



CITY ORDINANCE NO. 343

November 13, 2003

**AN ORDINANCE IMPLEMENTING A PORTION OF SEC. 18 OF RA 7160, ALSO SOMETIMES CALLED THE "ECONOMIC RENT POLICY", AND PROVIDING GUIDELINES AND MECHANISMS THEREFOR.**

**WHEREAS**, the RA 7160, otherwise known as the Local Government Code of the Philippines, in Section 18, provides in part that "local government units shall have the power and authority x x x, to have an equitable share in the proceeds from the utilization and development of the national wealth and resources within their respective territorial jurisdictions including sharing the same with the inhabitants by way of direct benefits" which is also sometimes known as the "Economic Rent Policy";

**WHEREAS**, it is well known that local government units, aside from their delegated legislative authority are also armed with corporate powers, or powers proceeding from the corporate character of local governments, as provided for in Section 15 of RA 7160;

**WHEREAS**, Art. 101 of the Implementing Rules of RA 7160, particularly sections 8, 9 and 11 thereof, provide for particular instances for how these corporate powers may be exercised by the barangay, which provides, among others, the power to:

"(8) solicit or accept monies, materials and voluntary labor for specific public works and cooperative enterprises of the barangay from residents, landowners, producers, and merchants in the barangay; x x x, and monies from private agencies and individuals provided that monies or properties donated by private agencies and individuals for specific purposes shall accrue to the barangay as trust fund;

(9) X x x

(10) X x x

(11) Hold fund-raising activities for barangay projects without the need of securing permits from any national or local office or agency. X x x"

**WHEREAS**, a combination of the exercise of both the legislative and corporate powers of the local government in order to give flesh, actualization, or fulfillment to the aforesaid "economic rent policy", is most needful and desirable for the empowerment of local government units and enable them to more effectively deliver basic services to their constituents, while at the same time protecting the environment;

**WHEREAS**, it is likewise well-known that there are companies or institutions which are engaged in the heavy use of the natural resources in the territorial jurisdiction of Bacolod City, which deplete the natural resources for private profit; these companies have expressed a willingness to bring back some good or benefit to the barangay, especially by way of "direct benefit" as enshrined in Section 18 of the RA 7160.

**WHEREAS**, in the public hearing held on the proposed ordinance, there is unanimous and overwhelming support for the ordinance both from the barangays and the corporations or companies consulted,

**WHEREAS**, it is high time, if not long overdue, that the economic rent policy of the RA 7160 be given teeth and application at the local level;

WHEREFORE, let it be ordained, as it is hereby ordained, by the Sangguniang  
Munisipal of Bacolod City in session assembled that:

**TITLE:**

This ordinance shall be known as an ORDINANCE IMPLEMENTING A PORTION  
OF SEC. 18 OF RA 7160, ALSO SOMETIMES CALLED THE "ECONOMIC RENT  
POLICY", AND PROVIDING GUIDELINES AND MECHANISMS THEREFOR.

**Article 1. Statement of Intent and Policy.**

a. The intent of this ordinance is to encourage heavy users of the natural  
resources in the City of Bacolod to enter into written partnerships or agreements with the  
local government unit, either with the City or the barangay where their business or  
operation is located, in order to institutionalize joint-efforts to protect and preserve the  
environment and natural resources, and for the former to share with the latter "direct  
benefits" with the inhabitants of the LGU, pursuant to Section 18 of RA 7160, under such  
parameters and guidelines as may be set herein,

b. This does not preclude, however, passage of the necessary legislation  
compelling compliance with said policy enshrined in Sec. 18 of RA 7160, otherwise  
known as the "economic rent policy".

**Article 2. Definition of Terms:**

a. "**Economic Rent Policy**", as used in this ordinance, shall refer to the policy  
statement contained in that portion of Section 18 of RA 7160, whereby local government  
units are empowered "to have an equitable share in the proceeds from the utilization and  
development of the national wealth and resources within their respective territorial  
jurisdictions including sharing the same with the inhabitants by way of direct benefits";

b. "**Heavy users of the national wealth and resources**" shall refer to **private**  
persons, entities, whether natural or juridical, engaged in a systematic, continuous, and  
heavy use of the national wealth and resources falling within the territorial jurisdiction of  
the city, for business or profit,

b.1 For purposes of this ordinance, however, it is not necessary that  
actual profit is made by said "heavy user" to be placed under the ambit of the  
definition;

c. **Government-owned or controlled corporations** performing proprietary  
functions and engaged in the heavy use of the natural resources are not covered by this  
ordinance but shall be governed by the pertinent national laws, rules or regulation;

d. "**Territorial jurisdiction of Bacolod City**" refers to land, air and water,  
whether subterranean, riverine, coastal, and/or surface falling within its official and  
territorial boundary;

e. "**Corporate powers**" of the local government unit refer to that cluster of  
powers as are granted or are recognized by Section 15 of RA 7160 and other national  
law, rules and regulations to be possessed by local government units, including  
barangays, which encompass among others the power to enter into contracts for  
purposes not contrary to law, morals and public policy,

1. "National wealth and resources", for purposes of this ordinance, shall refer to classes and types of **depletable** natural resources of the state falling within the territorial jurisdiction of Bacolod City, including but not limited to water, whether surface or underground, coastal, riverine, earth, ground, or soil, vegetation, and all other natural resources falling within the territorial jurisdiction of Bacolod City; which the local government has the authority or interest to regulate, protect, preserve, promote, or enhance, except fisheries and aquatic resources which shall be governed by existing national and local laws, such as, but not limited to, the fisheries laws.

### **Article 3. Power of the city and/or the barangays to enter into contracts under the "economic rent policy"**

Pursuant to the aforementioned provision of Section 18, RA 7160, and related provisions, the City government and its component barangays are hereby empowered to negotiate contracts with heavy users of the national wealth and resources for the purpose, among others of:

a. defining documented or verifiable environmental effects of the operation of the heavy user of national wealth and resources on the City and the barangays as the case may be;

b. agreement on mechanics of sharing profits and/or benefits to the city and/or barangay as the case may be, and to institutionalize the same, for areas including but not limited to:

b.1. regular monetary contributions or aid, whether monthly, quarterly, or annual, as may be agreed upon by the LGU and the private entity;

b.2. provisions for employment of the barangay available workforce for projects of said heavy user of the national wealth and resources;

b.3. provisions for livelihood and/or cooperative assistance for barangay mothers, fisherfolks, out-of-school youth, and other sectors or constituents;

b.4. provisions for mitigation of environmental damage, as well as promotion and protection of the environment, by joint and collective effort, which shall be a mandatory provision of any such agreement;

### **Article 4. Mandatory Provisions of the Agreement.**

Section 1. All agreements entered into pursuant to this ordinance, while provisions of the same may vary from case to case and from barangay to barangay, shall however contain the following mandatory provisions:

a. details of the help that the party corporation, company or entity shall extend to the LGU, with the rights and obligations of the parties spelled out, which shall be carefully determined as not to violate any law, government rule or regulation;

b. creation of a MULTI-PARTITE OR JOINT MONITORING AND ENVIRONMENTAL PROTECTION TEAM to be composed of representatives of the party corporation or company, the barangay, with representatives of the DENR-CENRO, and the City's ENRO as ex-officio members;

c. identification of the particular aspects of the environment in the area subject to the team's protection, preservation, or enhancement;

d. Pursuant to the Art. 101, no (B) of the IRR of RA 7160, and pursuant further to pertinent government laws, rules and regulations on accounting and fiscal management, any money or fund received by the barangay or the city by reason of contracts or agreements entered into pursuant to this ordinance, shall be placed in a proper trust fund to be created or established by the pertinent ordinance, providing for, among others, the rules or mechanics for the use thereof;

**Section 2. Posting of copies of the MOA.** Any contract or MOA entered into and approved under this ordinance shall be posted in conspicuous places of the barangay or of the City, such as the pertinent bulletin boards, for information of the public.

**Article 5. Non-waiver of sanction for punishable violation of environmental laws.**

Nothing in the foregoing provisions shall be construed as a waiver of the right to sue for actual damages to the environment as may be defined or measured by standards and criteria of the national government and/or existing local ordinances on the environment. Neither shall any contract contain any such waiver. If such a waiver is so contained therein, the same shall be null and void ab initio.

**Article 6. Filing of copies**

All contracts negotiated or entered into under or by virtue of this ordinance by the barangay, with any heavy user of the national wealth or resources, shall be copy furnished the Mayor's Office and the Sangguniang Panlungsod of Bacolod. Those entered into by the City shall be authorized and ratified by the Sangguniang Panlungsod.

c. Within three years from passage of this ordinance, the Sangguniang Panlungsod shall review the same and determine if, in spite of this ordinance, there is a need to pass stronger legislative measures in order to enforce or implement the "economic rent policy" of the Local Government Code in the City of Bacolod.

**Article 7. Timetable for implementation of this ordinance: compilation of copies of contracts so entered into.**

a. Within six months from passage of this ordinance, the City of Bacolod, and/or its component barangays, as well as the different "heavy users of the national wealth or resources" as defined under Article 1 (b) hereof found or operating in, or affecting the barangay concerned, shall endeavor to enter in such Memoranda of Agreement or Contracts embodying the salient points or provisions of Article 3 and 4 hereof.

b. All such other Memoranda of Agreement or Contracts as may be entered into, amended, or revised thereafter, shall likewise be copy furnished the City as provided herein, which shall keep a file and logbook of the same.

**Article 8. Separability Clause.** Should any part of this ordinance be declared null and void by competent authority, the parts not so affected shall remain insofar as they are susceptible to enforcement.

**Article 9. Effectivity** This ordinance shall be effective immediately upon passage according to law.

**CARRIED BY THE VOTE OF:**

Affirmative:

Councilors: Archie S. Baribar, Roberto M. Rojas, Jude Thaddeus A. Sayson, Ana Marie V. Palermo, Jose H. Gabuat, Lyndon P. Caña, Elmer T. Sy, Bobbie S. Lucasan, Greg G. Gasataya, Reynold I. Iledan, Sonya M. Verdeflor, Arturo V. Parreño, Marx Louie S. de la Rosa.

Negative : None.

Absent : None.

Author : Councilor Lyndon P. Caña.

Co-Author : Councilor Greg G. Gasataya.

Official Leave : Councilor Celia Matea R. Flor.

Passed : November 13, 2003 (123rd Regular Session)

Comments: Passed.

RAMIRO L. GARCIA, JR.  
Vice Mayor  
Presiding Officer

*JG 11/13/03*

TESTED:

ATTY. NILO T. ALEJANDRINO  
Secretary to the Sanggunian

APPROVED: November 13, 2003.

**10 DAYS LAPSED  
AS OF 12/10/03**

LUZVIMINDA S. VALDEZ  
City Mayor

ATAHPL/ jernz