the Office of the City Mayor/Environment and Natural Resources Office.

As such, no shipment of sand, gravel and mountain quarry 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, gravel and mountain quarry materials from Ormoc City to any part of the province with the use of hauling truck/s in accordance with the existing rules and regulations.

SECTION 23. PROCEDURES IN THE ISSUANCE OF SHIPMENT CLEARANCE. The Shipment Clearance shall be issued only after the 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/Environment and Natural Resources Office.



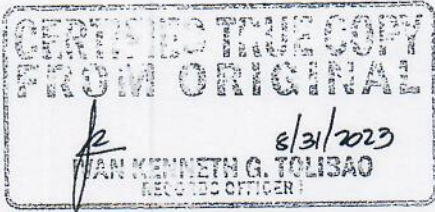
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- b) When to apply - No Shipment Clearance shall be issued without prior verification as to the legitimacy of the source and procedure of extraction of sand and gravel and mountain quarry materials. As such, an application for issuance of Shipment Clearance shall be filed at least one (1) week prior to the actual loading of the sand and gravel and mountain quarry 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 issuance of Shipment Clearance shall be given due course only after satisfactory compliance of the following requirements:
- c.1 submission of photocopy of the charter and/or contract between the shipper/permittee and the owner of the conveyance;
 - c.2 payment of Shipment Clearance Application . . . P6,000.00; and
 - c.3 the applicant or his authorized representative shall be responsible for the transportation expenses of the technical personnel of the Environment and Natural Resources Office from the official station to the area, and return as provided for under existing rules and regulations.
- d) Field Inspection and Verification - After completion of application requirements, the Environment and Natural Resources Office shall cause the inspection and verification of the subject sand and gravel and mountain quarry 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 information: (a) whether the actual location(s) and manner of extraction was undertaken in accordance with existing laws, rules and regulations and the terms and conditions of the sand and gravel and mountain quarry permit; (b) the actual volume as scaled on-site; and (c) the kind, size, and quantity of sand, gravel and quarry materials subject for shipment.

SECTION 24. ISSUING OFFICER. The City Mayor or his duly authorized representative shall have the authority to issue a Shipment Clearance.

SECTION 25. 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 discharges at the port of destination, whichever comes first.

SECTION 26. NOTICE OF SHIPMENT. Immediately upon issuance of the Shipment Clearance for sand, gravel, and mountain quarry materials, the Office of the City Mayor/Environment and Natural Resources Office shall inform by fastest means of communication in the Office of the City Mayor/ Environment and Natural Resources Office at the port of destination regarding the sand and gravel and mountain quarry shipment.



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**ARTICLE V
COMMERCIAL PERMIT**

SECTION 27. COMMERCIAL PERMIT. A commercial permit shall be issued to dispose of sand and gravel, mountain quarry, 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 for holders of gratuitous permit.

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

**ARTICLE VI
GRATUITOUS PERMIT**

SECTION 28. PRIVILEGES GRANTED TO GOVERNMENT OFFICES AND INSTRUMENTALITIES. The conditions, limitations, and/or requirements prescribed in this Ordinance may be suspended or dispensed with 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 29. CONDITIONS AND LIMITATIONS. Gratuitous permits may be issued under the following conditions:

- That the period of the grant shall be coterminous with the terms of the projects but not to exceed one (1) year;
- That the applicant shall submit a project proposal where the materials to be taken shall be used and the estimated volume needed;
- 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;
- That the material authorized to be removed shall be strictly for the infrastructure project and in no case shall be the same to be disposed of commercially, otherwise persons responsible thereof shall be liable for prosecution under appropriate laws;
- That the permittee shall submit to the Environment and Natural Resources Office a monthly report in the prescribed form, copy furnished CMRB; and
- 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.



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SECTION 30. EXEMPTION FROM FEES. A gratuitous permittee shall not be required to pay sand and gravel and mountain quarry extraction fees; Provided, that the required delivery receipt shall be issued and carried by hauling and/or transporting vehicles.

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

SECTION 31. PRIVATE GRATUITOUS PERMIT. Any landowner may apply for a Private Gratuitous Permit with the Environment and Natural Resources Office through City Mining Regulatory Board for the extraction, removal and utilization of quarry and loose/unconsolidated materials from his/her land for a non-renewable period of sixty (60) calendar days: Provided, that there is adequate proof of ownership and that the materials shall be for personal use.

**ARTICLE VII
INDUSTRIAL PERMIT**

SECTION 32. INDUSTRIAL PERMIT. An industrial permit covering an area not exceeding five hectares shall be issued for the removal of sand and gravel and other loose or unconsolidated materials that necessitate the use of mechanical processing.

SECTION 33. 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 through application of Mineral Processing Permit (MPP) with the Mines and Geosciences Bureau Region 8; Provided, further, that failure of the permittee to install the required processing equipment or crushing equipment within six (6) months from grant of the permit, may cause the automatic 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 and corresponding requirements duly validated by the City Mining Regulatory Board.

SECTION 34. REQUIREMENTS. The application for the Industrial permit shall be supported by the following documents:

- Quarry Application Form (Secure Application template from ENRO-LGU Ormoc; Php 50.00/form);
- Payment of Application Fee (To be processed at the ENR Office);
- Brgy. Resolution indicating the Barangay approves the new application of the sand and gravel permit in the area (Interposing no objection on the application with minutes of the meeting, attendance, proof of invitation to the community and photos of the public hearing conducted);
- Defined access road/s with notarized consent from affected land owners;
- Area Status Clearance from DENR MGB R08;



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- f. Approved Survey Plan (Prepared by Mineral Land Geodetic Engineer deputized by DENR);
- g. 5-Year Development Work Program (Prepared by a Licensed Mining Engineer of Geologist);
- h. 5-Year Environmental Protection and Enhancement Program (EPEP) (MGB FORM 16-2) (Prepared by a Licensed Mining Engineer of Geologist);
- i. 5-Year Social Development Management Plan (SDMP) (Prepared by a Licensed Mining Engineer of Geologist);
- j. Certificate of Environmental Management and Community Relations Record (CEMCRR) and payment of CEMCRR Application Fee of P5,000 (To be evaluated and issued by ENRO);
- k. Certification from City Agriculture Office (Indicating area is not within the Strategic Agriculture and Fisheries Development Zone (SAFDZ) and cleared from any high valued crops/agricultural area;
- l. Certification from the Community Environment and Natural Resources Office (CENRO) (Indicating the Land Classification Status of the area applied for);
- m. Certification from City Planning and Development Office (Zoning Certification on the area applied for);
- n. Certification from National Irrigation Administration (Indicating applied area is not within NIA structures);
- o. Certification from Department of Public Works and Highways Leyte Fourth District Engineering Office (Indicating area applied for is not within 1 km radius of any Public Structures);
- p. Cash Bond (A cash bond for Three Hundred Thousand Philippines Pesos (Php300, 000) per hectare, or a fraction thereof, or 10% of the total project cost indicated in the work program, whichever is higher);
- q. Proof of Technical Competence including, among others, curricula vitae and track records in mining operations and environmental management of the technical personnel who shall undertake the activities in accordance with the submitted Work Program and EPEP;
- r. Proof of Financial Capability to undertake the activities in pursuant to Work Program and EPEP: Statement of Assets and Liabilities duly sworn in accordance with existing laws, credit lines and income tax return for the preceding three (3) years;
- s. Comprehensive and validated technical report on the outcome of the operations, including their environmental effects duly prepared, signed, and sealed by a Licensed Mining Engineer or Geologist;
- t. ISAG Field Verification Report by ENRO; and
- u. In case of a representative, a written authority of the permittee and the agent or representative shall be stated in a public instrument registered with the Environment and Natural Resources Office.

ARTICLE VIII
TEMPORARY PERMIT

SECTION 35. TEMPORARY PERMIT. Shall be granted to an applicant with pending application to conduct commercial operations for a period of not more than sixty (60) days, renewable only once, subject to the terms and conditions provided under Section 14 of this Ordinance, and *provided that the applicant shall submit the following;*



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1. A Barangay Resolution Interposing no Objection based on the conducted Public Hearing;
2. A proof of urgency; and
3. Program of Works consisting detailed plan for 60 days.

Provided, that the applicants shall comply the mandatory requirements for the permit during the sixty-day period, herein. Failure to comply by the applicant within the given period shall consider the processing of requirements as new application.

**ARTICLE IX
QUARRY PERMIT**

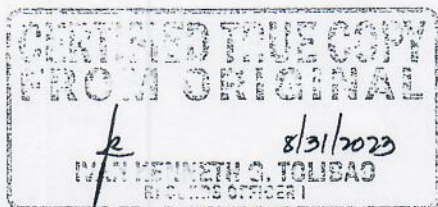
SECTION 36. QUARRY PERMIT. Any Qualified Person may apply for a Quarry Permit with the City Mayor through the City Mining Regulatory Board for the extraction, removal and disposition of quarry resources covering an area of not more than five (5) hectares renewable for like period but not to exceed a total term of twenty-five (25) years.

SECTION 37. CONDITIONS FOR THE ISSUANCE OF QUARRY PERMIT.
The following are the conditions shall be considered by the applicants:

1. Provided, that the applicant has complied with all the terms and conditions of the Permit as provided herein and has not been found guilty of violation of any provision of this Ordinance and the implementing rules and regulations of the same; and
2. Provided, furthermore, that no Quarry Permit shall be issued or granted on any areas stated under Section 19 of R.A. 7942 and its Implementing Rules and Regulations and Section 1 of Executive Order No.79 Series of 2012 except when declared by the City Mining Regulatory Board (CMRB) as "**Minahang Bayan**" pursuant to R.A. 7076 otherwise known as the "Small-Scale Mining Act of 1991"

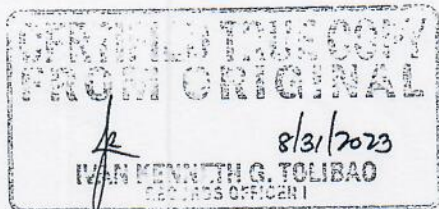
SECTION 38. REQUIREMENTS. The new application for the Quarry Permit shall be supported by the following documents:

- a. Quarry Application Form (Secure Application template from ENRO-LGU Ormoc; Php 50.00/form);
- b. Payment of Application Fee (to be processed at the ENR Office);
- c. Brgy. Resolution indicating the Barangay approves the renewal application of the quarry in the area (Interposing no objection on the application with minutes of the meeting, attendance, proof of invitation to the community and photos of the public hearing conducted);
- d. Defined access road/s with notarized consent from affected land owners;
- e. Land Title of the area applied for;
- f. Copy of the Updated Proof of Real Property Tax Payment on the Area applied for;
- g. Geologic Assessment by the Mines and Geosciences Bureau R08 (To determine the total or remaining Quarry resources for the applied permit pursuant to EMB Memorandum Circular No. 2020-27);



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- h. Area Status Clearance from DENR MGB R08;
- i. Approved Survey Plan (Prepared by Mineral Land Geodetic Engineer deputized by DENR);
- j. Benching Plan (Prepared by Mineral Land Geodetic Engineer deputized by DENR);
- k. Topographic Plan (Prepared by Mineral Land Geodetic Engineer deputized by DENR);
- l. 5-Year Development Work Program (Prepared by a Licensed Mining Engineer of Geologist);
- m. 5-Year Environmental Protection and Enhancement Program (EPEP) (MGB FORM 16-2) (Prepared by a Licensed Mining Engineer of Geologist);
- n. 5-Year Social Development Management Plan (SDMP) (Prepared by a Licensed Mining Engineer of Geologist);
- o. Certificate of Good Standing (from the Environmental Management Bureau Region 8 relative to your performance in implementing the target activities of your environmental programs and compliance to the terms and conditions of your ECC during the period of the applicant's permit);
- p. Certificate of Environmental Management and Community Relations Record (CEMCRR) and payment of CEMCRR Application Fee of P5,000 (To be evaluated and issued by ENRO);
- q. Certification from City Agriculture Office (Indicating area is not within the Strategic Agriculture and Fisheries Development Zone (SAFDZ) and cleared from any high valued crops/agricultural area);
- r. Certification from the Community Environment and Natural Resources Office (CENRO) (Indicating the Land Classification Status of the area applied for);
- s. Certification from City Planning and Development Office (Zoning Certification on the area applied for);
- t. Certification from National Irrigation Administration (Indicating applied area is not within NIA structures);
- u. Certification from Department of Public Works and Highways Leyte Fourth District Engineering Office (Indicating area applied for is not within 1 km radius of any Public Structures);
- v. Cash Bond (A cash bond for Three Hundred Thousand Philippines Pesos (Php300, 000) per hectare, or a fraction thereof, or 10% of the total project cost indicated in the work program, whichever is higher);
- w. Proof of Technical Competence including, among others, curricula vitae and track records in mining operations and environmental management of the technical personnel who shall undertake the activities in accordance with the submitted Work Program and EPEP;
- x. Audited Comparative Financial Statements incurred during the (previous) operation/s;
- y. Proof of Financial Capability to undertake the activities in pursuant to Work Program and EPEP: Statement of Assets and Liabilities duly sworn in accordance with existing laws, credit lines and income tax return for the preceding three (3) years;
- z. Comprehensive and validated technical report on the outcome of the operations, including their environmental effects duly prepared, signed, and sealed by a Licensed Mining Engineer or Geologist;
- aa. Mountain Quarry Field Verification Report by ENRO; and



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- bb. In case of a representative, a written authority of the permittee and the agent or representative shall be stated in a public instrument registered with the Environment and Natural Resources Office.

ARTICLE X
RENEWAL OF PERMITS

SECTION 39. RENEWAL OF COMMERCIAL, INDUSTRIAL SAND AND GRAVEL, SPECIAL AND QUARRY PERMIT. Within sixty (60) calendar days before the expiration of the Permit, the Quarry/Commercial or Industrial Sand and Gravel Permit Holder may submit to the Environment and Natural Resources Office, an application to renew the Permit accompanied by five (5) sets of the following applicable mandatory requirements:

- a. Justification of renewal;
- b. Comprehensive and validated technical report on the outcome of the operations, including their environmental effects duly prepared, signed and sealed by a licensed Mining Engineer or Geologist;
- c. Audited report of expenditures incurred during the operations period;
- d. Work Program duly prepared, signed and sealed by a licensed Mining Engineer or Geologist; e. EPEP (MGB Form No. 16-2) as provided for in Section 169 hereof; and
- e. Other supporting mandatory requirements as the Environment and Natural Resources Office may require. After field verification and evaluation of the permit requirements by the City Mining Regulatory Board concerned of the foregoing requirements at the expense of the Permit Holder, the City Mayor concerned may decide on the renewal application.

SECTION 40. SURVEY PLAN. All applications under this Ordinance shall be supported by a survey plan duly prepared, signed, and sealed by a Licensed Geodetic Engineer deputized by DENR-MGB. Such plan shall contain general information including technical description, reference point, location map, etc. In case of Industrial and Quarry Permit Application, the area shall be surveyed by a Deputized Mineral Geodetic Engineer of the Mines Geo-Science Bureau.

SECTION 41. VERIFICATION OF AREAS. - The City Geodetic Engineer, whom authorized by the City Mayor in writing, shall conduct field verification of the area applied for through the verification fee, for Industrial and Quarry Permit Application; Provided, further, that no industrial and quarry permit shall be recommended for approval without the accompanying Geodetic Engineers' field verification report.

ARTICLE XI
ENVIRONMENTAL PROTECTION

SECTION 42. 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.



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SECTION 43. CASH BOND. To answer for and guarantee payment for whatever actual damages may be incurred by operations made pursuant to permits issued under this Ordinance, a Cash Bond for Three Hundred Thousand Philippine 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 those applying for Gratuitous Permits. The Cash Bond shall be confiscated if, after due process, the permit holder is found to have violated the provisions in the preceding section.

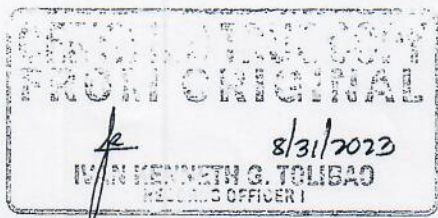
SECTION 44. CITY MINING MONITORING AND ADJUDICATORY BOARD. For purposes of monitoring and evaluation of the permitted areas, and hearing and deciding on forfeiture of bond for violations of the pertinent provisions of this Code, and environmental damage assessment, a City Mining Monitoring and Adjudicatory Board (CMMAB) is hereby constituted. The Committee shall be formed by the City Mayor composed of representatives of the following:

Chairperson : City Mayor
Vice-Chairperson : City Environment and Natural Resources Officer (City ENRO)
Members: Representative, City Agriculture Office (CAO)
Representative, City Engineering Office (CEO)
Representative, City Assessor's Office (CAO)
Representative, City Legal Office (CLO)
Representative, Community Environment and Natural Resources Office (DENR-CENRO)
Representative, Department of Public Works and Highways (DPWH 4th DEO)
Representative, National Irrigation Administration (NIA)
Representative, Ormoc City Police Office (OCPO-PNP)
Representative, Environmental Non-Government Organization (NGO)
One Barangay Official of Covered Permit Area
Representative, Ormoc City Mining Permit Holders
Secretariat : ENRO Mineral and Land Management Section

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

A. Functions. The CMMAB shall have the following functions:

- i. Accept and evaluate permit holder's 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 clearance certificate conditions;
- iv. Accept and investigate complaints against mining operations for appropriate actions;
- v. Such other function as the City Mayor may direct, in furtherance of this Code, and related ordinance, and rules/issues.



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- B. Committee Secretariat. The ENRO Mineral and Land Management Section Head shall serve as the Secretariat of the CMMAB. The Secretariat shall:
- Accept reports on mining operations of permit holders;
 - Consolidate and inventory compliant and non-compliant permit holders, for endorsement on proper administrative sanctions;
 - Take custody of database on mining operation reports and assessments; and
 - Assist CMMAB members during deliberation on monitoring results, complaints, apprehension and damage assessment.

SECTION 45. ESTABLISHMENT OF SPECIAL ACCOUNT. A Special Account shall be created for purposes of this Code. All monies paid for purposes of satisfying judgement upon conviction of herein Code, 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 areas and surrounding environment.

SECTION 46. CERTIFICATE OF ENVIRONMENTAL MANAGEMENT AND COMMUNITY RELATIONS RECORD (CEMCRR). A Certificate of Environmental Management and Community Relations Record is the applicant's proof of satisfactory environmental management and community relations in its past mineral resource use ventures.

The CEMCRR shall be issued upon compliance with the following:

- Payment of the processing fee; and
- Satisfactory environmental management and community relations record from concerned office.

Processing Fee for CEMCRR	Php 5,000.00
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Further, a Certificate of Exemption (COE) will be issued by ENRO, in lieu of the CEMCRR, to an applicant with no past mineral resource use or mining related ventures. For renewal permits, the CEMCRR will be issued to the concerned applicant including the Certification of Rating from the evaluation of the permitted area if it conforms to the corresponding programs implemented during the permit.

**ARTICLE XII
REPORTS AND MONITORING**

SECTION 47. 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 thereof, 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, City Licensing Officer and the Environment and Natural Resources Office.



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SECTION 48. MONTHLY REPORTS. The permittee shall submit to the Environment and Natural Resources Office copy furnished Mines and Geosciences Bureau Region 8, within ten (10) days after the end of each calendar month a sworn monthly report in the prescribed form stating, among others, the quantity and kind materials extracted, the fees paid therefore and the names and addresses of the buyer.

SECTION 49. PERIODIC INSPECTION BY GOVERNMENT OFFICIALS. All mining operations under this Code shall be subject to periodic inspection by the duly authorized representatives 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 50. INSPECTION AND VISITORIAL POWER. The City Mayor or his/her duly designated representatives through the ENRO 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 and/or while there is existence of undisposed stockpiles within the mineral processing plants or extraction areas.

SECTION 51. 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.

**ARTICLE XIII
SPECIAL PROVISIONS**

SECTION 52. PERSONS ENGAGED IN HOLLOWBLOCKS MAKING, BATCHING PLANTS AND OTHER MINERAL BY-PRODUCTS. Individuals or businesses engaged in hollow blocks making, batching plants and other mineral by-products are subject to show proof on the legality of source for monitoring by the City ENRO. Failure to present or show proof shall cause the cancellation of the business permit and apprehension of the illegally-sourced apprehended sand, gravel, earth and other loose unconsolidated materials.



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ARTICLE XIV
APPREHENSION AND CONFISCATION PROCEEDINGS

SECTION 53. CREATION OF APPREHENDING TEAM AND CONFISCATION PANEL. There shall be an Apprehending Team created through a Special Order by the City Mayor, motu proprio, or upon receipt of a report or complaint, which shall be composed of the following:

Chairman - City Administrator
Members:

1. At least two (2) technical personnel from the Mining Section of ENRO;
2. One (1) City Geodetic Engineer;
3. Legal Officer as members.

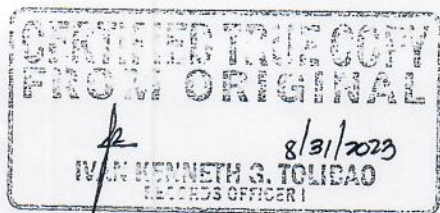
The City Mayor shall coordinate and request the assistance of government law enforcers in the apprehension/stoppage of illegal mining operations.

SECTION 54. DUTIES AND FUNCTIONS OF THE APPREHENDING TEAM.
The duties and functions of the Apprehending Team shall include, as follows:

- a. Validate information reported and/or conduct investigation motu proprio or upon receipt of a report or complaint;
- b. Conduct apprehension, even without warrant of any person who has committed or is committing in the Team's presence of any of the offenses provided under this Code and existing mining laws, rules and regulations;
- c. Deliver the offender within twelve (12) hours from the time of apprehension to the Inquest Prosecutor;
- d. Seize illegally-sourced minerals/mineral products and by-products including tools, conveyances and equipment used in the commission of the offense;
- e. Execute Sworn Statements/Affidavits surrounding the facts and circumstances of the incident, and take sworn statements of other witnesses;
- f. Act as witness in Court for the speedy prosecution of criminal complaints against offender(s);
- g. Produce/Submit object and/or documentary evidence as the Court may require; and
- h. Prepare and submit pertinent report to the City Mayor, and if warranted, recommend the issuance of a Cease and Desist Order.

SECTION 55. CONDUCT OF APPREHENSION. The Apprehending Team shall:

- a. Proceed to the target area to validate the information reported, conduct the investigation to determine whether or not the operation is covered by approved mining permits/contracts and stop the illegal operations as the case may be;



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- b. Apprehend the person if the operation is without a valid mining permit/contract. In effecting an apprehension, the Apprehending Team shall make proper introduction as to its identity and authority to apprehend restrain the person and inform him/her of the circumstances of the apprehension and his/her rights;
- c. Deliver the apprehended person(s) to the Inquest Prosecutor within twelve (12) hours from the time of apprehension; and
- d. Conclude the investigation and prepare and submit the Report to the City Mayor within seventy-two (72) hours. If warranted, recommend the issuance of a Cease and Desist Order.

SECTION 56. ILLEGALLY-SOURCED MINERALS, MINERAL PRODUCTS AND BY-PRODUCTS INCLUDING TOOLS, CONVEYANCES AND EQUIPMENT.

All illegally-sourced minerals, mineral products and by-products including the tools, conveyances and equipment used in the commission of the offense shall be seized by the Apprehending Team, subject to further investigation and disposition.

SECTION 57. INVENTORY OF SEIZED ITEMS. An inventory of all seized items shall be conducted by the Apprehending Team. The kind, volume or quantity of the seized minerals/mineral products and by-products shall be determined immediately and the assessment thereof shall be based on the gross volume or weight.

The description and specification of tools, conveyances and/or equipment used, other materials circumstances and the name of the owner, shall be likewise noted.

SECTION 58. ISSUANCE OF SEIZURE RECEIPT. A corresponding Seizure Receipt (MGB Form 2018-01) shall be issued by the Apprehending Officer, duly acknowledged by the apprehended person(s). The apprehended person(s) concerned shall be given a copy of the Seizure Receipt. In case the apprehended person(s) refuse(s) to acknowledge the Seizure Receipt, the local government authority may attest as to the veracity of the said seizure and the Seizure Receipt is deemed served. A copy thereof shall be provided to the attesting local government authority.

SECTION 59. CUSTODY AND SAFEKEEPING. The Apprehending Team shall transport and deposit the seized items to the area designated by the City ENRO or wherever it is most convenient, for custody and safekeeping.

If the transfer of the seized items is not immediately feasible, the same shall be placed under the custody of any mining permittee/contractor/permit holder, the nearest local government authority of the Philippine National Police (PNP).

The apprehending officer is authorized to seek assistance from any mining permittee/contractor/permit holder to provide transportation facilities for the transfer of the items from the place of apprehension to the place of custody. In any event, the custody shall be duly acknowledged and received by the official taking custody thereof. The Team and the custodian shall ensure safety of the seized items.



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SECTION 60. CONFISCATION PROCEEDINGS. Immediately after its creation, the Confiscation Panel shall convene and perform the following:

- a. Issue Notice of Hearing to the offender(s) indicating therein the date, time, venue of the hearing and the nature of the charge (MGB Form No. 2018-02);
- b. Conduct a maximum of three (3) hearings for a period of thirty (30) days from the date of first hearing for the reception of evidence on the legality of the offender's operation, extraction, production and transport of the seized minerals/mineral products and by-products and tools and conveyances and equipment used. No further extension shall be granted except for most compelling reason; and
- c. Issue a Resolution recommending to the City Mayor the:
 - i. Confiscation of the seized items in favor of the Government if determined that the offender(s) failed to show proof of the legality of its operation; or
 - ii. Release of the seized items if determined that the offender(s) have sufficiently shown proof of the legality of its operation.

The City Mayor, upon receipt of the Resolution, shall issue the Order of Confiscation, forfeiting the seized items in favor of the Government or issue an Order releasing the seized items.

SECTION 61. RECONSIDERATION AND APPEAL ON THE ORDER OF CONFISCATION. A Motion for Reconsideration (MR) may be filed within fifteen (15) days from receipt of the Confiscation Order. If the MR is denied, an Appeal may be filed to the Regional Director of the Mines and Geosciences Bureau (MGB) within fifteen (15) days from receipt of the denial of the MR. Shall there be no MR or Appeal filed within the reglementary period, the Confiscation Order shall become final and the City Mayor shall issue the Final Confiscation Order.

SECTION 62. DISPOSITION OF CONFISCATED MINERALS/MINERAL PRODUCTS AND BY-PRODUCTS, AND TOOLS, CONVEYANCES AND EQUIPMENT, IN GENERAL. The Disposition of the confiscated minerals/mineral products and by-products, and tools, conveyances and equipment used shall be handled in accordance with the procedures provided under Section 124 of DAO 2010-21.

The proceeds from the disposition of the confiscated minerals/mineral products and by-products, and tools, conveyances and equipment used after deducting all the administrative costs shall be remitted to the City Treasurer's Office immediately upon receipt of the full payment.

SECTION 63. DISPOSITION OF CONFISCATED MINERALS/MINERAL PRODUCTS AND BY-PRODUCTS THAT ARE SUBJECT TO COURT LITIGATION. In cases of confiscated minerals/mineral products and by-products that are subject of court cases, especially those that easily deteriorate like pumice and clay, representations with the proper court shall be made for the immediate disposition thereof through public auction. The proceeds of the sale shall be deposited as the court directs and the same shall be awarded by the latter based on the final court decision.



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SECTION 64. REPORTING. The Apprehending Team and Confiscation Panel shall submit a Final Report to the City Mayor for record purposes, based on the investigation, apprehension, seizure/confiscation and disposition within thirty (30) days from the termination of the proceedings.

**ARTICLE XV
PENAL PROVISIONS**

SECTION 65. UNLAWFUL ACTS. – The following shall constitute unlawful acts under this Ordinance, to wit:

1. Any extraction and removal or sale of sand and gravel, mountain quarry, 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;
3. Any extraction and removal of materials outside the permit area;
4. Those with stockpiles with more than 1,000 m³ not covered by a legal document; and
5. Other violations of the provisions under this Ordinance and its IRR.

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

SECTION 66. PENALTIES. – All violations of this Code 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 (Php 5,000.00) upon conviction by the proper court: However, the violator may opt to pay an administrative fine of Five Thousand Philippine Pesos (Php 5,000.00) for every act constituting a violation thereof, except in cases of theft of minerals, as defined in Republic Act 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.

**ARTICLE XVI
MISCELLANEOUS PROVISION**

SECTION 67. RECOGNITION OF EXISTING MINING RIGHTS. All existing and valid mining permits, shall be recognized and the rights acquired thereunder respected.



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SECTION 68. REPEALING CLAUSE. City Ordinances No. 1992-32, 1994-47, 043 series of 2020, and all other ordinances, resolutions, and executive orders related to sand and gravel and mountain quarry, and inconsistent herewith, are hereby repealed and rendered unenforceable.

SECTION 69. SEPARABILITY CLAUSE. Should any provision of this Ordinance be declared unconstitutional or invalid by any court of competent jurisdiction, the provisions that are not affected thereby shall continue to be in full force and effect.

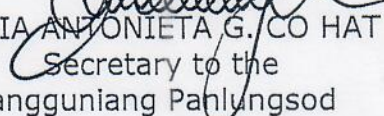
SECTION 70. EFFECTIVITY. This Ordinance shall take effect immediately following compliance with the posting and publication requirements of the Local Government Code of 1991.

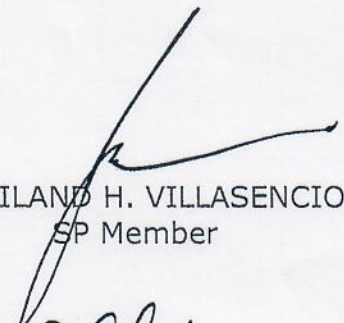
ENACTED, August 22, 2023.


RESOLVED, FURTHER, to furnish copies of this Resolution Ordinance, one each, the City Mayor; the City Administrator; the City Legal Officer; the ENRO; the City Agriculture Office; the City Assessor's Office; DPWH 4th DEO; NIA; the City Prosecutors' Office; the City Treasurer; the Office of the City Accountant; the City Engineering Office; the Regional Trial Court; the Municipal Trial Court in Cities (MTCC); the PNP Chief Inspector; the CENRO-Ormoc Office; the City Local Government Operations Officer-DILG; the Mines & Geosciences Bureau (MGB) Region 8; and others concerned, - all in Ormoc City;

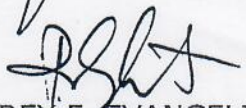
CARRIED UNANIMOUSLY.

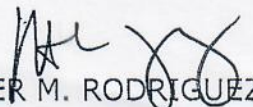
WE HEREBY CERTIFY to the correctness of the above ordinance.


MARIA ANTONIETA G. CO HAT
Secretary to the
Sangguniang Panlungsod

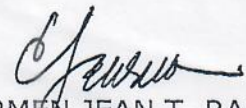

ROILAND H. VILLASENCO
SP Member

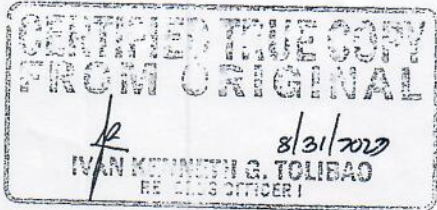

NOLITO M. QUILANG
SP Member
Majority Floor Leader


REV. F. EVANGELISTA
SP Member


PETER M. RODRIGUEZ
SP Member

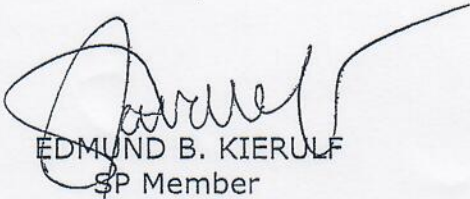

JASPER M. LUCERO
SP Member
1st Majority Floor Leader

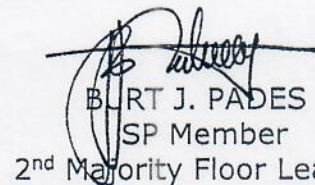

MARIA CARMEN JEAN T. RAMA
SP Member




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SANGGUNANG PANLUNGSOD


EDMUND B. KIERULF
SP Member

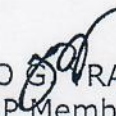

BURT J. PADES
SP Member
2nd Majority Floor Leader


LALAINA A. MARCOS
SP Member

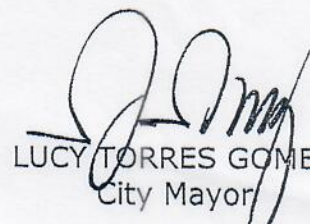

ESTEBAN V. LAURENTE
Ex-Officio SP Member
Chapter President
Liga ng mga Barangay ng Ormoc


JOAN MARBIE C. SIMBAJON
Ex-Officio SP Member
Chapter President
Panlungsod ng Pederasyon
ng mga Sangguniang
Kabataan ng Ormoc

ATTESTED:


GREGORIO RASTORZA III
SP Member
Presiding Officer "Pro-Tempore"

APPROVED:


LUCY TORRES GOMEZ
City Mayor
AUG 31 2023
(Date)