

Republic of the Philippines  
PROVINCE OF ZAMBOANGA DEL NORTE  
SANGGUNIANG PANLALAWIGAN  
Dipolog City

ORDINANCE NO. ZN-11-128

AN ORDINANCE PROTECTING AND CONSERVING THE INTEGRITY OF THE LAND AND WATER RESOURCES IN ZAMBOANGA DEL NORTE

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AUTHORED AND INTRODUCED BY: HON. BOARD MEMBER EDGAR J. BAGUIO AND HON. BM JOHANNA D. JALOSJOS; CO-AUTHORED BY: HON. CEDRIC L. ADRIATICO, HON. ANECITO S. DARUNDAY, HON. MICHAEL ALAN Z. RANILLO, HON. FERNANDO R. CABIGON, JR., HON. ULДАРICO M. MEJORADA. II, HON. JOSE JOY H. OLVIS, HON. FLORENTINO T. DAAROL, HON. LUZVIMINDA E. TORRINO, HON. ROMEO A. CARINO, MARJORIE N. JALOSJOS (VICE HON. MARIA OLGA S. CANDELARIA) AND CHARISSE MAE N. OLVIS (VICE HON. ANGELICA J. CARREON)

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*BE IT ORDAINED BY THE SANGGUNIANG PANLALAWIGAN OF ZAMBOANGA DEL NORTE IN SESSION ASSEMBLED*

Section 1. Title - This enactment shall be known as AN ORDINANCE PROTECTING AND CONSERVING THE INTEGRITY OF THE LAND AND WATER RESOURCES IN ZAMBOANGA DEL NORTE OF 2010.

Section 2. Declaration of Policy. - It shall be the policy of the Province of Zamboanga del Norte to protect and conserve the integrity of the land and water resources of Zamboanga del Norte, including its flora and fauna, being the intergenerational God-made life support system, for the benefit and general welfare of its inhabitants, develop, enhance and promote their agri-base economy within the Constitutional concept of protecting and advancing the right of the people and their posterity to a balanced and healthful ecology in accord with the rhythm and harmony of nature, consistent with the social justice clause in all phases of development which is considered as the centerpiece of the 1987 Constitution, the people's guaranteed human rights to life and to live, general welfare clause and other pro-people fundamental law and statutory provisions under the regime of local autonomy and decentralization. Towards this end, in the utilization and exploitation of the landbased, water, and vegetative resources, as well as in the use, gathering, removal, extraction of indigenous components and deposits existing, underlying and found on or underneath therein, the government shall, at all times, fulfill its duty to protect and advance the right of the people to healthy survival and food security, thus, it is prohibited to conduct any activity that will result to imbalanced and unhealthy ecology that will deplete, destroy, ravage, devastate, degrade and undermine the natural and organic land and water integument of this Province designed by God for mankind's intergenerational justice to the people of this province.

Section 3. Definition of Terms. - As used in and for purposes of this Ordinance, the following terms, whether in singular or plural, shall mean:

(a) Land means the solid ground of the earth composed of soil and other indigenous components thereof integument of the earth's ground surface where plants, crops, all kinds of forest and all vegetations grow

and exist, where water emanates, accumulates and exists either from subterranean origin or rainfall, where all living organisms and animals thrive, where all mankind live and roam, where manmade shelters, structures and projects are made and stand, and where the whole ecosystem exists;

(b) Land and water resources means the earth's surface cover which support and sustain organic and vegetative life as mankind's life support system;

(c) Water resources means all water from the sky falling on the ground as rain, issues from subterranean origin to the ground and land surface, springs, streams, creeks, rivers and sea, including pools, ponds and their tributaries, dews and moistures;

(d) Vegetative resources means the natural and/or man-introduce crops, plants, rainforests, tree farms, and entire vegetation existing on the surface of the earth;

(e) Minerals means all naturally or indigenously occurring inorganic substances in solid, liquid or any intermediate state. Land and Soil which support organic life, sand and gravel, rocks, boulders, guano, petroleum, geothermal energy and natural gas are included in this term. (Ref. P.O. 463; R.A. 7942).

(f) Open cut land surface mining operation is the removal, scraping-off, excavation and gathering of landsoil surface for the purpose of extracting therefrom ores or minerals, including the construction therein of tailing and leaching ponds.

(g) Open pit mining, under the common technical term used in the mining industry is a method of extracting rock or minerals from the earth by removing, excavating, cutting or breaking the overlaying materials or overburden to gather and/or expose the ore body which is drilled, blasted and loaded for haulage from the pit thereby making an enormous wide land surface cavity. The term is used to differentiate the form of mining from extractive methods that require tunneling into the earth. Open-pit mines are used when deposits of commercially useful minerals are found on the earth surface or near the surface; that is where the over burden (surface material covering the valuable deposit) is relatively thin or the material of interest is structurally unsuitable for tunneling. Open-pit mines are typically enlarged until the mineral resources (or the plot of land) is exhausted. [<http://www.wordiq.com/definition/open-pit-mining>].

(h) Ore means naturally occurring substance or material from which a mineral or element can be mined and/or processed for profit. (Ref. R.A. 7942)

(i) Tunnel mining means subterranean mining operation wherein mineral ores are gathered or extracted through construction of underground tunnels;

(j) Mining or mining operation means to extract, remove, utilize minerals and mining activities involving exploration, feasibility, development, utilization and processing of minerals, including operation necessary for that purpose. (P .D. 463, R.A. 7942)

(k) Kaingin or slash-and-burn cultivation means the destruction of forest through slashing and burning for crop production.

Section 4. Open pit and open cut land surface mining operations. - Open pit and/or open cut land surface mining operations in Zamboanga del Norte, as defined in Section 3(f) and (g) of this Ordinance, being destructive to the wide range of non-renewable landbased resources, and would cause pollution, depletion and loss of cropland, rangeland, forest cover, water and vegetative resources and cause extinction of animal and plant species, water and vegetative resources in Zamboanga del Norte, shall be prohibited.

Any person who shall conduct, undertake or make open pit and/or open cut land surface mining operations shall be punished by an imprisonment not exceeding one (1) year or fine not exceeding five thousand pesos (P5,000.00) or both at the discretion of the Court. If the offender is a corporation, partnership, cooperative, association or any juridical person, the officers, directors, managers, and persons approving, directing, managing and/or supervising the operation and those doing/committing and participating in the mining operation shall be criminally liable. The machineries, tools and instruments used in the mining operation shall be seized and forfeited in favor of the Provincial Government of Zamboanga del Norte.

Section 5. Mining methods not prohibited. - The following mining methods are not prohibited under this Ordinance provided they are covered by effective permits, to wit:

(a) Panning and sluicing mining;

(b) Mining or quarrying by a permittee of guano, gemstones, outcrop boulders, rocks, sand, gravel, aggregates and pebble picking for construction materials, provided that it shall not cause mudflow, soil erosion and siltation of any body of water and will not involve scraping, removal and gathering of land surface soil component and shall not cause destruction of land resources;

(c) Mining of solid mass of ore-bearing rocks, boulders or stones provided that it does not involve scraping, gathering, removal, extraction and destruction of land surface soil component and it will not cause mudflow, erosion and siltation of any body of water;

(d) Mining or gathering of earth materials covering an area not exceeding 10,000 square meters of barren or unproductive lands, provided it will not cause any mudflow, erosion and siltation of any body of water.

(e) Tunnel mining operation as defined in Section 3(i) of this Ordinance and those not involving open pit and open cut land surface mining.

Provided, finally, that such mining operation shall not disturb or cause destruction of spring, river, creek or body of water, water head sources, watersheds, crops and forests.

Violation of the terms and conditions provided in this section is punishable by the penalty provided in Section 4 of this Ordinance and ground for the cancellation of the mining permit issued by the Provincial Governor.

Section 6. Liability for those already in operation. - sixty (60) days from the effectivity of this ordinance, those who are already engaged in open pit and/or open cut land surface mining operations and other forms of utilization or exploitation of other natural resources that may deplete or devastate non-renewable land, water and vegetative resources and penalized in this ordinance shall adopt measures to totally curtail siltation, mudflow and erosion therefrom and shall desist from expanding such mining operation to unaffected area. Failure to adopt such total curtailment measure and the expansion of such kind of mining operation to unaffected area shall be punishable by the penalties provided in Section 4 of this Ordinance.

Section 7. Time limit of existing open pit and/or open cut land surface mining operation. - Those who are engaged in open pit and/or open cut land surface mining operations and those engaged in utilization or exploitation of other natural resources that may deplete or devastate non-renewable land, water and vegetative resources at the time of the effectivity of this shall stop such mining operation one ( 1 ) year from the effectivity of this Ordinance and shall technically and biologically rehabilitate, at their expense, the affected area into potent land, water and vegetative environment. Violation of this section shall make the violator liable for the penalty provided in Section 4 hereof.

Section 8. Authority of the Provincial Governor to issue cease and desist order. - The Provincial Governor of Zamboanga del Norte is hereby authorized to issue cease and desist order to stop any mining operation or utilization or exploitation of other natural resources violative of this Ordinance and to seize and impound the machineries, tools, and instruments used in the commission of the violation, including extracted minerals and gathered other natural resources to be proceeded against in accordance with Section 4 hereof.

The Governor may seek the assistance of the Philippine National Police and/or field units of the Armed Forces of the Philippines in the implementation of the cease and desist and seizure order, or stoppage and seizure order.

Section 9. – To ensure compliance with Sections 2(c), 26 and 27 of Republic Act No. 7160 – To ensure compliance of Sections 2(c), 26 and 27 of Republic Act No. 7160, otherwise known as the Local Government Code of 1991, and this Ordinance, no mining operation and no exploitation or utilization of natural resources not violative of this Ordinance shall be directly undertaken by the concerned agency of the government; and no co-production, joint venture, production sharing agreement, or any concession or license covering non-open cut land surface and/or non-open pit mining or for the utilization and exploitation of other natural resources not violative of this Ordinance shall be executed or issued unless the following requirements are complied with:

- (a) Prior consultation in accordance with Sections 2(c) and 26 of Republic Act No. 7160, otherwise known as the Local Government Code of 1991, with the Province of Zamboanga del Norte and its component cities, municipalities and barangays where the proposed mining claim, utilization or exploitation of other natural resources is or are located, the duly-accredited non-government and peoples organization, and the duly registered indigenous peoples organization or community without prior written notice to the Provincial Governor.
- (b) Clearance to be issued by the Provincial Governor showing compliance with such prior consultation requirement.
- (c) Prior concurrent approval of the Sangguniang Barangay or Barangays, Sangguniang Panlungsod/Bayans and Sangguniang Panlalawigan in whose territorial jurisdiction the mining project or exploitation/utilization of other natural resources is/are located, but resolving and voting separately in separate sessions, as required under Section 27 of Republic Act No. 7160, otherwise known as the Local Government Code of 1991.

At least thirty (30) days prior to the scheduled consultation and application for prior approval as provided in this Section the proposed Environmental Impact Statement, the proposed operational plan, and the proposed co-production, joint venture, production sharing agreement, or any concession or license containing the methods, terms and conditions of operation shall be submitted by the proponent or applicant to the Provincial Governor, Sangguniang/Barangay(s), Sangguniang Panlungsod(s)/Bayans and Sangguniang Panlalawigan, respectively, and to the accredited non-government and peoples organization. Provided, that no application for approval shall be acted upon by the Sangguniang Panlalawigan without proofs of compliance of paragraphs (a) and (b) of this Section, and without proof of prior approval by Sangguniang Barangay(s) and Sangguniang Panlungsod(s)/Bayans concerned being submitted to the Sangguniang Panlalawigan by the proponent or applicant.

Any person who violates the provision of this Section, except the 30-day submission requirement provided in the immediately preceding paragraph, shall be punished by the penalty provided in Section 4 of this Ordinance. If the violator is a corporation, partnership, cooperative, association or any juridical person, the officers, directors, managers, and persons supervising the operation and the workers thereof

shall be liable to such penalty. In addition to such penalty, the sanctions provided in Section 8 of this Ordinance shall be imposed upon the violator.

Section 10. - Watershed and protected areas - Cutting and clearing of forest are prohibited inside and within the radius of two hundred meters to and from the perimeter boundary of water reservations, springs, rivers, creeks, streams, lakes or lagoons and other sources of water and areas declared by law, ordinance or administrative orders as watersheds and protected areas. If a longer radius is provided by national law or national issuance, City or Municipal Ordinance the same shall prevail. Violation of this section is punishable by the penalties provided in Section 4 hereof or the national law, whichever is higher, and shall be dealt with by the sanctions provided in Section 8 of this Ordinance.

Section 11. - Requirements for Sanggunian's approval – Sanggunian Barangay, Sanggunian Bayan/Panlungsod and the Sanggunian Panlalawigan, where the proposed project area or areas are located/situated may, concurrently but resolving and voting separately in separate sessions, approve or favorably indorse under Section 27 of Republic Act No. 7160, otherwise known as the Local Government Code of 1991, any proposal or application for mining operation whose method does not violate this Ordinance or for any project, program or activities that may cause pollution, climate change, depletion of non-renewable resources, loss of cropland, rangeland or forest cover, extinction of animal or plant species, destruction, devastation, degradation or pollution of land, water and vegetative resources if the following requirements are submitted, to wit:

- a. If it is a juridical person, the articles of incorporation or cooperative or partnership, By-Laws, Certificate of Registration with the Securities and Exchange Commission or other registering government agency, list of stockholders, shareholders or partners and their citizenship and nationalities, as the case may be, list of directors or trustees and offices, as well as their citizenship and nationalities;
- b. Latest annual corporate report to the Securities and Exchange Commission, Cooperative Development Authority or other regulatory agency;
- c. If natural person, his citizenship or nationality and name of spouse.
- d. Minerals to be mined or natural resources to be exploited or utilized.
- e. Proof of compliance with the consultations mentioned in Section 2(c) and 26 of Republic Act No. 7160.
- f. Sketch maps prepared by a duly deputized Engineer, covering their mining claims or proposed mining operations, utilization and exploitation of natural resources, indicating on the Sketch the Barangays, Municipalities and/or Cities where they are located, indicating on the Sketch Maps the kinds of lands whether agricultural land, Riceland, cornland, coconut land, forest land, rangeland, vegetation, cultivated or idle land, its terrain, topographic or geographic settings, degree of elevation from sea level, existence of river, creeks, streams and water springs, distance from the sea, highways, roads and public structures, existence of water sheds and reservation areas;

- g. Demography and dominant occupation or livelihood of the residents, number of population and households in each barangay, city/municipality where the mining claims and proposed mining operations or utilization and exploitation of natural resources are located.
- h. Kind of mining, utilization or exploitation methods or technology of operation whether open pit or open cut land surface mining method, or non-open pit or combination thereof, method or technology of utilization or exploitation of natural resources and environmental impact statement or environmental assessment statement.
- i. Submit a copy of the environmental rehabilitation bond posted for environmental rehabilitation under Republic Act No. 7942 and this Ordinance.
- j. Approximately yearly volume of production.
- k. Other relevant environmental data that the Sanggunian may require.

The Sanggunian concerned shall disapprove and reject the application when the mining method to be used is open pit or open cut land surface mining operation or the proposed project or program may cause depletion or pollution of non-renewable or non-rehabilitated land, water and vegetative resources. Any approval or indorsement of this provision is null and void, without any effect at all.

Section 12. Rehabilitation Fund. - Other than the mine rehabilitation fund required under Section 71 of Republic Act No. 7942, otherwise known as the Philippine Mining Act of 1995, applicant for mining operation and for utilization and exploitation of natural resources whose methods do not violate this Ordinance, shall deposit, and maintain the same throughout the duration of its operation, in provincial depository banks in Dipolog City an environmental rehabilitation fund equivalent to ten (10%) of its estimated project cost declared in its approved work program to be spent for technical and biological rehabilitation of mined-out, tailings covered and disturbed or affected areas to the condition of environmental safety and to the potent conditions of the land, water and vegetative resources prevailing before mining, utilization or exploitation operation. The certificate of deposit shall be submitted to and held by the Provincial Treasurer. Without verified proof of compliance by the applicant of this requirement on deposit, the Sanggunian Barangay, Sanggunian Bayan/Panlungsod and the Sanggunian Panlalawigan shall not approve and shall not indorse under Section 27 of Republic Act No. 7160, otherwise known as the Local Government Code of 1991, the mining application or project for the utilization of natural resources to the Mines and Geosciences Bureau or the Department of Environment and Natural Resources or other concerned agency.

Section 13. Punishable approval or indorsement. - Any barangay, municipal, component city and provincial official or officials acting singly/individually or collectively with others, who approve, indorse, allow or tolerate or consent to any application or operation for open pit or open cut land surface mining operation or any project, program or activity in violation of the provision of this Ordinance shall be punished by the penalty provided in Section 4 of this Ordinance in the maximum period.

Section 14. Measures against illegal logging, kaingin or slash-and-burn farming. - Appropriate measures shall be adopted and taken by the Provincial Government, through its Chief Executive, in coordination with the concerned lead agency of the Government for the apprehension and prosecution of violators of prohibition against illegal cutting, gathering and/or collection of timber and other forest products defined and penalized under Section 77 of Presidential Decree No. 705, as amended, and violators of the prohibition against kaingin or slash-and-burn farming cultivation defined and penalized under Section 78 of said decree and assist in the relocation of kaingin farmers as provided in Section 53 of said decree.

Section 15. Water catchment, impounding pond and watershedding.- Subject to availability of land area, the Provincial Government alone or in partnership with component cities, municipalities and barangays shall construct or initiate the construction of water catchment impounding ponds in the barangays to collect, gather and impound rain water for the common use of the inhabitants therein, and shall undertake watershedding projects in water sources and water potential areas.

Section 16. Land rejuvenation program. – Except mined-out, tailings covered and disturbed areas of mining operators, land, water and vegetative resources affected by the exploitation or utilization of natural resources not prohibited by this Ordinance which shall be under the sole responsibility of the contractor, permittee, or operator to technically and biologically rehabilitate and rejuvenate the provincial government alone, or in partnership with the component cities, municipalities and barangays, may undertake a land rejuvenation program, through organic method, to restore its eroded surface and natural fertility, to device and adopt farm cultivation method which shall not cause erosion or diminution of the natural fertility of the land, protect and conserve the integrity of the land and water resources, as well as the flora and fauna therein.

Section 17. The organic composting campaign.- Consistent with national laws and policies, the Province, through its appropriate Agencies, shall launch an incessant campaign of converting into organic compost soil conservant biodegradable farm wastes, grasses and other vegetative remnants to stimulate soil productivity enhancement instead of burning them or instead of dumping them to live or dead water ways or bodies of water.

Section 18. Implementation of all environmental laws. - The Province shall undertake operational activities to implement environmental, sanitation and waste management national laws, rules and regulations aimed to conserve, protect land, water vegetative and the environmental resources to protect and advance the right of the people and their posterity to a balanced and healthful ecology, and cause the prosecution of the violators thereof.

Section 19. The Solid Waste Management Boards. -The Provincial Solid Waste Management Board created under Section 11 of Republic Act. No. 9003, otherwise known as the "Ecological Solid Waste Management Act of 2000" and the City and Municipal Solid Waste Management Boards created under Section 12 of said law shall take steps and adopt measures for the full implementation of said law and its implementing rules and regulations and shall adopt a program prioritizing the composting of decomposable and bio-degradable solid wastes into organic fertilizer for land productivity enhancement on barangay-base beneficiality of the farmers.

Section 20. Enforcement - Aside from the Provincial Governor, in his capacity as the Chief Executive of the Province, all city, municipal and barangay Chief Executives, and all enforcement agencies in the Province of Zamboanga del Norte are hereby enjoined to enforce this Ordinance and cause the prosecution of the violators. In addition to them, non-government organizations (NGOs) and peoples organization (POs) are hereby authorized under the citizen's arrest concept, to enforce this Ordinance within the context of Sections 34, 35 and 36 of Republic Act No. 7160, otherwise known as the Local Government Code of 1991, and cause the prosecution of the violator.

Section 21. Separability clause- Should any provision of this Ordinance is declared unconstitutional or invalid, any provision thereof not affected thereby shall remain valid and enforceable.

Section 22. Repealing clause. - Any ordinance whose provisions are inconsistent to this Ordinance are hereby repealed.

Section 23. Effectivity. - This Ordinance shall take immediately after compliance with the posting and publication requirement pursuant to section 59 of Republic Act No. 7160, otherwise known as the Local Government Code of 1991.

Carried unanimously.

I HEREBY CERTIFY to the correctness of the above-quoted ordinance.

JOSE L. BANTILLAN  
SP Secretary

CERTIFIED CORRECT AS TO ITS PASSAGE

ATTY. FRANCIS H. OLVIS  
Vice Governor  
(Presiding Officer)

APPROVED \_\_\_\_\_, 2011

ATTY. ROLANDO E. YEBES  
Provincial Governor

**-CERTIFICATION-**

Deemed **APPROVED** pursuant to Section 54(b) of RA 7160, otherwise known as the Local Government Code of 1991.

JOSE L. BANTILLAN  
SP Secretary

PF Oct. 22, 29 & Nov. 5, 2011