

REPUBLICA NG PILIPINAS
TANGGAPAN NG SANGGUNIANG PANLUNGSOD
LUNGSOD NG BACOLOD
-ooOOoo-

CITY ORDINANCE NO. 335
September 4, 2003

AN ORDINANCE REQUIRING PRIOR CONSULTATION AND CLEARANCE OF BARANGAY COUNCILS AND THE CITY GOVERNMENT BEFORE CONSTRUCTION WORKS ON ALONG, OR BESIDE ESTEROS, CANALS AND WATERWAYS AND SIMILAR PASSAGEWAY OF WATER AS WELL AS DRAINAGE SYSTEMS IN BACOLOD CITY, IN ORDER TO MINIMIZE FLOODING, AND IMPOSING PENALTIES FOR VIOLATIONS THEREOF.

WHEREAS, one of the most perplexing modern urban blights affecting the City of Bacolod is flooding;

WHEREAS, the same is often the result of man-made causes, such as environmental degradation, and construction of certain works along esteros, canals, and waterways that either restrict the flow of water or otherwise cause or contribute to flooding of the barangay concerned or adjoining areas, or which result from inadequate drainage systems;

WHEREAS, the subject is actually addressed by certain national laws, such as but not limited to RA 2056 (JUNE 13, 1958) entitled "An act to prohibit the construction of dams, dikes or any other works in public navigable water or waterways, and to provide penalties for its violations, and for other purposes"; and P.D. 296 otherwise known as "Directing All Persons, National of Juridical, to Remove Possession and Move Out of Portions of Rivers, Creeks, Esteros, Drainage Channels and Other Similar Waterways Encroached Upon By them and Prescribing Penalty for Violations Hereof", and other laws, but somehow, permits are still issued for structures that contribute to flooding per the experience of our barangay leaders;

WHEREAS, in the public hearing held on the Environment Code, and the Solid Waste Management Code of Bacolod City, barangay officials who participated therein commented on the need for this local legislation in Bacolod City, particularly, on the issue that they be consulted anent these structures as to their potential for causing flooding, based on the punong barangays' knowledge of their areas;

WHEREAS, RA 7160, otherwise known as the Local Government Code empowers the City to provide "environmental management system" (sec. 17, (2) vi) as well as "rainwater collectors and supply systems, seawalls, dikes, drainage, sewerage and flood control" (ix, ibid) in relation to said sec. 17 of RA 7160;

WHEREAS, RA 7279, otherwise known as "An Act to Provide for a Comprehensive and Continuing Urban Development and Housing Program, Establish the Mechanism for its Implementation, and for Other Purposes" provides;

"Section 30, Prohibitions Against New Illegal Structures. It shall be unlawful for any person to construct any structure in areas mentioned in the preceding section.

After the effectivity of this Act, the barangay, municipal or city governments units shall prevent the construction of any kind of illegal dwelling units or structure within their respective localities. The head of any local government unit concerned which allows, abets or otherwise tolerates the construction of any structure in violation of this section shall be liable to administrative sanctions under existing laws and to penal sanctions provided for this Act."

WHEREAS, the "areas mentioned in the preceding section" mentioned in par. 1 of sec. 30 of the UDHA, refer to, among others "esteros" mentioned in sec. 29 thereof;

WHEREAS, it is imperative to give teeth to the foregoing policy statement of the said national laws, requiring for this kind of local legislation to be passed at once;

NOW THEREFORE, be it ordained by the Sangguniang Panlungsod of the City of Bacolod that:

Title:

This ordinance shall be known as an **ORDINANCE REQUIRING PRIOR CONSULTATION AND CLEARANCE WITH BARANGAY COUNCILS AND THE CITY GOVERNMENT BEFORE CONSTRUCTION WORKS ON, ALONG, OR BESIDE ESTEROS, CANALS AND WATERWAYS AND SIMILAR PASSAGEWAYS OF WATER, AS WELL AS DRAINAGE SYSTEMS IN BACOLOD CITY, IN ORDER TO PREVENT OR MINIMIZE FLOODING, AND IMPOSING PENALTIES FOR VIOLATIONS THEREOF.**

For purposes of Legislative identification, this ordinance shall be known as the "flood-prevention ordinance of Bacolod City."

Article 1. Declaration of Policy. It is hereby declared the local policy of Bacolod City that before a building or any other permit is issued for any kind and/or all types of construction works on, along, or beside any estero, canal, or waterway or similar passageways of water in Bacolod City, or for construction of drainage systems, whether by the government or private entities or persons, whether on public or private properties, the proposed project must first have the favorable resolution of the affected barangays, and the favorable recommendation of the Sangguniang Panlungsod of Bacolod City.

Article 2. Mechanics.

Section 1. Duty of Landowner. Any landowner, whether public or private, whether national or juridical person, which proposes to construct any works on, along, or beside any estero, canal, or waterway in the City of Bacolod, regardless of whether said estero, canal, waterway or similar passageway of water is claimed to be part of any private land or not, shall, prior to application of a building permit or any other permit for such a project with the Office of the Building Official, submit a copy of its building plan with the Barangay Council of the area where the project is located, or of the adjoining barangay most likely to be affected by the project. Likewise, a formal request for endorsement of the project of the Sangguniang Panlungsod of Bacolod City shall be made, through the Committees on Public Works and Environment.

Section 2. Duty of City Building Official, City Engineer's Office, and Permits-issuing Office of the City of Bacolod.

It is hereby declared the duty of the City Building Official, the City Engineer's Office, or any other office of the City Government of Bacolod City issuing any kind of permit relative to construction works or projects, in connection with their duty imposed by City Ordinance 308, series of 2002, otherwise known as the "ECC Ordinance of Bacolod City", to require said **BARANGAY RESOLUTION** and **SP RESOLUTION** attesting to the inspection, verification or assessment of these bodies that said projects will probably not cause flooding in the area. The penal provisions of said Ordinance 308, Series of 2002,

(otherwise known as the "ECC Ordinance of Bacolod City") shall also apply in case of violation of requirements of this above-entitled ordinance.

Article 3. Mandatory Comment of Barangays. The Barangay Councils concerned, whether the barangay where the proposed project is to be located, or the adjoining barangay which will most likely be affected by the project in terms of its potential for causing flooding in the area, shall determine, based on their knowledge of the area, if the proposed project has the potential of causing flooding, within a maximum period of fifteen (15) days from receipt of the request for endorsement. The Barangay shall then submit a pertinent resolution to the SP on the project, stating whether the project will cause or contribute to flooding or not, per their assessment.

Article 4. Referral by Barangay to the ENRO for technical advice. In case the barangay concerned needs technical advice or assistance to be able to form its opinion on the possibility of flooding to be caused by said project, it may elect, within the said 15-day period, to refer the matter to the ENRO of the City of Bacolod, which shall conduct the requisite study and submit a report thereon to the Sangguniang Panlungsod, within ten (10) days from receipt of said request, as to the possibility of flooding that the proposed project may cause.

Article 5. Evaluation by the Sanggunian. The Sangguniang Panlungsod shall evaluate the Barangay Endorsement and the ENRO report, if any, on the project as to its potential for causing flooding in the area, and shall call for a public hearing for the purpose if necessary, ensuring that all sides are given the opportunity to be heard. The Sangguniang Panlungsod shall then pass the necessary resolution anent the project.

Article 6. Applicability of the Requirement. The foregoing requirement and procedures shall be deemed a special requirement of the local government for purposes of flood-prevention, simultaneous with other national or local rules as may be applicable under the premises.

Article 7. Requirement if Project is Initiated by the Barangay itself. If the project proposed to be undertaken on or along an esteros, waterway, or canal is undertaken by the Barangay itself using its own funds, the Barangay concerned, before securing the requisite building permit from the City, is required to secure a Certification from the City Planning and Development Office (CPDO) that its said project conforms to the **Comprehensive Drainage Plan** of the City of Bacolod.

Article 8. Penalty. Any construction on any waterworks, esteros, canals, or waterways which were constructed in violation or non-compliance with the requirements of this ordinance, and which, subsequently is found to be causative or contributory to flooding in the area, shall be deemed a punishable infraction of this ordinance, which shall render the guilty party liable for the penalties under City Ordinance No. 308, Series of 2002, otherwise known as the "ECC Ordinance of Bacolod City", the penal and related provisions of which are hereunto adopted by reference.

Article 9. Compliance with Sec. 30 of RA 7279. Nothing in this Ordinance shall be construed to exempt barangay officials from their duty under Section 30 of RA 7279 to outrightly prevent the construction of illegal structures along esteros, canals, and waterways within their respective territorial jurisdiction. The failure to perform this duty under said law shall be prosecuted under the pertinent national laws. Already existing illegal structures upon the passage of this ordinance shall be dealt with in accordance with pertinent national or local laws applicable to the same.

Article 10. City Ordinance 308, Series of 2003. Likewise, nothing in this ordinance shall be interpreted as an exemption from compliance with City Ordinance No.

306, Series of 2003, otherwise known as the "ECC Ordinance of Bacolod City," the provisions and requirements of which shall be complied with as mandated therein.

Article 11. Separability Clause. Should any portion of this ordinance be declared ultra vires or unconstitutional by competent authority, the provisions so declared shall remain in force and effect.

Article 12. Separability Clause. This Ordinance takes effect immediately upon compliance with Art. 114 of the IRR of the Local Government Code.

CARRIED BY THE VOTE OF:

Affirmative:

Councilors: Archie S. Baribar, Roberto M. Rojas, Jude Thaddeus A. Sayson, Ana Marie V. Palermo, Celia Matea R. Flor, Lyndon P. Caña, Bobbie S. Lucasan, Greg G. Gasataya, Reynold L. Iledan, Sonya M. Verdeflor, Arturo V. Parreño, Marx Louie S. de la Rosa.

Negative : None.

Main Author : Councilor Lyndon P. Caña.

Absent : None.

Passed : September 4, 2003 (113th Regular Session)

Comments: Passed.
Councilors Jose H. Gabuat and Elmer T. Sy were out of the Session Hall when this Ordinance was passed.

RAMIRO L. GARCIA, JR.
Vice Mayor
Presiding Officer

9/12/03

ATTESTED:

ATTY. NILO T. ALEJANDRINO
Secretary to the Sanggunian

APPROVED: September 2003

10 DAYS LAPSED
AS OF 9/23/03

LUZVIMINDA S. VALDEZ
City Mayor