



Unpacking the Local Government Code of 1991

Republic Act 7160

A research undertaken by the:
Local Government Academy
Department of the Interior and Local Government
for the United Nations - Habitat
United Nations Development Programme



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A comprehensive research and up to date evaluation of the Local Government Code of 1991 conducted by the Local Government Academy

Articles may be used for education and training purposes. When using the articles from this publication, the credit line "Articles from Unpacking the Local Government Code of 1991" should be mentioned somewhere in the publications or learning materials.

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**Office of the President
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MESSAGE

We took a bold step, and a giant leap, on the road towards local autonomy when Congress enacted into law Republic Act 7160, more popularly known as the Local Government Code of 1991. Never before in the history of our country had our local government units been granted such wide latitude of local autonomy than under the provisions of the said law.

This document entitled *Unpacking the Local Government Code of 1991* contains a wealth of information vital to the on-going programs of strengthening local autonomy and local government units.

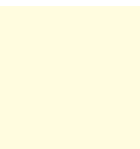
I challenge all local stakeholders to increasingly strive for a meaningful, equitable, and sustainable local development as we continue to intensify our efforts in reducing poverty.

Congratulations to the **Local Government Academy of the Department of the Interior and Local Government (LGA-DILG)**, with the aid of the **United Nations Development Programme (UNDP)** and **United Nations Habitat (UN-Habitat)** for initiating this relevant and useful document as a tool for our local governments in adopting and implementing the kind of governance we are visualizing for the 21st century.

ALBERTO ROMULO

Executive Secretary

**Chairman, Oversight Committee on the
Local Government Code of 1991**





**Department of the Interior and
Local Government**



MESSAGE

The enactment of the Local Government Code of 1991 brought about radical reforms in the administration and development of our local government units. In fact, these reforms are in response to the clamor of our people for genuine decentralization and local autonomy.

Hence, it is time for us to look back at the lessons learned on decentralization, recognize the collective gains and milestones in local governance, and move forward in setting the strategic directions towards strengthening local autonomy. While the Code may have been in place for more than a decade now, still there is an urgent need for a better understanding and appreciation of the issues and concerns on local administration as well as a unified interpretation of some of its provisions.

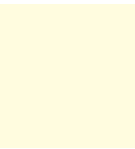
But beyond understanding the provisions, it is also significant that the Code serves as the tool in creating a difference in the lives of our people who are the ultimate beneficiaries of decentralization and local autonomy.

It is in this context that I commend the Local Government Academy for initiating the publication of a study entitled “**Unpacking the Local Government Code of 1991**” which could be useful for our local and barangay officials in carrying out their respective functions. At the same time, I extend my appreciation to the *United Nations Development Program* and the *United Nations - Habitat* for supporting this initiative.

I am confident that the recommendations incorporated in this publication will go a long way in our quest for excellence in local governance.

Mabuhay ang ating mga lokal na pamahalaan!


JOSE D. LINA, JR.
Secretary





Local Government Academy



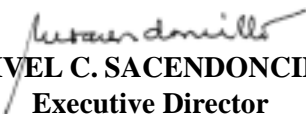
MESSAGE

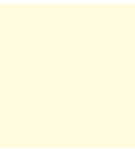
The Local Government Code of 1991, otherwise known as RA 7160, set forth the process of redefining and reinventing the course of Philippine local governance. It has also paved the way towards local autonomy through the decentralization of powers and functions from the national government to the local government units (LGUs). The existence of the Code for more than a decade has unleashed the full potentials of the LGUs and its constituents, long held captive by a centralized administrative system. While some LGUs are now reaping the benefits of devolution with unprecedented developments, others are still hanging on to the clutches of the central government.

It is within this context that the *Unpacking of Local Government Code of 1991* shall guide the local government units to optimize their maximum capacity en route to sustainable development. Together with the United Nations development Programme (UNDP), and United Nations Center for Human Settlements- Habitat (UNCHS-Habitat), the Local Government Academy embarked on the arduous journey of reviewing the salient features as well as unearthing the dark areas of the Code.

In the subsequent pages, readers will find different issues and concerns in the implementation and interpretation of the aforementioned law. The simplifications and omnibus recommendations compiled in this document will aid the national government, local authorities, private sectors, civil society groups, and other stakeholders, enabling them to play more effective roles in the implementation of the policy. With the incorporation of the Millennium Development Goals (MDGs) in the analyses and discussions herein, this review will serve as a policy tool in monitoring and evaluating the Code as basis for proposing amendments on provisions which are not utilized to its full extent.

It is the hope of the Academy, that this piece of work will find meaning and purpose among the local government officials, and all stakeholders in making local governments in the country effective and viable institutions for national development.


MARIVEL C. SACENDONCILLO
 Executive Director





Union of Local Authorities of the Philippines



MESSAGE

Local governance in the Philippines has taken a dramatic turn since the enactment of the Republic Act No. 7160, known as the Local Government Code of 1991. The Code has injected local governments with vigor and dynamism, creating the environment for innovations in local governance.

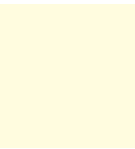
Considered the most substantial legislation ever passed on the subject, the Code has granted intense debate and opened opportunities for political clarification, and legislative and administrative innovation as local administrators and legislators, national agencies, non-governmental and people's organizations and sectoral groups struggle to interpret the statute in many ways that protect and further their respective interests. Expectedly, the result is a myriad of decisions, rules, regulations, administrative orders, circulars, opinions, and rulings that interpret, implement and clarify.

The *Unpacking of Local Government Code of 1991* fills in a critical void in providing a useful reference on local administration. As a reference material it will serve both national and local legislators, administrators and practitioners in the formulation of amendments to the Code. By compiling the recommendation from various sectors, providing simplifications, and citing other reading materials on decentralization, this work shows that there is a need to look into the salient features, as well as the dark areas in the Code.

We therefore welcome this research done by the Local Government Academy (LGA) through the support of the United Nations Development Programme (UNDP) and United Nations Center for Human Settlements-Habitat (UNCHS-Habitat), as a guiding material for the members of the Union of Local Authorities of the Philippines (ULAP).

A handwritten signature in black ink, appearing to read "Rodolfo P. Del Rosario".

GOV. RODOLFO P. DEL ROSARIO
National President





HABITAT

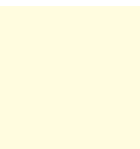
MESSAGE

The United Nations Center for Human Settlements-Habitat (UNCHS-Habitat) is pleased to be partners with the Local Government Academy in promoting excellence in local governance in the Philippines. Among our efforts in this area is in connection with addressing the issues of improving the living environment for all people by attaining the twin goals of “Adequate shelter for all” and “Sustainable development in an urbanizing world.”

We commend the Local Government Academy-Department of the Interior and Local Government for the sustained effort in inspiring more communities to adapt good governance practices in their respective areas. With the inclusion of documented best practices, the *Unpacking of Local Government Code of 1991* is a fitting legacy that will serve as a guiding instrument for the promotion of decentralization, and empowerment of the local government units.

We may look forward to seeing this document adapted and utilized by more local governments around the Philippines. Further, may this document serve as a valuable material for policy makers in their effort to strengthen and deepen local autonomy in the Philippines. To this end, the lessons learned and the valuable information contained in this work shall be documented and disseminated outside the country to further the exchange of expertise and experience in support to the Habitat Agenda.

(SGD) NICHOLAS YOU
Program Coordinator





MESSAGE

The Local Government Code of 1991 is one of the most important instrument for the promotion of decentralized governance in the country.

We at the United Nations Development Programme (UNDP) believe that decentralizing governance – from the center to the local communities – is an extremely effective way of achieving human development particularly of the poor and the most vulnerable groups. Empowering local authorities to carry out their responsibilities brings decision-making closer to the people and leads to more responsive and effective local government that addresses needs, ensures transparency and accountability and encourages the participation of people at the local level. Decentralized governance can address the many challenges involved in ensuring the places people live and work are ecologically sustainable and humanly livable.

We welcome this opportunity to be a partner in the publication of *Unpacking the Local Government Code of 1991*. We would like to commend the United Nations - Habitat (UN-Habitat), the Local Government Academy (LGA), and the other partners involved in this collaborative effort for advocating the popularization and optimal use of the Code. It is our hope that this work will open new avenues to support ongoing efforts to improve the quality of local government in the Philippines, and serve as a catalyst for sharing of ideas and experiences with other countries.

A handwritten signature in black ink, appearing to read 'Deborah Landey'.

DEBORAH LANDEY

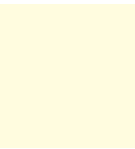
Resident Coordinator

United Nations Systems Operational Activities
for Development in the Philippines

and

Resident Representative

United Nations Development Programme and



ACKNOWLEDGEMENT

The Local Government Academy extends its appreciation to the working team that made the completion of the *Unpacking the Local Government Code of 1991* possible - from the Project Advisor, Dr. Gaudioso C. Sosmeña Jr. of the Local Government Development Foundation (LOGODEF), for his guidance and insights on local autonomy gained from his vast experience in matters of local government, to the Project Research Team and the Research, Information and Training Technology Division (RITTD) staff of the LGA who gave time and talent to see this piece of work to print.

Likewise, we recognize the various institutions particularly the local government leagues, the national government agencies, the academe and non-governmental organizations for their generosity in sharing their recommendations and insights so that the 1991 Local Government Code would be much more understandable and useful to ordinary citizens.

The list will not be complete if the United Nations – Habitat (UN-Habitat) and the United Nations Development Programme (UNDP) are not acknowledged because they are the ones who principally gave impetus to this endeavor.

Without being specific, there are still others who worked to make this publication possible. We sincerely thank them and we are confident that they are one with us in advocating excellent local governance in the Philippines.

Unpacking the *LOCAL GOVERNMENT CODE OF 1991*

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Introduction

This research aims to come up with three vital outputs – a simplification of pertinent provisions of the Code that need amendments, a collection of recommendations from various stakeholders to amend the Code, and an anthology or bibliography on the subjects of local autonomy and decentralization.

The purpose for simplifying significant provisions of the Code is to make them more understandable to ordinary citizens, especially the local leaders who need to perform their devolved powers and responsibilities with knowledge, wisdom, and resolve. Another goal for simplifying the Code would be to popularize its provisions to allow ordinary citizens to participate more fully in local governance.

The collection of recommendations will allow the study to better recognize and analyze the predicaments that local governments deal with in their daily endeavors.

The anthology or bibliography will serve as an aid and reference for future studies relevant to the Unpacking of the Local Government Code of 1991.

The study began in the second week of September after the formation of the research team composed of a senior advisor, a project manager, and two junior researchers. One of the first activities conducted was the gathering of recommendations to amend the Code. Aside from getting recommendations from several existing legislative proposals, the various local government leagues, national government agencies and other stakeholders in policy evaluation were also consulted. After mapping out the list of experts in matters concerning the Code, two panel discussions were scheduled. The first experts' panel meeting was held on the 29th of October 2003 and the second on the 7th of November 2003. (*See Appendix G*)

While drawing together the recommendations of the various stakeholders, the research team also gathered reference materials on the subjects of local autonomy and decentralization. It should be noted that there are only a few books written on both local autonomy and decentralization.

After the stakeholders had identified the provisions of the Code that need to be amended, the research team moved on to the simplification of the said provisions.

As a follow-up to the two experts' panel meeting, a stakeholders' conference was held on the 19th of November 2003 at the Discovery Suites in Pasig City. During this meeting, the initial list of recommendations to amend the Code were again reviewed and finalized.

The team was able to finish the first draft of the research paper by the first week of December 2003. The final paper was completed and submitted to the United Nations - Habitat) by the second week of December 2003.

As of the moment, this research is the most updated and comprehensive review of the Code. The consultations and forums were the first government-initiated attempt to evaluate and assess Local Government Code.

Title of the Law

Republic Act 7160 otherwise known as **The Local Government Code of 1991**. The Local Government Code of 1991 is the Bible or Koran for local government administration in the Philippines.

Country

The Republic of the Philippines.

Language

The Local Government Code was originally written in English. It has since been translated into the different local languages of the country to make it accessible and understandable to ordinary citizens.

Sphere of Application

The Local Government Code of 1991 applies primarily to all local governments – provinces, cities, municipalities and barangays – in the Philippines. It also affects officials, offices, and agencies of the national government as far as their relationship to the local governments are concerned. The Code does not apply in the Autonomous Region of Muslim Mindanao (ARMM). Being an Autonomous Region, it has its own local government code.

Date of Adoption and Effectivity

The Local Government Code of 1991 was signed into law by the President of the Philippines on 10 October 1991. The Code took effect on 1 January 1992.

Agency Responsible for the Implementation/ Monitoring and Evaluation

The provincial, city, municipal, and barangay governments are the agencies primarily responsible for the implementation of the Code in their areas of jurisdiction. There are seventy nine (79) provinces, one hundred fifteen (115) cities, one thousand four hundred ninety-eight (1,498) municipalities and forty-

one thousand nine hundred fifty-nine (41,959) barangays throughout the Philippines.

Among national government agencies, the Department of the Interior and Local Government (DILG) is responsible for the implementation, monitoring, and evaluation of the Code. Other national government agencies whose functions have been fully or partially devolved to the local government provide assistance when necessary.

Objectives of the Code

Centralism had characterized Philippine political administration since colonial times. While the set-up has made it possible for State formation and consolidation in an archipelago of more than 7100 islands, it has increasingly become anachronistic or unresponsive to the demands of modern public management. Recognition of the irreplaceable and privileged role of local government units had grown over the years. This caused the framers of the 1987 Constitution to call for the passage of a local government code in Section 3 Article X of the 1987 Constitution:

The Congress shall enact a local government code which shall provide for a more responsive and accountable local government structure instituted through a system of decentralization with effective mechanisms of recall, initiative, and referendum, allocate among the different local government units their powers, responsibilities, and resources, and provide for the qualification, election, appointment and removal, term, salaries, powers, and functions and duties of officials, and all other matters relating to the organization and operation of the local units.

By expanding the powers and responsibilities of local governments, the Local Government Code of 1991 seeks:

- to provide local government units the opportunity to tap their fullest potentials as self-reliant communities and as active partners of the national government in the attainment of national goals;
- to facilitate faster decision-making at the local level;
- to enhance the participation of ordinary citizens, organized groups, and the poorer sectors in the conduct of public affairs and the business of government;
- to deliver basic services more efficiently.

Areas Being Addressed by the Code

The Local Government Code of 1991 covers all aspects of local governance. It addresses the decades-old problem of over-centralized political and administrative system that concentrated most significant decisions and development in the Metropolitan Manila Area. The Code consists of five hundred thirty-six (536) sections divided into four (4) books. Book I contains policy statements, principles, processes, and mechanisms for effective local governance. Book II covers the taxing powers and other revenue raising powers and the corresponding administrative structures and processes necessary in the exercise of such powers. Book III details the local government structure and powers and duties of elective officials. Book IV contains the transitory provisions that will effect the smooth implementation of the Code.

More specifically, the Local Government Code addressed the following:

- delineated the mandates, powers and functions of provinces, cities, municipalities and barangays;
- vested the local government units with the responsibility to deliver certain basic services including health, agriculture, social welfare, and aspects of environment and natural resources.
- devolved to local governments the authority to impose certain regulatory and licensing functions such as the reclassification of agricultural lands, enforcement of environmental laws, inspection of food products and quarantine, enforcement of the national building code, operation of tricycles, processing and approval of subdivision plans, and establishment of cockpits and holding of cockfights — all which were previously performed by the national government.
- provided the legal and institutional infrastructure for the expanded, active and direct participation of civil society, non-governmental organizations, people's organizations, and the private sector in local governance by providing representation from these groups in local development councils and in local special bodies.
- empowered ordinary citizens to directly call into account elected officials and pass legislation outside the regular process of representative democracy through the process of recall and people's initiative;

- increased the financial resources of the local government units by providing them shares in the national wealth and national taxes by way of the internal revenue allotment (IRA) and by broadening their powers of taxation.
- enhanced the people's access to justice and gave them the power to mediate and decide on local disputes without the coercive powers of the State through the *Katarungang Pambarangay* or the barangay justice system.
- laid the foundation for the development and evolution of more entrepreneurial oriented localities by authorizing LGUs to enter into build-operate-transfer (BOT) arrangements with the private sector.

Context

The Philippines is a democratic state under a unitary system of government. It is an archipelago with an area of approximately 300,000 sq. km. and a population of 81.1 million in 2003. According to the National Statistics Office (NSO), the country has a literacy rate of 92.3 %; gross domestic product (GDP) of \$18.82 billion; and gross national product (GNP) of \$20.214 billion.

The country follows a presidential form of government. It has three branches of government: the Executive, the Legislative, and the Judiciary.

The legislative power is granted to Congress, consisting of two chambers: the Lower House known as the House of Representatives, and the Upper House or the Senate. Each House is constitutionally empowered to propose legislation, and together, enact laws, determine the rules of its proceedings, conduct inquiries or investigations, and punish its members for disorderly behavior. The Senate is an assembly of twenty four (24) Senators elected nationwide and are entitled to serve a maximum of two (2) consecutive six-year terms. On the other hand, the House of Representatives is made up of two hundred fifty (250) legislators. Twenty percent (20%) of the total number of Representatives is elected through a party list system of sectoral parties and organizations, while the rest are elected by district. Legislative districts are apportioned among the provinces, cities, and the Metropolitan Manila area in accordance with their respective inhabitants and on the basis of a uniform and progressive ratio. Each Representative is entitled to serve a maximum of three (3) consecutive three-year terms.

The power to execute the laws is vested on the President who administers the affairs of the government as Chief Executive. The President is the Head of the State and appoints department secretaries who are his/her alter ego. The President is elected at large by the people but can be removed by impeachment. The President can exercise veto power over bills passed by the Congress. The President is not eligible for re-election after serving a six year term. The Vice-President, on the other hand, is elected through the same manner as that of the President and is also removable by impeachment but may serve a maximum of two (2) consecutive six-year terms. The Vice-President takes over as President if the Chief Executive is impeached, dies or is permanently incapacitated.

Judicial power refers to the authority to interpret the laws and its constructions. Judicial power is exercised by the Supreme Court, by lower courts, and by quasi-judicial bodies. The Supreme Court, being the Highest Tribunal, is composed of a Chief Justice and fourteen (14) Associate Justices. The powers of the Supreme Court consist of original and appellate jurisdiction, temporary assignment of judges, the change of venue or place of trial, promulgate rules, appointment of officials and employees, and administrative supervision over all courts and personnel thereof. The members of the Judiciary are appointed by the President according to the qualifications prescribed by law.

A local government under a unitary form of government is an intra-sovereign political subdivision composed by law and possesses extensive control over its own affairs. It has a dual personality: public or governmental and private or corporate. In its governmental capacity, it is an agent of the state and of the community in carrying out the functions of the government and in supervising local transactions. As a corporate entity, it can act like a business corporation, performing functions not strictly governmental or political.

The Local Government Code of 1991 is the latest of several attempts to decentralize the State and expand the powers of local governments.

In 1959, the Local Autonomy Act (RA 2264) was passed. This law vested cities and municipal governments with greater fiscal, planning, and regulatory powers. Another important legislation was the Barrio Charter Act (RA 2370) that sought to transform the barrios – then the smallest unit of government – into quasi-municipal corporations through the grant of selected taxing powers. This was followed by RA 5185 or The Decentralization Act of 1967 that increased the financial resources of local governments and broadened their decision-making powers.

The imposition of Martial Law in 1972 stemmed, and in several instances, reversed the tide towards greater local autonomy. Under authoritarian rule, local elections were suspended, and the power to appoint local officials was vested in the President. Notwithstanding the highly-centralized set-up, the pursuit of local autonomy was not abandoned at least on paper. The 1973 Constitution called for policies on local autonomy especially for the barrios and in the area of fiscal administration. The regime experimented with expanding the powers of local government units through Batas Pambansa 337 otherwise known as The Local Government Code of 1983. However, the centralizing actions and iron grip of the dictatorship smothered local initiatives.

The 1987 Constitution promulgated after the removal of the dictatorship and restoration of democracy in 1986 contained provisions assuring autonomy to local governments. In the same year, a proposal for decentralization made by the Department of Local Government led to the organization of a Joint Legislative-Executive Committee. The committee was entrusted with the task of formulating policies on how decentralization and the expansion of local autonomy should proceed.

Substance

The Local Government Code is the most comprehensive piece of legislation yet passed on the subject of local governance. The Local Government Code sought to decentralize the Philippine State. Broadly speaking, decentralization is the transfer of power and authority from the central institution to the lower or local levels of a government system. It assumes three main forms: devolution, deconcentration, and debureaucratization. Devolution refers to political or territorial decentralization wherein local governments are empowered for self-governance. Deconcentration is administrative decentralization and involves the delegation of responsibility of the central government agencies to the provincial, city and municipality governments and regional bodies. Debureaucratization is also the transfer of public functions and responsibilities but the transfer is made to the private sector and non-government organizations, not to local government units.

As already mentioned, the Code consists of 536 Sections divided into Four Books, dealing with the General Provisions, Local Taxation and Fiscal Matters, Local Government Units, and Miscellaneous and Final Provisions. The Code protects the LGUs (Local Government Units) whenever doubts arise on the interpretation

of its provisions. Thus, any question on the powers of the local governments shall be liberally interpreted in favor of the devolution of powers and the LGU.

Through the general welfare clause, the Code provides the LGUs as much power as necessary, appropriate, or incidental for the promotion of the general welfare. The Code gives local governments powers to ensure the preservation and enhancement of culture, promotion of health and safety, right of people to a balanced ecology, development of technological capabilities, improvement of public morals, economic prosperity and social justice, full employment of residents, peace and order, and the convenience of inhabitants.

Creation and Classification of LGUs

The Code provides for the creation of LGUs at the provincial, city, municipal, and barangay levels. Except for barangays, all other LGUs are created by Congressional fiat. Barangays are created by the acts of local legislative bodies at the provincial and city levels. LGUs are classified according to their annual income, population, and land area. Philippine cities are categorized either as highly urbanized cities (HUCs) or component cities. Highly urbanized cities are independent from the province; component cities remain under the general supervision of the provincial government where they are located.

The province as a political corporate unit of government serves as the dynamic mechanism for developmental processes and effective governance of LGUs within its jurisdiction. It is composed of component cities and municipalities.

The city coordinates development initiatives within its bounds, delivers basic services and governs the inhabitants within its territory. It is composed of more urbanized and developed barangays.

Municipalities, on the other hand, function in the same manner as that of the cities, the only difference being that it consists of less developed barangays. The Code defines a barangay as a forum where collective views of the people may be expressed, crystallized and considered, and where disputes may be amicably settled. As a political unit, it functions as the primary planning and implementing unit of government programs, projects, and activities in the community.

The head of a province is called a governor. The head of a city or a municipality is the mayor. Barangay, the smallest political unit, is governed by a barangay chairperson or captain. The governors, the mayors, and the barangay chairpersons exercise administrative and executive powers; legislative powers of provinces, cities, and municipalities are vested in local legislative councils called Sanggunians with the Vice Governor and the Vice Mayor as Chair. Among all local chief executives, the barangay chairperson alone possesses judicial powers by virtue of his mandate to arbitrate disputes within his territorial jurisdiction.

The Code stipulates the creation of a *Sangguniang Kabataan* (Youth Council) as part of the local government structure at all levels, barangay, municipality, city, and province. It is a little assembly by itself, a venue for the youth to participate in public affairs, and a training ground for higher positions. The Constitution, through Section 13 Article II, mandates the State to “inculcate in the youth patriotism and nationalism, and encourage their involvement in public and civic affairs.”

The Local Government Code also institutionalizes the different leagues, namely: Liga ng mga Barangay, League of Municipalities, League of Cities and League of Provinces.

Devolution of Basic Services

Recognizing the primary role of LGUs in the development and growth of communities, the Code vests them with the powers and functions to deliver services. Responsibilities in the delivery of certain services including health, agriculture, public works, social welfare, and aspects in the development and conservation of the environment and natural resources and tourism were devolved to the LGUs by national government agencies.

The Code expressly provides for the delivery of agricultural services to the LGUs. Agricultural support services such as the distribution of planting materials and operation of collecting and buying stations for farming needs have been placed under the authority of the barangays. Cities and municipalities are empowered to implement extensions and on-site research services and facilities related to agriculture and fishery activities, including the enforcement of fishery and environmental laws. Provinces, on the other hand, are charged with the provision of agricultural services and facilities that require more resources and affect several municipalities.

The Local Government Code also transfers the functions of the field units of the Department of Health (DOH) to the local governments. It provides for the creation of a Local Health Board at the provincial, city, and municipal levels. The Local Health Board acts as a policy recommending body on the planning and implementation of local health programs. However, the Secretary of Health is still empowered to temporarily assume direct control and supervision, for a limited period over local health operations in cases of widespread dangers to public health.

The Code also devolves social welfare services to the LGUs. This involves the transfer of responsibility from the regional, provincial, and municipal or city district offices of the Department of Social Welfare and Development (DSWD) to the local governments. Included in the devolved functions are the establishment, operation, and maintenance of various social welfare facilities. Barangays have the duty to maintain day care centers. The governors and mayors are empowered to carry out emergency measures during and the aftermath of disasters and calamities. Programs and projects on rebel returnees are now the responsibility of the provinces. The Code entrusts the delivery of social welfare and services to local social welfare and development officers. However, it mandates the appointment of only the provincial and city social welfare and development officers; appointment of a municipal social welfare and development officer is optional. The appointment of provincial and city population officers is also mandated by the Code.

In the conservation and protection of the environment, the Code states that LGUs share equal responsibility with the national government. All LGUs, through their local chief executives, are granted considerable powers to safeguard and conserve natural resources within their jurisdictions. Furthermore, it requires national agencies or government-owned or-controlled corporations (GOCCs) engaged in projects with significant impact on the environment, to consult LGUs, NGOs, and other concerned sectors prior to the implementation of such projects.

Responsibility over certain aspects of tourism promotion and development, telecommunications, and low-cost housing programs are also delegated to LGUs.

The Code empowers the LGUs to exercise control and supervision over infrastructure facilities funded locally. The Department of Public Works and Highways (DPWH), however, retains responsibility for infrastructure projects funded by the national government. To ensure the effective performance of

this function, the Code requires the appointment of an engineer and architect at the provincial, city, and municipal levels. The school building program is also delegated to the cities and municipalities.

Lastly, cities and municipalities are obliged to maintain public libraries and information services. Provinces are mandated to perform industrial research and development and investment support services.

By mandating and devolving these functions to LGUs, the Code is operating on the premise that LGUs can better respond to diverse and changing local conditions better and more efficiently than the national government can. There are also greater incentives for LGUs to do this because its officials are closer to the people and would be held accountable for their success or failure in doing so.

Transfer of Regulatory Functions

The Code also transfers certain regulatory powers from national agencies to LGUs. Under the Code LGUs are empowered to reclassify agricultural lands. The law makes its intention clear by using the term *reclassify* rather than *convert* in allowing the *Sangguniang Panlungsod or Pambayan* (City or Municipal Council) to reclassify and provide for the manner of utilization and disposition of lands provided that such shall not repeal, amend or modify the Comprehensive Agrarian Reform Law (RA 6657). Land is to be reclassified if it ceases to be economically feasible for agricultural purposes as determined by the Department of Agriculture, or if the land shall have substantially greater economic value for residential, commercial, or industrial purposes as determined by the concerned *Sanggunian*. The President may upon the recommendation of the National Economic Development Authority (NEDA) increase the percentage limitations on the land to be reclassified when public interest requires. The authority of the *Sanggunian* is limited to the reclassification of agricultural lands. Such authority does not extend to all other public lands such as forests or timbers, mineral lands, and national parks, which is the prerogative of the President upon recommendation of the pertinent national government agency head.

In the same vein, the Code mandates LGUs to prepare a comprehensive land use plan (CLUP). The CLUP shall be the LGU's primary basis for the future use of land resources. To put the plan into effect, municipalities and cities are

empowered by law to adopt zoning ordinances and regulations. A zoning ordinance is a valid exercise of police power to promote the good order and general welfare of the people in the locality.

The Code empowers the *Sangguniang Panlungsod* and *Pambayan* to provide for the regulation and inspection of food products for public consumption. It authorizes such *Sanggunians* to regulate the slaughter, sale, and disposition of animals. They are also empowered to regulate the construction and operation of markets. The appointment of provincial and city veterinarians is also mandatory. Furthermore, LGUs are given the power to adopt quarantine regulations to prevent the introduction and spread of diseases.

The Code mandates LGUs to enforce the National Building Code which entrusts to the municipal or city engineer the tasks of local building officials. This authorizes the official to inspect and determine a building's compliance to the Building Code prior to the issuance of building permits. Building officials are also empowered to collect fees and other charges which shall accrue to the general fund of the LGU.

In addition, the local *Sanggunians* of the city and municipality are authorized to regulate the operation of tricycles for hire and grant franchises for their operation within the territorial jurisdiction of the LGU. The *Sangguniang Panlungsod* and *Pambayan* may also permit and license the establishment, operation, and maintenance of cockpits. They are authorized to regulate cockfighting and the commercial breeding of gamecocks.

To ensure that the local governments are able to perform their functions, the Code grants them certain governmental and corporate powers pertaining to proprietary rights, foreign grants, cooperative undertakings among LGUs, tax exemption privileges of LGUs, credit financing, and inter-LGU loans, grants, and subsidies. The Code guarantees that LGUs shall enjoy full autonomy in exercising their proprietary functions and in managing their economic enterprise. It provides for the disposition, development, lease, obtainment and utilization of their own properties and resources for productive and developmental purposes. Consistent with these, LGUs are allowed to commercialize or privatize the delivery of certain basic services.

The Code also allows LGUs to negotiate and secure financial grants or donations from local or foreign assistance agencies without having to obtain a clearance or approval for such grants from any national agency or higher local government unit, provided that clearance is secured from the *Sanggunian*

concerned. Also, LGUs are permitted to group themselves and consolidate or coordinate their efforts, services, and other resources for purposes commonly beneficial to them. A Memorandum of Understanding may be entered into by LGUs. Fund or property contributions may be made upon approval of the *Sanggunian* concerned after conducting public hearings. Contributions should not exceed the LGU's surplus funds.

To improve their localities and facilities, the Code exempts LGUs from paying taxes and obligations on imported heavy equipments or machineries that would be used for infrastructure projects. The Code also provides conditions under which a local government may extend loans, grants, or subsidies to other LGUs.

NGO/PO and Private Sector Participation and Partnerships with LGUs

Under the Local Government Code, LGU-NGO/private sector cover so wide a range of activities and modes of partnership and collaboration as to be virtually limitless. The Code states that LGUs and the said organizations may establish joint venture and cooperative arrangements in the delivery of basic services, capability-building and livelihood projects, and development of local enterprises to improve productivity and income, diversify agriculture, spur rural industrialization, promote ecological balance, and enhance the economic and social well-being of the people. Projects or services that can be the object of such partnership concern electrification, waterworks, waste disposal, health services, etc. Livelihood and economic undertakings may include, among many others, agricultural diversification, seminars on various subjects that may enhance local capabilities, poultry farming, factories, processing of local raw materials like seaweeds and precious metals.

In addition, the Code encourages and allows the LGUs to provide financial, technological and other forms of assistance to projects implemented by these organizations aimed at attaining and enhancing the economic, cultural and social well-being of the community, subject to the approval of the Local Chief Executive and the *Sanggunian*. As provided in the Implementing Rules and Regulations of the Code, an LGU may grant tax exemptions, tax relief and other tax incentives to the said organizations. The Code gives preference to organizations of the marginalized and poorer sectors of the community like small fisherfolk, the urban poor, informal workers. Registered organizations and cooperatives of marginal fishermen are to be accorded preferential treatment by the *Sanggunian* in the erection of fish corrals, oyster, mussel or aquatic

beds and the designation of *bangus* (milkfish) fry areas within a definite zone of the municipal waters. They are also accorded preference in the gathering, taking, or catching of fry or any species of fish from the municipal waters. Aside from these, cooperatives are given preferential treatment in securing franchises.

The Code further encourages the participation of the private and social sectors by mandating their representation in the Local Development Council (LDC), Local Prequalification, Bids and Awards Committee (PBAC), Local School Board (LSB), Local Health Board (LHB), Local Peace and Order Council and other local bodies. The Code created the LDC and entrusted it with the task of formulating the socio-economic development plans and public investment programs in the locality. The Local PBAC is tasked to conduct the prequalification of contractors, bidding, evaluation of bids, and the recommendation of awards concerning local infrastructure. The Local Health Board has the responsibility of advising and assisting the *Sanggunian* on health matters. The formulation of plans and recommendation of measures for the improvement of the peace and order situation of the LGUs are the duties of the Local Peace and Order Council.

Accountability of Local Officials and Citizens' Initiative

The Code upholds the right of registered voters to institute the process of recall against any elective official whose performance has not been satisfactory. The power to initiate recall is vested upon two groups: at least 25% of the registered voters of the LGU at the time of the election of the official concerned, and the Preparatory Recall Assembly (PRA).

The Provincial PRA is composed of all mayors, vice-mayors, and *Sanggunian* members of the municipalities and component cities within the province concerned who are politically neutral. The PRA handles all the recall resolutions against elective provincial officials. However, when *Sangguniang Panlalawigan* members who are elected by district are the object of recall, the body that handles the resolution is the Legislative District Preparatory Recall Assembly, which is composed of all elective municipal officials in the district; and in cases where *Sangguniang Panlungsod* members are the object of recall, all elective *barangay* officials in the district. All elective *barangay* officials of the district compose the Legislative District PRA of the city where the *Sangguniang Panlungsod* member was elected. The Municipal PRA is composed of all elective *barangay* officials of the municipality. Finally, *barangay* recall petitions may be initiated by at least twenty five (25%) of the registered voters of the

barangay who voted in the election that propelled the official being recalled into office.

The Code empowers registered voters of the local government unit to directly participate in the local legislative process through initiative and referendum. A local initiative is defined as the legal process whereby the registered voters of the LGU may directly propose, enact, or amend any ordinance. It has two parts: to adopt or enact an ordinance proposed by the initiating petitioner (new ordinance) or to repeal or amend an existing ordinance. Local initiatives are limited in the subject matter and the number of times they can be exercised. It can cover only matters that are within the capabilities and legal powers of the *Sanggunian* to enact. Initiatives in local government can be exercised only once a year.

Fiscal Matters

The Local Government Code increases the financial resources of local governments since it is impossible to fulfill the wide-ranging powers, responsibilities, and functions without the requisite monetary capability. This granting of fiscal autonomy falls under two categories: locally generated and externally sourced. The major sources of locally generated income are the business taxes and other local taxes, real property taxes, income from economic enterprises, and fees and charges. The externally sourced income of LGUs consists of shares in the internal revenue allotment (IRA), proceeds from the utilization and development of the national wealth, loans, credit and bonds, and grants or subsidies. However, the taxing powers of the LGUs are also limited by the Code.

The power to impose taxes is vested on the *Sanggunian*. The Code specifically states that the taxing and revenue-generating powers shall be exercised through appropriate ordinances. The Code also realigns the taxing powers and distributes them to the different levels of LGUs. Provinces retain their tax base on real property taxation, business of printing and publication, franchise tax, tax on gravel and sand, professional tax, amusement tax, and annual fixed tax for delivery trucks. However, the power to levy fees for sealing and licensing of weights and measures, and tax on peddlers have been transferred to the municipalities. Municipalities retain essentially the same tax measures granted to the provinces and may continue to levy taxes, fees and charges not granted to the province in addition to business tax, fees and charges, fees for sealing and licensing of weights and measures, and fishery rentals, fees and charges. Nevertheless, municipalities in the Metropolitan Manila Areas (MMA) may

impose taxes that exceed the rates prescribed in the Code by not more than 50%. Cities share the powers of taxation of the provinces and municipalities. They are not authorized, however, to exceed the rates of taxes on professional and amusement taxes levied by the provinces or municipalities. *Barangays* are authorized to impose taxes on stores or retailers with fixed business establishments with gross sales or receipts of PhP50,000 or less in the *barangays* in cities and PhP30,000 in the *barangays* in municipalities. They are also empowered to collect fees and charges on service rendered in connection to the use of *barangay*-owned properties or service facilities, places of recreation which charge admission fees, issuance of business clearance and permits within their jurisdiction, commercial cockfights, cockpits and breeding of fighting cocks, and billboards, signboards and outdoor advertisements.

Under the Code, LGUs have the authority to adjust tax rates by a maximum of ten percent (10%) once every five years to 10%, collect community tax, and grant exemption privileges. To ensure public participation and accountability, the holding of public hearings is mandatory prior to the approval of tax ordinances. The local chief executive has veto power on the ordinance according to the grounds provided for in the Code. It also lays the foundation for the emergence and development of more entrepreneurial localities. The Code grants LGUs the authority to enter into build-operate-transfer (BOT) agreements with the private sector .

To enable the LGUs to adapt their organizational structures, the Code authorizes them to establish an accountable, efficient, and dynamic organizational structure and operating mechanism. They are also empowered to establish an organization that shall be responsible for the effective implementation of its development plans, programs, objectives and priorities, and design and implement their own staffing pattern as prescribed by the Civil Service Commission (CSC). As part of human resource management, the Code delineates the role of elective and appointive local officials and other personnel. Systems of incentives and rewards and grounds for disciplinary action and punishment are also provided there.

The Code is clear in granting the power of review to Congress. Congressional review serves as a mechanism to evaluate and monitor the effectiveness of the Local Government. The assessment is actually done by two parties. First is the local electorate that has the ultimate power to elect local public officials. Second is the national government that plays a critical role in the realization of local autonomy and decentralization.

Process of Formulating the Code

The process of formulating the Local Government Code started when then Senate Chairman of the Committee on Local Governments, Aquilino Q. Pimentel, introduced Senate Bill No. 155. At the House of Representatives, it was Congressman Celestino E. Martinez Jr. then Chairman of the House counterpart committee who introduced House Bill No. 31046. Both bills were entitled *An Act Providing for a Local Government Code*.

Although the two bills sought to grant more autonomy to local government units, they differed in the approach and manner of exercising those powers. A long-drawn debate ensued during the deliberations, which lasted until the middle of 1991 when the Bicameral Conference Committee composed of representatives from both houses of Congress agreed to recommend the consolidated version for approval to the larger Senate and House of Representatives.

On 10 October 1991, President Corazon C. Aquino signed into law Republic Act No. 7160 or the Local Government Code. The Code took effect on 1 January 1992.

Relevant and useful recommendations gathered from several studies on local government administration conducted by some universities and other academic institutions were used as inputs in the crafting of the Code. The principles and guidelines, as well as most of the provisions of the Local Government Code of 1983, served as the codal framework for the Code. Also, prior to the approval of the Code, the Local Government Committees of both Houses went through a series of public hearings in the various regions of the country. These consultations proved to be very effective in enriching the concept and principles of local governance. Insights taken from these public hearings were then incorporated into the Code.

Process of Implementing the Code

An Oversight Committee was organized prior to implementing the Local Government Code. The Oversight Committee was composed of the Executive Secretary as the chairperson, the Secretaries of the Department of Finance (DOF), the Department of the Interior and Local Government (DILG) and the Department of Budget and Management, three Senators, three Congressmen,

and the presidents of the different local government leagues as members. The Committee's most significant contribution was the formulation of the Implementing Rules and Regulations (IRR) of the Code. A series of interdepartmental consultations were conducted to rationalize the devolution of specific functions to local government units.

In 1993, Malacañang issued Proclamation No. 481 entitled *Declaring the Adoption of the 1993-1998 Master Plan for the Sustained Implementation of the Local Government Code of 1991*. Proclamation No. 481 directed the Department of the Interior and Local Government (DILG) to come up with a Master Plan for the effective implementation of the Code. The main objective of the Master Plan was to *sustain the momentum in setting up a decentralized structure of local governance and to promote greater citizen and private sector participation in the development processes* of the LGUs.

The implementation of the Code, according to the Master Plan, would have three phases namely, the Changeover Phase, the Transition Period and the Stabilization Phase. The Changeover Phase covered the years 1992 and 1993. It involved the transfer to LGUs of the devolved functions and their corresponding assets and personnel.

The devolution of the basic services and facilities had several repercussions, among them the downsizing of affected national agencies and the capability-building program for LGUs. The funding requirements for these, enumerated under the Code, should be provided by the LGUs themselves through their share from the internal revenue allotment (IRA) and from their tax and non-tax revenues. In addition, national agencies were given a time frame within which to devolve to LGUs the responsibility for the services and facilities enumerated in the law. A deadline was set to ensure compliance. Devolution was accompanied by the transfer of assets and personnel and involved the transmission of records, equipment, employees and other properties in accordance with the Implementing Rules and Regulations. Consideration was given to the policy guidelines, rights of the affected personnel, allocation of personal services, time frame for devolution, and absorptive capacity of LGUs. As contained in the Code, regional offices of affected national agencies should be phased out within one (1) year from the approval of the Code.

The second phase, which covered the years 1994 until 1996, was called the Transition Period. During this phase, National Government Agencies (NGAs) and LGUs institutionalized the changes that decentralization had wrought.

The third and final phase in the implementation of the Code should have been the Stabilization Phase. This Stabilization Phase was expected to begin in 1997 and continue indefinitely. In this stage, LGUs were to build adequate capabilities in managing their local affairs. NGAs (National Government Agencies) were expected to provide support and technical assistance to the LGUs as necessary.

The Master Plan had six (6) components namely *devolution of basic services and regulatory functions, inter-governmental relations, NGO-PO participation, planning and budgeting, revenue mobilization and fiscal matters, and LGU structures and systems.*

Devolution of Basic Services and Regulatory Functions Component

The first component required an action plan to enhance the technical capabilities of the LGUs so that they could efficiently manage and implement functions devolved to them. In this connection, the NGAs were expected to:

- formulate their respective Medium-Term Decentralization/Deconcentration Plans to implement their devolved functions;
- provide technical assistance to LGUs and draw up a training program that suited the needs of the local governments in delivering basic services;
- set technical standards for LGUs on devolved basic services, to be contained in guidebooks and other user-friendly manuals;
- develop user-friendly *How-to* manuals or guidebooks on LGU operating systems for the use of devolved NGA personnel;
- develop LGU capabilities; and
- assist NGOs, cooperatives and the private sector in developing and applying cost-effective models for collaborative undertakings relative to the implementation of the devolved basic services by the LGUs.

Inter-governmental Relations Component

Under the inter-governmental relations component, action plans should have been drafted to implement suitable and principled relations between LGUs and NGAs and between and among LGUs themselves.

On the NGA-LGU relations, concerned NGAs and LGUs should have adopted policies and mechanisms to strengthen their relations in the following areas:

- decentralized approach to formulate national policies, plans, and priorities;
- policies and guidelines which provided for the delineation of responsibilities between LGUs and the NGA over monitoring and evaluation activities at the local level;
- provision of technical assistance to the LGUs in areas of local government integrated planning; and
- provision of guidelines delineating administrative authority of the local chief executives over NGA field personnel.

On inter-LGU relations, additional guidelines should have been promulgated on the settlements of disputes among LGUs and incentives provided for inter-LGU partnerships like grants.

NGO-PO Participation Component

The third component was on NGO-PO participation. In consultation with the different leagues, the Oversight Committee should have developed a simplified NGO accreditation system and guidelines on LGU and NGO-PO collaboration on the following areas:

- basic services delivery functions;
- local development planning;
- public enterprise management;
- capability-building;
- revenue mobilization;

- delegation of regulatory function;
- BOT-BT projects; and
- policy formulation

Planning and Budgeting Component

The fourth component dealt with planning and budgeting. The Code provided the institutional framework for bottom-up planning. The Master Plan was expected to flesh out the elements of the framework. Under this component, LGU budget systems and structures should have been reconfigured and the LGU systems and structures should have been retooled. The Department of Budget and Management (DBM) and the Commission on Audit (COA) were expected to come up with a joint Budget Operations Manual.

Revenue Mobilization and Fiscal Matters Component

Revenue mobilization and budgeting was the fifth component of the Master Plan. The Code provided the LGUs with more resources and more fiscal powers. Mechanisms and measures should have been provided to assist the LGUs in the effective and efficient exercise of local revenue mobilization powers.

LGUs generated revenues from their shares in the Internal Revenue Allotment (IRA) and in the national wealth, from local taxation, other sources of revenue, both local and external. Regarding the IRA, steps were expected to be taken to address its inadequate distribution. The NGAs were expected to ensure that the correct amount of the mandated IRA for the LGUs is included in the annual General Appropriations Act (GAA).

The Code also entitled LGUs to a share in the use and development of national wealth in their own jurisdictions. In this regard, NGAs shall undertake the following measures:

- The Department of Finance (DOF), in consultation with the local government leagues, was expected to design a system estimating LGU shares in the national wealth, an allocation scheme and a remittance scheme for such shares.

- The DOF, with the assistance of the DILG, was expected to assist LGUs in assessing and collecting their shares in the use and development of national wealth.
- The DOF, with the assistance of the DILG, local government leagues, the private sector and other NGAs should have designed an effective consultation mechanism for proposed revenue measures, schemes for resolving local tax conflicts, and a monitoring system for LGU tax impositions.

The Code also authorized LGUs to generate funds from alternative sources for its local programs and projects. Ways of doing these were: the issuance of LGU bond, credit financing, BOT scheme and other variants of private-public sector partnership. In connection to this, the NGAs concerned and LGUs should have:

- reviewed existing and proposed policies on LGU bond issuances;
- developed policy advisory guidelines for LGUs on the use of loan/credit markets;
- drafted policy guidelines on BOT-BT schemes applicable to LGUs;
- issued clear-cut guidelines to operationalize the Code's provision on the LGUs' power to levy taxes, fees and charges not otherwise provided in the Internal Revenue Code;
- studied the inclusion of LGU loans in the *agri-agra* reserves of banks; and
- encouraged the LGUs to enter into an inter-LGU borrowing and subsidies as a non-traditional LGU fund source pursuant to the Code.

Regarding revenue utilization, policies on the property and supply management and budget systems and procedures responsive to the efficient delivery of basic services should have been adopted. The concerned NGAs, in consultation with COA, DBM and DILG, should have undertaken the following:

- formulated policies on supply management responsive to the efficient delivery of basic services;
- drafted a Budget Operations Manual providing for budget systems and procedures pursuant to the mandate of the Code;

- issued a simplified barangay financial operations manual; and
- issued guidelines on the implementation of local infrastructure projects.

Apart from revenue utilization, the Code provided organizational structures for effective local revenue administration such as the Offices of the Local Accounts and General Services.

The NGAs were expected to set up a support mechanism for effective revenue administration, provide organization models, and provide guidance on the use of information technology for revenue administration.

In terms of ensuring equity in revenue distribution, the NGAs were expected to conduct policy studies to ensure equitable allocation of IRA and the IRA share of newly created LGUs.

LGU Structures and Systems Component

The sixth and last component of the Master Plan concerned LGU structures and systems. With the vast powers and functions devolved to the LGUs, the development of skills and capabilities of the LGU and local government officials, both elective and appointive, was essential. Under this component, the following measures had been identified to strengthen the capabilities of the local officials, local government structures and systems:

For Local Officials:

- development of a special curriculum for local officials;
- conduct of general and specialized trainings for the local officials and staff;
- establishment of internship programs among LGU officials and key personnel;
- conduct of an information/education drive on the need for quality and competent local officials during local elections;

Local Structures/Systems:

- upgraded the capabilities of the barangays and its support structures through technical assistance, an incentive system and the introduction of a barangay classification system;
- promoted salary sharing arrangement between LGUs and NGA, especially for vital services;
- implemented nationally-mandated wage and non-wage benefits; and
- issued supplemental guidelines on the scope of responsibilities of the LGUs on the devolved regulatory functions.

Monitoring and Evaluation

Monitoring and evaluation of the Code's implementation have been done sporadically and periodically. Most evaluations are project-based and sector-focused. Evaluations of the Code's implementation has been done by foreign-assisted projects devoted to Local Government Administration. Non-governmental organizations (NGOs), universities, and research institutions have also done studies on the limitations, issues, and problems in implementing Republic Act 7160. In general, the evaluations done were piece meal in approach and were not comprehensive enough to provide an accurate assessment on how the Local Government Code has been implemented so far.

The Department of the Interior and Local Government (DILG), the lead department in tracking the implementation of the Local Government Code, has not established a formal monitoring system. The Department of the Interior and Local Government is developing indicators to determine and evaluate local government performance based on their mandates. The Asian Development Bank and the Canadian International Development Agency are currently assisting the DILG in developing the said performance measurements. The initial result of the current formulation on performance indicators will be field tested on March 19 2004.

In addition to developing an administrative and technical instrument for evaluating local government performance, it is imperative that the Local Government Code of 1991 be also evaluated along the policy areas of local governance. The Code can be assessed along the following suggested concerns:

- To what extent does the Code achieve broad political objectives manifested in achieving political stability, mobilizing support and cooperation of non-governmental organizations (NGOs) and local communities for specific national development policies?
- To what extent does the Code increase administrative effectiveness in promoting greater cooperation among units of the national and local governments, including NGOs which share the same development goals?
- To what extent does the Code promote economic and managerial efficiency that allow governments at both central and local levels to achieve development goals in the most effective manner?
- To what extent does the Code increase government responsiveness to the needs and demands of various interest groups within the society?
- To what extent does the Code contribute to greater self-determination and self-reliance?

Results and Impact

As borne out by the evaluations conducted, some of these results and impact of the Local Government Code are as follows:

Local Finance

Local governments are increasingly looking at credit finance options. Where before local governments traditionally relied on their internal revenue allotment (IRA) and local taxes to generate finances, they have now begun to explore borrowing from banks, both government and private, to finance local development efforts.

Even if local governments have begun to explore borrowing directly from banks, there has been a prudent and conservative attitude, especially among lower class local governments, to borrow, considering the inability of other local governments to meet their financial obligations.

Local governments have become more innovative in maximizing local resources through mechanisms such as BOT arrangements, joint ventures, bond flotation. Several cities, in an attempt to initiate development in their areas, have floated city government bonds designed to fund both infrastructure and economic related projects. Greater exercise of taxing powers has also become evident although efficiency is poor in the collection of some taxes like on real property. Local governments have also increased their local investment initiatives.

While local governments appreciate the continuing importance of the IRA, they have stepped up efforts and explored options to access external sources, such as the Official Development Assistance (ODA) and getting their rightful share from national wealth located within their jurisdiction.

Inter-Local and Local Government-Private Sector Collaboration

Collaboration and cooperation among different levels of government have become more apparent.

Horizontal and inter-local cooperation among same level local governments has increased.

In terms of local-national government cooperation, local governments have begun to take ownership of appropriate national programs implemented in the area, where before these were seen as impositions by the national government.

The various leagues of local governments have become more active and involved in national issues as well as in providing services to their members.

Private Sector Participation in Local Governance

Local government-private sector partnership has improved. Where before local governments tended to carry out development efforts on their own, now they have become more open to seeking out partnerships with the private sector for effective governance.

Mechanisms for civil society participation in local governance have begun to be institutionalized.

Local Organizational Development and Human Resources Development

Local governments have explored innovative ways in organizational development.

Local governments have not invested enough in comprehensive human resources development (HRD) concerns. When the financial pinch hits, it is usually HRD and training concerns that are first sacrificed

Be this as it may, the appreciation of local government officials for training has grown as they become increasingly aware of the complexities of local governance. Moreover, there is increasing appreciation for innovations and reforms in public management.

Environmental Management

Several projects and programs on the management of solid wastes, like Olongapo City's *Color-Coded Drums* and Naga City's *Action Planning for Integrated Solid Waste Management*, have already been implemented.

Efforts to preserve the country's coastal resources have increased. The *Panguil Bay Integrated Area Development Program* and the *Kalibo Mangrove Reforestation Project* are good examples of these efforts.

LGUs have become increasingly concerned about watershed management and reforestation as illustrated by the *Bukidnon Greenbelt Buy Back Program* and *Baguio City Eco-Walk Program*.

Good Practices

Its weaknesses notwithstanding, the Code still has created positive impact on local governance and the quality of life of people and communities as evidenced by the many innovative practices of the various local government units in the country. By providing more power, authority, accountability and resources, the Code has transformed LGUs into self-reliant communities and partners in attaining national development goals. Many LGUs have creatively and effectively addressed everyday issues and concerns particularly the management of the environment, the economy, and the overall well-being of people.

In recognition to these meritorious efforts and exemplary practices, incentives and rewards are granted to these pioneering local governments. The winners of the *Galing Pook Awards* initiated by the Local Government Academy-Department of the Interior and Local Government (LGA-DILG) and the Asian Institute of Management (AIM), and other similar programs, such as the Health and Management Information System (HAMIS) Awards of the Department of Health and the Konrad Adenauer Medal of Excellence of the Local Government Development Foundation (LOGODEF), all attest to the emergence of creative and innovative local governments in the country.

These best and good practices prove that devolution of powers can result in good governance. They have shown that local governments can make a difference given adequate powers and resources.

The Local Government Academy, the training arm for local governments, has compiled about 15,000 nominations, and selected hundreds of winners for the *Galing Pook Awards* for the past years. It selected the successful LGUs based on the following criteria: effectiveness of service delivery; positive socio-economic and/or environmental impact; promotion of people empowerment; and transferability. Moreover, a total of five hundred (500) LGUs are recipients of awards conferred by award giving bodies such as the LOGODEF, HAMIS and the like.

The following are samples of practices by local government units that have demonstrated innovativeness, creativeness, and initiative. They are classified under the following areas: Local Resource Generation, Inter-Local Cooperation, Private-Public Partnership, Social Welfare and Health Services, Environmental Management, People's Participation, and Livelihood Generation.

Local Resource Generation

Local government units will require resources to fulfill the wide-ranging powers, functions, and responsibilities granted to them. Thus, the Code provides LGUs with the capability to generate the necessary capital and defines the operating principles, systems, and processes to ensure that LGUs will utilize these resources in an efficient, effective and accountable manner. However, the devolution of responsibilities to local government units should be accompanied by the provision of reasonably adequate resources so that LGUs can discharge their powers and effectively carry out their functions.

The Victorias experience shows how a local government responded to the housing needs of its constituents by floating bonds. Through the Pabahay Municipal Bonds, the LGU was able to address the perennial problem of lack of funds to support mass housing. It showed how local leadership greatly affects the destiny of the local governments by practicing good urban governance. Feasibility studies, planning, and inputs from the experts on the related field are also crucial.

VICTORIAS HOUSE BONDS ***Victorias, Negros Occidental***

Victorias House Bonds is a project initiated by the local government of Victorias in Negros Occidental to address the problem of housing among the municipal and national government employees.

The first option was to acquire loans from banks and other credit institutions but such move would cost a great deal of money just paying for the interest. A suggestion from the Home Insurance Guaranty Corporation (HIGC) brought about the idea of resorting to flotation of bonds. Feasibility studies conducted by the local government showed that the latter financing option proved to be more practical than the former in terms of cost.

The bonds were to be secured by real estate owned by the local government of Victorias. Each bond had a term of four (4) years with interest amounting to ten percent (10%) per annum. Aside from PAG-IBIG, the bonds were also sold to local investors. The project was managed by a Project Governing Board (PGB) chaired by the mayor of Victorias, while Negros Economic Development Foundation (NEDF) was the appointed developer of the housing project.

Aside from the proceeds from the flotation of municipal bonds, Victorias was also able to solicit financial support from the provincial government. The Victorias Water District also volunteered to shoulder the cost of labor and materials for the installation of the water system. The Victorias Rural Electrification Service Company (VRESCO), on the other hand, took care of half of the cost of labor for the installation of the electrical system and doled out PhP311,000.00 worth of materials. Students and civic organizations also got involved by planting trees and ornamental plants in the site.

Because of its innovative schemes and the cooperation of its constituents, the local government of Victorias was able to redeem the bonds in time while providing homes to one hundred forty-six (146) families.

Inter-Local Cooperation

Towards the general objective of promoting efficiency and responsiveness in local governance, Section 33 of the Code allows and encourages cooperative undertakings among local governments. Many local government units have entered into cooperative undertakings with one another to attain common objectives. The experiences of local governments in this area demonstrate how sharing of resources can lead to the efficient delivery of basic goods and services and the enhanced capacity of LGU personnel.

The Bulacan experience shows how development can be achieved through the clustering of efforts and resources of the different municipalities in the area. They have responded to the challenges of an increasingly complex world by the sharing of expertise, pooling financial resources, common problem solving, and coaching.

PUSHING DEVELOPMENT THROUGH COOPERATIVISM

Bulacan's Kaunlaran Para sa Pagkakaisa Program

Interlocal cooperation is provided for in Section 13, Article 10 of the 1987 Constitution and Section 33 of the Local Government Code of 1991 (R.A. 7160).

The project on Interlocal Cooperation among the twelve (12) municipalities in the Province of Bulacan was started under the initiative of the provincial government in cooperation with the Local Government Development Foundation (LOGODEF). The mayors of the twelve (12) municipalities organized themselves into a Conference of Mayors (COM) which provided policy guidelines for the interlocal team to operate as sectoral specialists designed to improve the performance of the bureaucracy of the twelve (12) participating municipalities.

The primary aim of interlocal cooperation is to improve bureaucratic performance in the twelve (12) pilot municipalities. The members of the Inter-Municipal Team (IMT) are specialists in legislation, local finance, environmental management, organization and personnel. They are employees of the municipalities covered by the project.

The COM signed a Memorandum of Agreement (MOA) authorizing the personnel of their respective municipalities who were members of the IMT to move around the twelve (12) municipalities and to share their expertise in resolving problems in local government administration identified by the team.

Each municipality involved in the project contributed an amount of PhP50,000 a year. This amount is deposited in trust to the LOGODEF account. The primary purpose of the account is to pay the transportation allowances and honoraria of the IMT members. In the twelve (12) years that this Interlocal Cooperation has existed, the members of the IMT have now graduated from the first generation stage to the third generation. At the third stage, the IMT, under the auspices of the provincial governor and supported by the Sangguniang Panlalawigan through an expressed SP resolution and policy circular of the Governor on the subject, is now providing services to

Private-Public Partnership

Economically transforming an area involves many considerations and stakeholders. Local transformation remains the primary role of the private sector, while the LGU plays a regulative and supporting role. The Code recognizes the relevance of the private sector in local governance and finance. The said law also provides for various ways of credit financing such as the build-operate-transfer scheme (BOT), floatation of bonds, and other forms of indebtedness, grants, and loans.

The above experience of San Jose Municipality shows the financing options available to LGUs. It demonstrates how LGUs can exploit the BOT Law for the benefit of its constituents.

STARTING ANEW THROUGH THE BUILD-LEASE-TRANSFER SCHEME San Jose De Buenavista, Antique

When fire gutted the public market of San Jose de Buenavista, Antique in May 1993, the local government was faced with the problem of financing. Two options presented themselves:

- 1) *The Build-Operate-Transfer (BOT) Scheme; and*
- 2) *Credit Financing from the banks using a portion of the municipality's Interna Revenue Allotment (IRA) as collateral.*

The municipal government however, immediately rejected the second option. Using the IRA as collateral would mean less money for other concerns such as public services.

Under the terms of the Build, Lease, and Transfer Scheme, the stall holders would shoulder a portion of the construction cost. In exchange, the stall holders are guaranteed a 25-year lease contract. During the said period, the LGU would collect only PhP1.00 per square meter as rental. Added to this, the rental fee may only increase by a maximum of three percent (3%) every year. In a Memorandum of Agreement (MOA) between the local government of San Jose and the stall holders, it was also established that the latter would have the right to occupy their respective market spaces regardless of changes in the LGU's leadership.

Although income from the Business Park Space Rentals went down, it was compensated by the steady increase in business taxes. Over all, the scheme proved to be very effective and beneficial to the municipality of San Jose De Buenavista, especially to those whose livelihood heavily depended on the public market.

Social Welfare and Health Services

One of the primary features of the Code is the devolution of social welfare and health services. This has been a formidable challenge to many LGUs.

The above example shows how important social security, empowerment, equity, and accountability are in urban governance. It highlights the importance of critical thinking and creativity in managing the perennial problems in health care delivery in urban areas.

DECENTRALIZING HEALTH CARE

Parañaque's Health Card

Despite the availability of both public and private health institution in Parañaque, residents did not seek medical attention because of the prohibitive cost. Thus, the city officials built the Parañaque Community Hospital (PCH) which offered health care at minimal cost. Despite this, city records and studies showed that very few people from the city availed of the PCH's services. The city found out that it was neither cost nor the accessibility of the PCH that was causing the problem but the anxiety of the local residents born out of their previous negative experiences with the expensive cost of the hospital care. They were also apprehensive of the standard practice of both public and private medical institutions who demand a cash deposit before admitting patients. Furthermore, the problem in determining whether a patient was a Parañaque resident or not was another problem of PCH.

Thus, the city government introduced the blue card or the Parañaque Health Card System (PHCS) to address the lack of usage of the PCH and to serve as a mechanism or channel through which health services provided by the different government agencies could be integrated and delivered to beneficiaries in a faster and holistic manner. This project also aims to identify bonafide residents of the municipality for purposes of providing them ready access to goods and services subsidized by city funds.

After two years of implementation, the Parañaque Health Plan Office (PHPO) which supervised the project reported a total of 18,670 Blue Card holders out of a 159,194 total population in the municipality's 168 identified depressed communities. Although 6,002 of the cardholders were served as patients, a total of 41,029 dependents of the cardholders benefited from the program. Pediatric cases jumped from 38 in 1996 to 99 in 1997 and

OB-Gyne cases rose to 160 from a total of 63. Pregnant women took advantage of the program because of the public awareness program which was initiated. The Capacity-building component of the program also helped the beneficiaries realize the importance of good health.

Environmental Management

Environmental management is another major concern and mandate of LGUs.

San Carlos City demonstrates that there need not be a conflict between doing good and doing well. Public enterprises like cemeteries can be operated as revenue centers, or at the very least, at the break-even level. Besides, the effective and efficient delivery of the standard services, good public enterprise management can help promote environmental awareness and environmental preservation.

PUNONGKAHOY SA BAWAT PUMANAW PROGRAM *San Carlos City*

The *Punongkahoy sa Bawat Pumanaw Program* (A Tree for Every Deceased Person) addressed two problems which confronted the City of San Carlos. This was with regard to the city's public cemetery which was not a very pleasing site; tombs were piled up one over the other making it hard for the people to visit the cemetery. The denuded mountains added to this challenge.

The program was decreed by a Cemetery Code passed by the City Council which required the relatives of the dead to plant a tree in a marked plot in the city's memorial tree park after burial in the new public cemetery. After five (5) years, the remains of the dead would be exhumed and transferred to this marked plot.

The first step in the implementation was the identification and establishment of a new cemetery site. To make the cemetery less depressing, the area was fenced, and facilities such as an altar, multi-purpose sheds, spacious pathways, comfort rooms, and common prayer area were built. On the other hand, the memorial Tree Park was located around 12.3 km from the new cemetery. The LGU spent PhP6.7 million in building the new public cemetery and PhP280,000.00 to develop the tree park.

The relatives of the dead to be buried in the new cemetery were required to present the death certificate to the city health officer. The City Social Welfare and Development Officer together with the punong barangay concerned delineate the indigents from non-indigent since those who are classified with the latter is being charged with a higher rental fee.

After the death certificate had been accepted, relatives were required to plant a tree, with the name of the deceased at a marked plot at the memorial tree park. The city agriculturist provided the seedling to be planted.

Since the implementation of this program, thousands of acacia and narra seedlings had been planted, and hundreds of families had benefited from the convenience provided by the new public cemetery. The San Carlos City government has also turned the operations of the cemetery into a revenue generating enterprise.

People's Participation

People's participation is the essence of popular democracy. The Code directly provides for the dynamic and active involvement of ordinary citizens and organized groups, especially those belonging to marginalized sectors. . In addressing local problems, the approach will always be two-pronged — the role of the individuals and the function played by the local government. There has never been any project or program successfully implemented without the collaborative effort between the government and the constituents.

BARANGAY SELF-SUFFICIENCY PROGRAM *Oroquieta City*

Oroquieta City's economy was predominantly agricultural and slow growing. The problem was the lack of dynamism in its local government especially among the barangays. The barangays were overly dependent on income from local taxation. The challenge for the government of Oroquieta City was how to revive volunteerism and encourage participation among its people and barangays.

By initiating the Barangay Self-Sufficiency Program (BSSP), the locality was able to energize the barangays to become self-reliant agents for development.

The first step undertaken was to determine the needs of the people and identify the appropriate projects to address those needs. Beneficiaries were then identified and classified into two groups: the Barangay Government Beneficiaries (BGB) and the Barangay Residents Beneficiaries (BRB). The BRBs included farmers, agricultural tenants, unemployed women, able senior citizens, underemployed family heads, and out of school youths.

The beneficiaries with very minimal support from the city government undertook Bayanihan activities such as land planting and maintenance and the harvesting and post-harvesting of products. The beneficiaries also did the marketing and selling of the products themselves.

The LGU provided the training (agri-production, business management and marketing) for the people involved in the project, distributed free planting materials, and lent city-owned farm equipment.

A team composed of agriculture graduates managed the project and handled the technical assistance and monitoring of the program. Agricultural technicians (one for every five barangays) and barangay officials helped monitor the implementation of the BSSP and reported developments to the City Council and the City Mayor during their monthly Barangay Chairpersons' Meeting.

The Barangay Self-Sufficiency Program exemplified the Filipino custom of *bayanihan* or mutual help. It showed how the local government and the residents can band together and help each other meet the problems of unemployment, a degraded environment, and a stagnant economy.

The program also gained the support from NGOs like the Bantay Barangay sa Kinaiyahan (BBK) which volunteered to take care of the rivers and creeks and the trees planted along barangay, city and national roads.

To further motivate the beneficiaries, the BSSP introduced a profit sharing scheme. Twenty percent (20%) went to the barangay government while eighty percent (80%) went to the volunteer workers. Monetary rewards and citations were also awarded to the best performing barangays.

Decentralization and people empowerment proved to be very favorable to the inhabitants of Oroquieta City. Their efforts improved the quality of life. The unemployment rate went down, and income rose. The supply of crops increased, and BSSP farms expanded. Watersheds were preserved, soil erosion was prevented, and pollution was minimized. Most importantly, they were able to rediscover the value and spirit of *bayanihan*.

Livelihood Generation

The Code defined the character of local government units as both public and corporate. The public character of LGUs is seen by all even without demonstration. Its corporate character has not been as visible. The case below shows that LGUs besides promoting economic enterprise within its bounds, can also act as an economic enterprise itself.

The Municipality of Anao showed how a small LGU can maximize an internal resource and turn it into a distinct competitive advantage and trademark.

THE BOUNTIFUL SCENT OF FLOWERS *Sustainable Livelihood Program and Environment Resource Management of Anao Ylang Ylang*

The Ylang-ylang project turned what was a backyard and ornamental tree favored for the clean, fresh, and fragrant smell emitted by its flower into a viable income-generating project for the municipality and its inhabitants. The objectives include the following: provide economic opportunities to the people of Anao, promote the use of environment-friendly technologies and discourage the use of harmful ones, maintain a cleaner, safer, and greener environment, consider the inter-relatedness of population, environment and economy, and provide additional sources of revenue to the municipality and the barangays, thus making them less dependent on the IRA.

Recognizing the dollar-earning potentials of widespread cultivation and extraction of the ylang-ylang, the experts from Technology and Livelihood Resource Center (TLRC) recommended the ylang-ylang oil extractor project as one of the projects under the Rural Industrialization Can Happen Program. The municipal government took immediate action by utilizing its compound as the plant nursery. After which, the municipality conducted a trial extraction using an extractor borrowed from DOST. At first, the residents gave the flowers to the local government for free. Later on, the municipality started buying the flowers from the local residents. The program generated support from a variety of sources, both local and national. To ensure the continuity, the *Sangguniang Bayan* enacted several ordinances to sustain its operation. With the support coming in and the technology in place, the municipality sought the expansion of supplies. Various sectors were also tapped in the undertaking. Together with the expansion, the responsibilities were becoming complex. Cooperatives were also tasked in the management of the Integrated Development Project for Ylang Ylang plantation.

The increasing capacity of the municipality to extract oil created the challenge of marketing the product. With the help of other government agencies like the Technical Skills and Development Authority (TESDA) the LGU has been sponsoring training in the utilization of oil and water distillation in various products such as shampoo, soap, and candles. To sustain the oil extraction project, the LGU established a municipal nursery and a mini-forest planted with more other trees.

Lessons learned in more than a decade of implementing the code

The following are some of the important lessons learned in more than a decade of implementing the Local Government Code in the Philippines.

Classification of LGUs and Powers and Functions of Officials

- The existing classifications of cities - Highly Urbanized Cities (HUCs), Independent Cities (ICs) and Component Cities (CCs) - need to be standardized.
- The existing classifications of cities - Highly Urbanized Cities (HUCs), Independent Cities (ICs) and Component Cities (CCs) - need to be standardized.

Fiscal Matters

- The current Internal Revenue Allotment (IRA) formula is not helping local governments develop into self-reliant entities. Instead, local government units are becoming heavily dependent on subsidies from the central government for their existence.
- The current formula that considers population, land area, and equal shares does not adequately factor in equity considerations, such as the relative poverty of the place and its geographical location, e.g. island municipalities.
- There are some provisions in Republic Act 7160 which are inconsistent to the promulgation of genuine autonomy like Section 326 which allows the Department of Budget and Management (DBM) to review local government budgets.
- The power to float bonds has not yet been effectively exercised because many local governments have no tradition of floating bonds credible enough for the public to purchase. Moreover, local government bonds should be exempted from any form of taxation.

- The Philippines has yet to have a developed secondary market where buyers of these bonds can liquefy their investment prior to maturity. A secondary market can increase the attractiveness of bonds, including LGU issued bonds.
- Many LGUs have failed to maximize real property tax collections because of obsolete or outdated table of assessed values, the absence of a comprehensive, systematic and unified tax payer identification, and the lack of computerized taxpayer record systems.
- Some LGUs still do not have an internal revenue code. Those which had did not implement them fully or their codes were too complex resulting in higher administrative and compliance costs.
- Inter-LGU revenue assignment may weaken incentives on the part of the collecting LGU to intensify collection.
- The Constitutional provision on the three-year term of local officials is a constraint in the institutionalization of effective governance. Local officials need more time to familiarize themselves with their respective responsibilities.

Devolved Services:

- The social welfare services assigned to the different LGU levels do not jibe with the powers and duties of the various *Sanggunians*. The *Sanggunians* of provinces, cities, municipalities and *barangays* are mandated to enact measures and allocate funds for the services devolved to them. In case of conflicts arising from the exercise of these functions, this shall be resolved in favor of the lower LGU.
- Devolution has to be matched with the requisite funds. Hospitals have been devolved to provinces without a corresponding increase in their Internal Revenue Allotment.

People's Participation in Local Governance

- While people's participation in local development councils and local special bodies have made tremendous strides, there are still areas of improvement. In many LGUs, NGO and PO representation are still dependent on the preferences and whims of the elected Local Chief Executive.

Performance Management

- There is a need to formulate a standard of administration at the local level. Performance indicators are necessary in monitoring the progress of local governments in their assumption of devolved powers.
- Documentation and replication of good practices in local governance should be encouraged.

Accountability and Transparency

- Effective implementation of the Code can only be sustained if local government officials are publicly accountable.

National-Local Interaction

- Continuous flow of information from the central government to the local governments is necessary in the transfer of functions and powers.
- Capability-building interventions are critical in the first few years of the implementation of the Code.
- There is a need to synchronize and harmonize the planning and budgeting cycles of the national government and the local government units. These have led to problems in the timing of the release of the IRA and the provision of equity for joint national and local government projects

Inter-Local Cooperation

- Local government leagues should talk among themselves and come up with integrated recommendations to some provisions of the Code that need revisions.
- There is a need to advocate much more strongly provisions which encourage inter-local cooperation like Section 13, Article 10 of the 1987 Constitution and Section 33 of the Local Government Code of 1991.
- Inter-local cooperation has tremendous potentials in the area of health care management and delivery (inter-local health zones), environmental management (e.g. Banate Bay experience), procurement (e.g. Province of Pangasinan pooled drug procurement for all devolved provincial hospitals).

Monitoring and Evaluation of the Code

- To assess its flaws and strong points, the Code should be reviewed periodically. Unfortunately, although Congress is mandated to review the Code every five years, no formal review has been done yet.
- The leagues of local governments should take the lead in providing assistance and support to their respective members.
- Major relevant codal provisions should be reviewed in the light of the advocacy of shifting government modality from Presidential to Parliamentary and from Unitary to Federal.
- Because of the increasing international relation functions of local authorities particularly in the field of economics and investment, there is a need for local governments to expand their horizon, shed off their parochial character, and intensify cooperation with the private sector.

Next steps of the Local Government Academy

It is reliable to assume that decentralization is the strategy appropriate to the Philippines. The spirit and letter of the Code have yet to be fully implemented and realized. More is expected in the coming years. As an offshoot of this research, the Local Government Academy will undertake the following steps:

- Distribution of copies of the research material to local resource institutions, academe, non-governmental organizations/people's organizations, government agencies, and the like, for the purpose of popularizing the Code.
- Replication of the research material for use in the training of newly-elected local government officials in 2004.
- Institutionalization of the research material as one of the primary training resource material of the Local Government Academy.
- Review the issues and concerns raised by the various sectors and stakeholders and identify crucial matters to be resolved.
- Organize another set of meetings in partnership with the leagues of local governments, the stakeholders, and sectors concerned to finalize amendments to be proposed to and lobbied in Congress.
- Meeting with the Oversight Committee of the Code.
- Submit a report to the Department of the Interior and Local Government (DILG).
- Continuous follow-up on the legislative review of the Code.

Appendices

THE LOCAL GOVERNMENT CODE OF THE PHILIPPINES

BOOK I

GENERAL PROVISIONS

TITLE ONE – BASIC PRINCIPLES

CHAPTER I. – THE CODE, POLICY AND APPLICATION

SECTION 1. Title. – This Act shall be known and cited as the "Local Government Code of the Philippines".

SECTION 2. Declaration of Policy. – (a) It is hereby declared the policy of the State to ensure the fullest development of the State's political subdivisions so that they may enjoy genuine and meaningful local autonomy and contribute to the national goals. Toward this end, the State shall provide for a more responsive government structure instituted through a system of decentralization where more powers, authority, responsibilities, and resources are transferred from the national government to the local government units.

(b) It is also the policy of the State to ensure the accountability of local government officials through the mechanisms of recall, initiative and referendum.

national

Appendices

Appendix A. Simplification of Pertinent Provisions of the Code

Appendix B. Recommendations to Amend the Code

- B1.** League of Provinces of the Philippines
- B2.** League of Cities of the Philippines
- B3.** League of Municipalities of the Philippines
- B4.** Liga ng mga Barangay sa Pilipinas
- B5.** Other Sectors
- B6.** Common Recommendations
- B7.** Summary of Recommendations
- B8.** Union of Local Authorities of the Philippines (ULAP) Organizational Chart

Appendix C. Bibliography

Appendix D. Contact Names and Addresses of Stakeholders Involved in the Review

Appendix E. Definition of Terms

Appendix F. Acronyms and Abbreviations

Appendix G. Project Milestones

CHAPTER 2. – GENERAL POWERS AND ATTRIBUTES OF LOCAL GOVERNMENTS

SECTION 6. Authority to Create Local Government Units. – A local government may be created, divided, merged, abolished, or its boundaries substantially altered either by law enacted in the case of a province, city, municipality, or any other political subdivision, or by ordinance in the case of a Sangguniang Panlalawigan or Sangguniang Panlungsod concerned in the case of a local government unit, subject to such limitations and requirements prescribed in this chapter.

SECTION 7. Creation and Conversion. – As a general rule, the creation of a local government unit or conversion from one level to another level shall be based on verifiable indicators of capacity to provide services, to wit:

(a) **Income.** – It must be sufficient, based on acceptable standards, to pay for the facilities and services and special functions commensurate with the size of the local government unit concerned;

(b) **Population.** – It shall be determined as the total number of inhabitants of the local government unit concerned; and

(c) **Land Area.** – It must be contiguous, unless it comprises two or more separate government units independent of the others; properly identified by a specific description; and sufficient to provide for such basic services as health, education, police, and fire. Compliance with the foregoing indicators shall be at the discretion of the local government unit concerned.

Appendix A

Simplification of Pertinent Provisions of the Local Government Code of 1991

Simplification of Pertinent Provisions of the Code

The simplifications and explanations included herein are limited to fifty (50) provisions which are deemed to be useful to the local governments although the scope of this study covered the entire Code. This Annex is not an attempt to reinvent the Code, but rather to preserve and clarify the relevant Sections by converting them into reader friendly material for the convenient use of local government administrators and other sectors. Limited by time, the Project Study Team on Unpacking the Code simplified the said provisions by citing relevant reference materials, including jurisprudence, interpretations from various local governance experts, and other pertinent documents. Some of the simplifications and explanations may suffer from legal infirmities for the reason that many provisions are subject to varied legal interpretations.

The salient chapters of the Code included here are the following:

The Code: Policy And Application

SECTION 5. Rules of Interpretation

General Powers and Attributes of Local Government Units

SECTION 6. Authority to Create Local Government Units

SECTION 17 (h). Basic Services and Facilities. (*Phasing out of Regional offices of national agencies or offices whose functions are devolved*)

SECTION 20. Reclassification of Lands.

Intergovernmental Relations

SECTION 26. Duty of National Government Agencies in the Maintenance of Ecological Balance.

SECTION 27. Prior Consultations Required.

Inter-local Government Relations

- SECTION 30. Review of Executive Orders.
SECTION 33. Cooperative undertakings Among Local Government Units.

Relations with People's and Nongovernmental Organizations

- SECTION 35. Linkages with People's and Nongovernmental Organizations.
SECTION 36. Assistance to People's and Nongovernmental Organizations.
SECTION 37. Local Prequalification, Bids and Awards Committee (Local PBAC).
SECTION 38. Local Technical Committee

Vacancies and Succession

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SECTION 45. Permanent Vacancies in the Sanggunian
SECTION 46. Temporary Vacancy in the Office of the Local Chief Executive.
SECTION 47. Approval of Leaves of Absence.

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- SECTION 69. By Whom Exercised.
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Human Resource and Development

- SECTION 81. Compensation of Local Officials and Employees
SECTION 97. Annual Report.

Local Development Council

- SECTION 107. Composition of Local Development Councils.
SECTION. 115. Budget Information.

Local Initiative and Referendum

- SECTION 120. Local Initiative Defined.
SECTION 121. Who May Exercise
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FINANCIAL MATTERS and LOCAL FISCAL ADMINISTRATION

- SECTION 129. Power to Create Source of Revenue
- SECTION 130. Fundamental Principles.
- SECTION 138. Tax on Sand, Gravel and Other Quarry Resources.

Real Property Taxation

- SECTION 198. Fundamental Principles.
- SECTION 201. Appraisal of Real Property

Allotment of Internal Revenue

- SECTION 284. Allotment of Internal Revenue Taxes.
- SECTION 285. Allocation to Local Government Units.
- SECTION 286. Automatic Release of Shares.
- SECTION 287. Local Development Projects.

Share of Local Government Units in the National Wealth

- SECTION 289. Share in the Proceeds from the Development and Utilization of the National Wealth.
- SECTION 290. Amount of Share of Local Government Units.
- SECTION 294. Development and Livelihood Projects.

Credit Financing

- SECTION 297. Loans, Credits, and Other Forms of Indebtedness of Local Government Units.
- SECTION 299. Bonds and Other Long-Term Securities

Barangay Assembly

- SECTION 397. Composition; Meetings.
- SECTION 398. Powers of the Barangay Assembly.

Katarungang Pambarangay

- SECTION 399. Lupong Tagapamayapa.

Sangguniang Kabataan

- SECTION 423. Creation and Election.

Role and Creation of the City

- SECTION. 451. Cities, Classified.

SECTIONS PROVIDING FOR EMERGENCY AND CRISIS MITIGATION AND PREVENTION

The Punong Barangay

SECTION 389. Chief Executive: Powers, Duties, and Functions.(b)(6)

The Sangguniang Bayan

SECTION 447. Powers, Duties, Functions and Compensation. (a)(1)(iv)

The Sangguniang Panlungsod

SECTION 458. Powers, Duties, Functions and Compensation. (a)(2)(iv)

The Sangguniang Panlalawigan

SECTION 468. Powers, Duties, Functions and Compensation(a)(3)(iv)

PROVISIONS FOR IMPLEMENTATION

SECTION 521. Mandatory Review Every Five Years.

The Code: Policy and Application

SECTION 5. *Rules of Interpretation.* — In the interpretation of the provisions of this Code, the following rules shall apply:

(a) Any provision on a power of a local government unit shall be liberally interpreted in its favor, and in case of doubt, any question thereon shall be resolved in favor of devolution of powers and of the lower local government unit. Any fair and reasonable doubt as to the existence of the power shall be interpreted in favor of the local government unit concerned;

NOTES/EXPLANATIONS

This section provides a framework by which the entire code shall be understood and interpreted when an issue arises in a particular provision, and a resolution is essential in settling disagreements regarding the application of the provision. The interpretation of the Code in general, emphasizes that any grant of power in favor of the local government unit has to be interpreted "liberally" in favor of the said LGU. This means that in case of doubt whether or not a power has been granted to an LGU, the interpretation is that the power has been devolved. The Code makes this intention clear in its words "*in favor of devolution of powers and of the lower local government unit.*" Whenever the issue involves a lower and a higher LGU, "*any fair and reasonable doubt*" shall be interpreted in favor of the lower LGU.

In his *Annotation on the Local Government Code*, Senator Aquilino Pimentel Jr., in his annotation cited the case of *Saculdito vs. Montejo*, 193 SCRA 556, 560 (1991) "here the law speaks in clear and categorical language; there is no room for interpretation. There is only room for application." In addition, the Supreme Court ruled in the *Commissioner of Internal Revenue vs. Lim Pan Investment Corporation et al.*, 34 SCRA 148, 151 (1970) that, "it is a cardinal rule of statutory construction that where the terms of the statute are clear and unambiguous, no interpretation is called for, the law is applied as written, for application is the first duty of the court, and interpretation is justified only when literal application is impossible."

On the other hand, Jose N. Nollado cited that the liberal interpretation clause in paragraphs (a) and (c) goes against the principle enunciated by Dillon (Municipal Corporations, Vol. 1, p. 145) that if there is doubt that power is granted to a municipal corporation, the rule is to consider that the power has not been granted. This opinion has been superseded by the principle of decentralization, which looks towards reasonable self-rule.

Furthermore, Article 10 of the Civil Code of the Philippines provides that "*in case of doubt in the interpretation or application of laws, it is presumed that the lawmaking body intended right and justice to prevail.*"

(b) In case of doubt, any tax ordinance or revenue measure shall be construed strictly against the local government unit enacting it, liberally in favor of the taxpayer. Any tax exemption, incentive or relief granted by any local government unit pursuant to the provisions of this Code shall be construed strictly against the person claiming it.

NOTES/EXPLANATIONS

The Code states that, between the conflicting positions of the taxpayer and that of the LGU on any tax ordinance or revenue measure enacted by the latter, the interpretation shall be "*strictly against the local government and liberally in favor of the taxpayer.*" Paragraph (b) simply restates two basic principles in taxation, 1.) that a tax being a burden, meaning its imposition is not presumed in case of doubt; and 2.) that the law does not favor a tax exemption, taxes being the lifeblood of the nation or any territorial part thereof (Nollado, The Local Government Code of 1991, Annotated, First Edition, p. 17).

This suggests that the power of an LGU to levy a tax upon the people is not automatic and beyond question but may be challenged by the people. In case of doubt, the burden of proof is with the LGU and the presumption is in favor of the taxpayer. However, if the subject concerns tax exemptions, incentives or reliefs granted by local governments, the presumption is "*strictly against the person claiming it.*" This means that before local government money is paid out to anyone or when monetary relief or amelioration of any kind is granted to any person by ordinance or any revenue measure, the terms and conditions for the payment or for the relief must be strictly observed. (Pimentel, p. 21).

(c) The general welfare provisions of this Code shall be liberally interpreted to give more powers to local government units in accelerating economic development and upgrading the quality of life for the people in the community;

NOTES/EXPLANATIONS

Paragraph (c) of Section 5 strengthens the power of local governments to enact legislations and ordinances under the general welfare provisions, Section 16, by expressly granting them powers that are deemed necessary, appropriate or incidental to the promotion of the general welfare and for efficient and effective local governance.

This section listed some activities which LGUs may undertake such as the preservation and enrichment of culture, promotion of health and safety, enhancement of ecological balance, development of appropriate self-reliant scientific and technological capabilities, improvement of public morals, enhancement of economic prosperity and social justice, promotion of full employment of their residents, maintenance of peace/law and order, preservation of comfort and convenience of their inhabitants. Even without enumeration, the activities listed may be justifiably undertaken by LGUs under its power to promote the general welfare of its inhabitants. This is reinforced by Section 5 Article II of the 1987 Constitution, which states that, "*...maintenance of peace and order, the protection of life, liberty and property, and the promotion of general welfare are essential to the enjoyment by all the people of the blessings of democracy.*"

(d) Rights and obligations existing on the date of effectivity of this Code and arising out of contracts or any other source of prestation involving a local government unit shall be governed by the original terms and conditions of said contracts or law in force at the time such rights were vested; and

NOTES/EXPLANATIONS

This provision preserves the Constitutional right that obligations of contract cannot be impaired and promotes respect for vested rights. Rights and obligations arising from contracts or any other legal tie involving local government units are to be interpreted according to the terms and conditions of the contract or the law applicable at the time the right is accrued.

(e) **In the resolution of controversies arising under this Code where no legal provisions or jurisprudence applies, resort may be had to the customs and traditions in the place where the controversies take place.**

NOTES/EXPLANATIONS

This authorizes recourse to customs and tradition to determine the rights and obligations of the parties concerned in the place where controversies and issues arise, only where no law or judicial pronouncement applies. In dealing with this provision, it is imperative to define the terms "custom and tradition."

A **custom** is defined as "*a rule of conduct formed by repetition of acts, uniformly observed or practiced as a social rule, legally binding and regulatory.*" Legally speaking, Arturo Tolentino defined custom as a *juridical rule, which results from constant and continued uniform practice by the members of a social community with respect to a particular state of facts and observed with conviction that is juridically obligatory.* Furthermore, the late Fr. Vitaliano Gorospe, SJ stated that Filipino customary law involves a moral 'ought or normative behavior' and the ethico-religious values of mountain groups are holistic; harmonizes man, nature, and the gods. He added that these groups do not compartmentalize morality, legality, and religion. In his view, the Filipino customary law is an interior and hence in case of conflict between the internal law and external law (e.g. civil law or an externally imposed religious law), the former is observed and the latter is broken or violated without any guilt or shame.

On the other hand, a **tradition** is defined as an inherited principle, standard or practice or body of principles, standards, and practices serving as the established guide of an individual or group. It is also an inherited way of thinking, feeling or doing; a cultural feature (as an attitude, belief, custom, institution) preserved or evoked from the past (as of a family or nation) and we may add, in the context of our people's situation, of a tribe or cultural community.

General Powers and Attributes of Local Government Units

SECTION 6. *Authority to Create Local Government Units.* — A local government may be created, divided, merged, abolished, or its boundaries substantially altered either by law enacted by Congress in the case of a province, city, municipality, or any other political subdivision, or by ordinance passed by the *sangguniang panlalawigan* or *sangguniang panlungsod* concerned in the case of a barangay located within its territorial jurisdiction, subject to such limitations and requirements prescribed in this Code.

NOTES/EXPLANATIONS

The authority to create local government units is derived from Section 10, Article X of the 1987 Constitution which states that, "*No province, city, municipality or barangay may be created, divided, merged, abolished, or its boundary substantially altered, except in accordance with the criteria established in the local government code and subject to approval by a majority of the votes cast in a plebiscite in the political units directly affected.*" This section clarifies that the power to create, divide, merge, abolish or alter the boundaries of a province, city, municipality or any other political subdivision is lodged with the legislature (Congress) through the passage of an appropriate law. The President of the Philippines is not empowered to create a local government unit.

On the other hand, it is provided in this section that barangays may be created, divided, merged, abolished, or its boundaries substantially altered by the *Sangguniang Panlalawigan* or *Panlungsod* by ordinance in its respective jurisdictions. The *Sangguniang Bayan* and the *Sangguniang Barangay* cannot create, divide, merge, abolish or substantially alter the boundary of another barangay.

However, Section 386, Chapter 1, Book III of this Code provided an exception to the mandate in this Section. It states that, "*To enhance the delivery of basic services in the indigenous cultural communities, barangays may be created in such communities by an Act of Congress.*" It also gave the municipalities from the Metropolitan Manila Area (MMA) the responsibility to prepare and approve the barangay consolidation plan. Nonetheless Congress has retained the power to create barangays in the Metropolitan Manila Area (MMA) as stipulated by Article 14 (a) of the Rules and Regulations Implementing the Local Government Code. This is because the MMA has no Sangguniang Panlalawigan to discharge this duty in behalf of the cities and municipalities located in the area.

Finally, the powers enumerated in this section shall be exercised with strict compliance to the requirements provided by Sections 7, 8, 9, and 10 of this Code. This mandate has led to abuses, as some provinces indiscriminately created one barangay after another.

SECTION 17. *Basic Services and Facilities.*

(h) Regional offices of national agencies or offices whose functions are devolved to local government units as provided herein shall be phased out within one (1) year from the approval of this Code. Said national agencies and offices may establish such field units as may be necessary for monitoring purposes and providing technical assistance to local government units. The properties, equipment, and other assets of these regional offices shall be distributed to the local government units in the region in accordance with the rules and regulations issued by the oversight committee created under this Code.

NOTES/EXPLANATIONS

Section 17 directs LGUs to take over some the responsibilities and functions of national government that have been devolved by the Code. These are mainly responsibilities related to agriculture, social welfare, public works, and health services. Aside from these, some functions are also affected directly by devolution like tourism, environmental management, transportation and communication, and construction of school buildings and facilities. Yet, Article 26 of the Implementing Rules of this Code exempts specific public works and infrastructure projects. It says that, "*Public works and infrastructure projects and other facilities, programs, and services funded*

by the National Government under the annual General Appropriations Act, other special laws, and pertinent executive orders, and those wholly or partially funded from foreign sources, are not covered by the devolution of basic services and facilities under this Rule, except in those cases where the LGU concerned is duly designated as the implementing agency for such projects, facilities, programs, and services."

Provided by Section 17 (h), the regional offices, and national agencies and offices whose functions have been devolved under the provisions of the Code are to be phased out within one (1) year from the approval of this Code. However, they may establish field units for monitoring and providing technical assistance to LGUs. The properties, equipment and other assets of affected regional and national agencies are to be distributed to the LGUs in the region in accordance with the Implementing Rules created by the Oversight Committee created by the Code.

A review is necessary to determine if the spirit and letter of this provision have been observed and if indeed LGUs can effectively and efficiently deliver the above services with or without the assistance of the regional offices of national government agencies.

SECTION 20. *Reclassification of Lands.* (a) A city or municipality may, through an ordinance passed by the sanggunian after conducting public hearings for the purpose, authorize the reclassification of agricultural lands and provide for the manner of their utilization or disposition in the following cases: (1) when the land ceases to be economically feasible and sound for agricultural purposes as determined by the Department of Agriculture or (2) where the land shall have substantially greater economic value for residential, commercial, or industrial purposes, as determined by the sanggunian concerned: **Provided, That such reclassification shall be limited to the following percentage of the total agricultural land area at the time of the passage of the ordinance:**

- (1) For highly urbanized and independent component cities, fifteen percent (15%);
- (2) For component cities and first to third class municipalities, ten percent (10%); and

- (3) For fourth to sixth class municipalities, five percent (5%):** Provided, further, That agricultural lands distributed to agrarian reform beneficiaries pursuant to Republic Act Numbered Sixty-Six hundred fifty-seven (R.A. No. 6657), otherwise known as “The Comprehensive Agrarian Reform Law”, shall not be affected by the said reclassification and the conversion of such lands into other purposes shall be governed by Section 65 of said Act.
- (b) The President may, when public interest so requires and upon recommendation of the National Economic and Development Authority, authorize a city or municipality to reclassify lands in excess of the limits set in the next preceding paragraph.**
- (c) The local government units shall, in conformity with existing laws, continue to prepare their respective comprehensive land use plans enacted through zoning ordinances which shall be the primary and dominant bases for the future use of land resources: Provided, that the requirements for food production, human settlements, and industrial expansion shall be taken into consideration in the preparation of such plans.**
- (d) Where approval by a national agency is required for reclassification, such approval shall not be unreasonably withheld. Failure to act on a proper and complete application for reclassification within three (3) months from receipt to the same shall be deemed as approval thereof.**
- (e) Nothing in this Section shall be construed as repealing, amending, or modifying in any manner the provisions of R.A. No. 6657.**

NOTES/EXPLANATIONS

The above provision makes it clear that the powers of LGU, specifically the sangguniang panlungsod or pambayan, is confined to the reclassification and not the conversion of lands, provided that such reclassification shall not repeal, amend or modify the Comprehensive Agrarian Reform Law (RA 6657). Alberto C. Agra, in his *Compendium of Decisions, Rulings, Resolutions, and Opinions on Local Autonomy and Local Government*, distinguished reclassification from conversion. According

to him, *reclassification* is a power lodged with the local government unit to allocate lands to different activities or classes of land uses, which evolves from and enacted through zoning processes. On the other hand, *land Conversion* is a power lodged with the Department of Agrarian Reform (DAR) for the actual change in land use and takes into account tenants and farm workers, if any, and the determination of disturbance compensation. The approval of DAR is not required for an LGU to expropriate a tract of agricultural land. Further, the local government need not apply for conversion. The power of DAR to approve or disapprove conversions of agricultural land for residential, commercial, or industrial uses is limited to the applications for reclassification submitted by landowners and tenant beneficiaries.

Land can be reclassified *if it ceases to be economically feasible and sound for agricultural purposes as determined by the Department of Agriculture, or if the land shall have substantially greater economic value for residential, commercial, or industrial purposes, as determined by the sanggunian concerned.* The power to reclassify is not absolute. The extent of agricultural land subject to reclassification is fixed by law. The President, however, may increase the percentage limitations on the land to be reclassified when public interest requires, upon the recommendation of the National Economic Development Authority (NEDA).

The authority of the sanggunian is limited to the reclassification of agricultural lands. Such authority *does not extend to all other public lands such as forest or timber, mineral lands, and national parks*, which is the prerogative of the President upon recommendation of the pertinent department head. Further, an ordinance acted by the sanggunian for reclassification of lands cannot amend Presidential Proclamations.

This provision also mandates the LGUs to prepare a comprehensive land use plan (CLUP). Municipalities and cities are empowered by law to adopt zoning ordinances and regulations. *A zoning ordinance is a valid exercise of police power* to promote the good order and general welfare of the people in the locality. Through the zoning ordinances the CLUP shall be the primary basis for the future use of land resources.

It is also noteworthy that requests for reclassification have to be acted upon by the proper central government agency within three months. Failure to act upon proper and complete application within three months (3) from the receipt shall be interpreted as an approval thereof.

SECTION 26. *Duty of National Government Agencies in the Maintenance of Ecological Balance.* — It shall be the duty of every national agency or government-owned or -controlled corporation authorizing or involved in the planning and implementation of any project or program that may cause pollution, climatic change, depletion of non-renewable resources, loss of crop land, rangeland, or forest cover, and extinction of animal or plant species, to consult with the local government units, non-governmental organizations, and other sectors concerned and explain the goals and objectives of the project or program, its impact upon the people and the community in terms of environmental or ecological balance, and the measures that will be undertaken to prevent or minimize the adverse effects thereof.

NOTES/EXPLANATIONS

It is mandatory for the central government or government-owned or -controlled corporations (GOCCs) involved in the planning and implementation of projects or programs that has adverse effect in the environment and ecological balance, to conduct consultation with the LGUs, non-governmental organizations, and other sectors concerned. The former are also compelled to explain the goals of the project or program, its ecological and environmental impact upon the people and community, and the measures that will be undertaken to prevent or minimize the adverse effect thereof. This shall be done through multi-sectoral fora, public hearings, and direct or actual consultations to the stakeholders concerned. Through such mechanisms, the parties involved can form a consensus based on the terms, issues, and other areas of concern regarding the ecological balance in the LGU being addressed. Consultation shall be discussed further in the preceding notes and annotations on the Prior Consultations Required section of the Code.

SECTION 27. *Prior Consultations Required.* — No project or program shall be implemented by government authorities unless the consultations mentioned in Sec 2 (c) and 26 hereof are complied with, and prior approval of the sanggunian concerned is obtained: Provided, That occupants in areas where such projects are to be implemented shall not be evicted unless appropriate relocation sites have been provided, in accordance with the provisions of the Constitution.

NOTES/EXPLANATIONS

This section affirms the principle that local governments have the ultimate powers of autonomy over their territorial jurisdictions. The *consultations required are manifestations of people's rights and powers and as part of the widened concept of social justice*. The above section refers to projects and programs undertaken by the national government. The consultation can be conducted by the national government agency concerned or by the LGUs by themselves.

The sanggunian has the power to withhold approval. Assuming that the sanggunian did not withhold its approval because of self-centered or political motives, the President cannot disregard the refusal of the sanggunian in matters that may endanger the health and safety of the inhabitants and their source of livelihood. It is because the Presidential act of interference goes beyond supervisory authority and already amounts to control. *In such cases, the President may use persuasive powers/lobbying or may adopt measures to meet the objections of the sanggunian.*

Based on the Implementing Rules of this Code, *the local chief executive may call upon any national official or employee stationed to an LGU to advise and regularly report to him on matters affecting LGUs and make recommendations thereon; or to coordinate in the formulation and implementation of all plans, programs, and projects*. When appropriate, *the local chief executive may initiate an administrative or judicial action against any National Government official or employee who may have committed an offense in the performance of his/her official duties while stationed or assigned in the LGU concerned*. The local chief executive shall also *inform the NGA concerned if any services have adverse effect on the lives of the citizens that is foreseen or is being felt and to submit proposals intended to prevent or mitigate the same preferably before project implementation*.

As a final point, Article XIII, Section 10 of the Constitution, and RA 7279, otherwise known as, *An Act To Provide For A Comprehensive and Continuing Urban*

Development and Housing Program, provided a notable consideration on urban or rural dwellers, stating that, "urban or rural dwellers shall not be evicted nor their dwellings demolished, except in accordance with law and in a just and humane manner." This means that the occupants in the areas where the project or program will be implemented cannot be evicted unless proper relocation sites are provided.

Inter-local Government Relations

SECTION 30. *Review of Executive Orders.* — (a) Except as otherwise provided under the Constitution and special statutes, the governor shall review all executive orders promulgated by the component city or municipal mayor within his jurisdiction. The city or municipal mayor shall review all executive orders promulgated by the punong barangay within his jurisdiction. Copies of such orders shall be forwarded to the governor or the city or municipal mayor, as the case may be, within three (3) days from their issuance. In all instances of review, the local chief executive concerned shall ensure that such executive orders are within the powers granted by law and in conformity with provincial, city, or municipal ordinances.

(b) If the governor or the city or municipal mayor fails to act on said executive orders within thirty (30) days after their submission, the same shall be deemed consistent with law and therefore valid.

NOTES/EXPLANATIONS

The above provision implements the supervisory power of the governor or municipal or city mayor as sanctioned by Section 25 of this Code and the Constitution. The purpose of the review is to ensure that "such executive orders are within the powers granted by the law and in conformity with provincial, city, or municipal ordinances." The Supreme Court defined the word review in the case of *Casino vs. Court of Appeals*, as a process of "reconsideration or re-examination for purposes of correction." According to the Court, the power of review is exercised to *determine*

whether it is necessary to correct the acts of the subordinate and to see to it that he performs his duties in accordance with law.

The governor or city or municipal mayor may consult his/her legal officer in studying the validity of the said executive order, and action thereon must be made within thirty (30) days. If the local chief executive fails to act on the said executive order within the prescribed period, the orders are considered valid and in accordance with law.

SECTION 33. *Cooperative undertakings Among Local Government Units.* — **Local government units may, through appropriate ordinances, group themselves, consolidate, or coordinate their efforts, services, and resources for purposes commonly beneficial to them. In support of such undertakings, the local government units involved may, upon approval by the sanggunian concerned after a public hearing conducted for the purpose, contribute funds, real estate, equipment, and other kinds of property and appoint or assign personnel under such terms and conditions as may be agreed upon by the participating local units through Memoranda of Agreement.**

NOTES/EXPLANATIONS

This provision encourages coordination and cooperative ventures among local governments in pursuing a particular project or program. The provision grants LGUs the power to cooperate with one another, consolidate their efforts, and coordinate their activities for any purpose beneficial to them. The LGUs may enter into a memorandum of agreement and contribute funds or property to the venture after conducting public hearings and upon approval of the sanggunians. The contributions should not exceed their surplus funds for them to be able to extend loans, grants, or subsidies to other LGU.

The Implementing Rules of this Code enumerated the procedures in contracting inter-local government loans, credits and other forms of indebtedness as well as cooperative undertakings as follows:

- (1) The local chief executive, in consultation with the local development council (LDC), shall identify programs, projects, and activities that may be considered;

- (2) The local chief executive shall negotiate with the prospective LGU partner or partners on the terms and conditions of the agreement to be embodied to the Memorandum of Agreement.
- (3) The local chief executives concerned may organize a team to negotiate the terms and conditions of the joint loan. The final terms and conditions shall be subject to the approval of the said local chief executives.
- (4) The local chief executives concerned shall submit the Memorandum of Agreement to their respective sanggunians for approval and authority to enter into inter-local government cooperative undertakings, the sanggunian shall conduct as many public hearings as may be required to obtain the views and opinions of the affected sectors.
- (5) The loan agreement shall be assigned jointly by the local chief executives concerned.
- (6) Within ten (10) days from signing of the agreement, the local chief executives concerned shall formally submit a copy of the approved loan agreement to their respective sanggunians.

Relations With People's and Nongovernmental Organizations

SECTION 35. *Linkages with People's and Nongovernmental Organizations.* — Local government units may enter into joint ventures and such other cooperatives arrangements with people's and nongovernmental organizations to engage in the delivery of certain basic services, capability-building and livelihood projects, and to develop local enterprises designed to improve productivity and income, diversify agriculture, spur rural industrialization, promote ecological balance, and enhance the economic and social well-being of the people.

NOTES/EXPLANATIONS

In understanding this provision, it is important to define Non-governmental Organizations (NGO's) and People's Organizations (PO's) to determine their relevance to the pursuit of local autonomy. *An NGO is a non-profit organization*

established and maintained for public interest, and is involved in a more or less systematic pursuit for a particular sectoral activity. PO's are community or sector focused formations of individuals who are organized for the attainment of some legitimate aspirations, which may also be profit-oriented.

The provision is broadly stated that it may cover all the activities that promote the development of the locality. The section indicates that LGUs and the said organizations may establish joint venture and cooperative arrangements in the *delivery of basic services, capability-building and livelihood projects, and development of local enterprises* to improve productivity and income, diversify agriculture, spur rural industrialization, promote ecological balance, and enhance the economic and social well-being of the people. *This implies that the area of PO/ NGO-LGU partnership is virtually limitless in terms of economic ventures and service delivery.* Included in the services to be delivered are projects on electrification, waterworks, waste disposal, and health services. Livelihood and economic undertakings may include agricultural diversification, seminars on various subjects that may enhance local capabilities, poultry farming, factories, processing of local raw materials like seaweeds and gold ores.

SECTION 36. Assistance to People's and Nongovernmental Organizations. — A local government unit may, through its local chief executive and with the concurrence of the sanggunian concerned, provide assistance, financial or otherwise, to such people's and nongovernmental organizations for economic, socially-oriented, environmental, or cultural projects to be implemented within its territorial jurisdiction.

NOTES/EXPLANATIONS

This section encourages and allows the LGUs to provide financial, technological or other forms of assistance to these organizations in support of projects designed to attain and enhance the economic, cultural and social well-being of the local governments upon the initiative of the local chief executive and with the approval of the sanggunian. As provided in Article 67 of the Implementing Rules of this Code, an LGU may grant tax exemptions, tax relief and other tax incentives to the said organizations. (Article 67) For coastal LGUs, preference is made for organizations of marginalized fisherfolk. (Article 68) Duly registered organizations and cooperatives of marginal fisherfolk are given preference in the grants by the sanggunian to erect fish corrals, oyster, mussel or aquatic beds or bangus fry areas, within a definite zone of the municipal waters, and to gather, take, or catch fry of any species and fish

from the municipal waters by nets, traps, or other fishing gears to marginal fishermen free of any rental, fee, charge, or any imposition. Aside from this, Cooperatives are given preferential treatment in securing franchises.

It should be noted that assistance is not limited to the financial and technological type. The Code recognizes that not all LGUs are capable of providing financial assistance. It is essential to consider that not all LGUs are financially capable of providing funding assistance. Budgetary constraints of the concerned LGU should serve as a challenge to these organizations to make them more innovative and effective partners for local development.

SECTION 37. *Local Prequalification, Bids and Awards Committee (Local PBAC).* – (a) **There is hereby created a local prequalification, bids and awards committee in every province, city, and municipality, which shall be primarily responsible for the conduct of prequalification of contractors, bidding, evaluation of bids, and the recommendation of awards concerning local infrastructure projects. The governor, or the city or municipal mayor shall act as the chairman with the following members:**

- (1) **The chairman of the appropriations committee of the sanggunian concerned;**
- (2) **A representative of the minority party in the sanggunian concerned, if any, or if there be none, one (1) chosen by said sanggunian from among its members;**
- (3) **The local treasurer;**
- (4) **Two (2) representatives of non-governmental organizations that are represented in the local development council concerned, to be chosen by the organizations themselves; and**
- (5) **Any practicing certified public accountant from the private sector, to be designated by the local chapter of the Philippine Institute of Certified Public Accountants, if any.**

Representatives of the Commission on Audit shall observe the proceedings of such committee and shall certify that the rules and procedures for prequalification, bids and awards have been complied with.

(b) The agenda and other information relevant to the meetings of such committee shall be deliberated upon by the committee at least one (1) week before the holding of such meetings.

(c) All meetings of the committee shall be held in the provincial capitol or the city or municipal hall. The minutes of such meetings of the committee and any decision made therein shall be duly recorded, posted at a prominent place in the provincial capitol or the city or municipal hall, and delivered by the most expedient means to elective local officials concerned.

NOTES/EXPLANATIONS

The local PBAC has jurisdiction over all projects funded from local government funds, and all local government projects funded by national government funds. The second refers to those development projects funded with national government appropriations released directly to the LGUs. The local PBAC is responsible for the prequalification of contractors, bidding, evaluation of bids, and the recommendation of awards concerning local infrastructure projects.

The local chief executive serves as the chairman. Included in the members are the chairman of appropriations committee of the sanggunian; a representative of the minority, if any, or if there is none, one chosen by the sanggunian from among its members; two representatives from the non-governmental organizations; and a public accountant representative from the private sector designated by the Philippine Institute of Certified Public Accountants.

The agenda and other information relevant to the meetings of the local PBAC shall be deliberated upon at least one week before the scheduled meetings. A representative from the Commission on Audit (COA) shall observe the proceedings and shall certify that the rules and procedures have been complied with in the procurement process.

to provide technical assistance to the local prequalification, bids and awards committees. It shall be composed of the provincial, city or municipal engineer, the local planning and development coordinator, and such other officials designated by the local prequalification, bids and awards committee.

(b) The chairman of the local technical committee shall be designated by the local prequalification, bids and awards committee and shall attend its meeting in order to present the reports and recommendations of the local technical committee.

NOTES/EXPLANATIONS

A local technical committee shall be organized by the province, city, and municipality to provide technical assistance to the local PBAC. This committee is composed of the Provincial, municipal, or city engineer, the local planning and development coordinator, and other officials designated by the local PBAC. The chairperson of the committee is appointed by the local PBAC. The chairperson shall attend the meetings of the local PBAC to present the reports and recommendations of the technical committee.

Vacancies and Succession

SECTION 44. *Permanent Vacancies in the Offices of the Governor, Vice-Governor, Mayor, and Vice-Mayor.* — If a permanent vacancy occurs in the office of the governor or mayor, the vice-governor or vice-mayor concerned shall become the governor or mayor. If a permanent vacancy occurs in the offices of the governor, vice-governor, mayor, or vice-mayor, the highest ranking sanggunian member or, in case of his permanent inability, the second highest ranking sanggunian member, shall become the governor, vice-governor, mayor, or vice-mayor, as the case may be. Subsequent vacancies in the said office shall be filled automatically by the other sangguniang members according to their ranking as defined herein.

(b) If a permanent vacancy occurs in the office of the punong barangay, the highest ranking sangguniang member or, in the case of his permanent inability, the second highest ranking sanggunian member, shall become the punong barangay.

(c) A tie between or among the highest ranking sanggunian members shall be resolved by the drawing of lots.

(d) The successors as defined herein shall serve only the unexpired terms of their predecessors.

For the purposes of this Chapter, a permanent vacancy arises when an elective local official fills a higher vacant office, refuses to assume office, fails to qualify, dies, is removed from office, voluntarily resigns or is otherwise permanently incapacitated to discharge the functions of his office.

For purposes of succession as provided in this Chapter, ranking in the sanggunian shall be determined on the basis of the proportion of votes obtained by each winning candidate to the total number of registered voters in each district in the immediately preceding local election.

SECTION 45. *Permanent Vacancies in the Sanggunian.* — (a) Permanent vacancies in the sanggunian where automatic successions provided above do not apply shall be filled by appointment in the following manner.

- (1) The President, through the Executive Secretary, in the case of the sangguniang panlalawigan and the sangguniang panlungsod of highly urbanized cities and independent component cities;
- (2) The governor in the case of the sangguniang panlungsod of component cities and the sangguniang bayan;
- (3) The city or municipal mayor, in the case of sangguniang barangay, upon recommendation of the sangguniang barangay concerned.

(b) Except for the sangguniang barangay, only the nominee of the political party under which the sanggunian member concerned had been elected and whose elevation to the position next higher in rank created the last vacancy in the sanggunian shall be appointed in the manner herein above provided. The appointee shall come from the same political party as that of

the sanggunian member who caused vacancy and shall serve the unexpired term of the vacant office. In the appointment herein mentioned, a nomination and a certificate of membership of the appointee from the highest official of the political party concerned are conditions sine qua non, and any appointment without such nomination and certification shall be null and void ab initio and shall be a ground for administrative action against the official responsible therefor.

(c) In case the permanent vacancy is caused by a sanggunian member who does not belong to any political party, the local chief executive shall, upon recommendation of the sanggunian concerned, appoint a qualified person to fill the vacancy.

(d) In case of vacancy in the representation of the youth and the barangay in the sanggunian, said vacancy shall be filled automatically by the official next in rank of the organization concerned.

NOTES/EXPLANATIONS

Nolledo cited that the rules of succession above shall be automatic and there is no need of any other legal requirement except to prove that a permanent vacancy has occurred; the successor shall serve only the unexpired term; no special election will be held. A permanent vacancy arises when an elective local official fills a higher vacant office, refuses to assume office, fails to qualify, dies, is removed from office, voluntarily resigns or is otherwise permanently incapacitated to discharge the function of his office.

The Code prescribes that for purpose of determining the ranking or order of succession in the sanggunian the proportion of votes obtained by each winning candidate to the total number of registered voters in each district in the immediately preceding election shall be used as basis. The above provisions situation applies also when there is a permanent vacancy in the office of the punong barangay.

SECTION 46. *Temporary Vacancy in the Office of the Local Chief Executive.* — (a) When the governor, city or municipal mayor, or punong barangay is temporarily incapacitated to perform his duties for physical or legal reasons such as, but not limited to, leave or absence, travel abroad, and suspension from office, the vice-governor, city or municipal vice-mayor, or the highest ranking sangguniang barangay member shall automatically exercise the powers and perform the duties and functions of the local chief executive concerned, except the power to appoint, suspend, or dismiss employees which can only be exercised if the period of temporary incapacity exceeds thirty (30) working days.

(b) Said temporary incapacity shall terminate upon submission to the appropriate sanggunian of a written declaration by the local chief executive concerned that he has reported back to office. In cases where the temporary incapacity is due to legal causes, the local chief executive concerned shall also submit necessary documents showing that said legal causes no longer exist.

(c) When the incumbent local chief executive is traveling within the country but outside his territorial jurisdiction for a period not exceeding three (3) consecutive days, he may designate in writing the officer-in-charge of he said office. Such authorization shall specify the powers and functions that the local official concerned shall exercise in the absence of the local chief executive except the power to appoint, suspend, or dismiss employees.

(d) In the event, however, that the local chief executive concerned fails or refuses to issue such authorization, the vice-governor, the city or municipal vice-mayor, or the highest ranking sangguniang barangay member, as the case may be, shall have the right to assume the powers, duties, and functions of the said office on the fourth (4th) day of absence of the said local chief executive, subject to limitations provided in subsection (c) hereof.

(e) Except as provided above, the local chief executive shall in no case authorize any local official to assume the powers, duties, and functions of the office, other than the vice-governor, the city or municipal vice-mayor, or the highest ranking sangguniang barangay member, as the case may be.

NOTES/EXPLANATIONS

The rules on temporary succession arising from temporary vacancy are set forth above, giving importance to the positions of vice-governor, or vice-mayor, or the most senior member of the sanggunian. Designation of an officer-in-charge is limited to paragraphs (c) and (d) where temporary incapacity is due to travel for three (3) consecutive days. The above rules settle the issue on who shall take over when the local chief executive is temporarily absent or is temporarily incapacitated. However, there are circumstances where temporary incapacity may turn into permanent incapacity, as when an elective official's illness worsens in which case Section 44 shall apply. This section refers exclusively to the local chief executives and not to the sanggunian members. No one would be appointed or would take over in case of temporary vacancy in the sanggunian.

SECTION 47. *Approval of Leaves of Absence.* — (a) Leaves of absence of local elective officials shall be approved as follows:

- (1) Leaves of absence of the governor and the mayor of a highly urbanized city or an independent component city shall be approved by the President or his duly authorized representative;**
- (2) Leaves of absence of the vice-governor or a city or municipal vice-mayor shall be approved by the local chief executive concerned: Provided, That the leaves of absence of the member of the sanggunian and its employees shall be approved by the vice-governor or city or municipal vice-mayor concerned;**
- (3) Leaves of absence of the component city or municipal mayor shall be approved by the governor; and**
- (4) Leaves of absence of a punong barangay shall be approved by the city or municipal mayor: Provided, That leaves of absence of sangguniang barangay members shall be approved by the punong barangay.**

(b) Whenever the application for leave of absence hereinabove specified is not acted upon within five (5) working days after receipt thereof, the application for leave of absence shall be deemed approved.

NOTES/EXPLANATIONS

A leave of absence creates a temporary vacancy. It has to be applied for and is subject to the approval of a higher authority, the President in case of governors, the governor in the case of component city and municipal mayors and the city or municipal mayors in the case of the punong barangay. In acting on the application for approval, the approving authority may recommend measures to minimize or eradicate the adverse effects that the leave of absence may cause or he impose certain conditions or limitations to the leave of absence.

Recall

SECTION 69. *By Whom Exercised.* — The power of recall for loss of confidence shall be exercised by the registered voters of a local government unit to which the local elective official subject to such recall belongs.

SECTION 70. *Initiation of the Recall Process.* — (a) Recall may be initiated by a preparatory recall assembly or by the registered voters of the local government unit to which the local elective official subject to such recall belongs.

(b) There shall be a preparatory recall assembly in every province, city, district, and municipality which shall be composed of the following:

- (1) **Provincial level.** — All mayors, vice-mayors, and sanggunian members of the municipalities and component cities;
- (2) **City level.** — All punong barangay and sangguniang barangay members in the city;
- (3) **Legislative District Level.** — In cases where sangguniang panlalawigan members are elected by district, all elective municipal officials in the district; and in cases where sangguniang panlungsod members are elected by district, all elective barangay officials in the district; and
- (4) **Municipal level.** — All punong barangay and sangguniang barangay members in the municipality.

(c) **A majority of all the preparatory recall assembly members may convene in session in a public place and initiate a recall proceeding against any elective official in the local government unit concerned. Recall of provincial, city, or municipal officials shall be validly initiated through a resolution adopted by a majority of all the members of the preparatory recall assembly concerned during its session called for the purpose.**

(d) **Recall of any elective provincial, city, municipal, or barangay official may also be validly initiated upon petition of at least twenty-five percent (25%) of the total number of registered voters in the local government unit concerned during the election in which the local official sought to be recalled was elected.**

- (1) **A written petition for recall duly signed before the election registrar or his representative, and in the presence of a representative of the official sought to be recalled, in a public place in the province, city municipality, or barangay, as the case may be, shall be filed with the Comelec through its office in the local government unit concerned. The Comelec or its duly authorized representative shall cause the publication of the petition in a public and conspicuous place for a period of not less than ten (10) days nor more than twenty (20) days, for the purpose of verifying the authenticity and genuineness of the petition and one required percentage of voters.**
- (2) **Upon the lapse of the aforesaid period, the Comelec or its duly authorized representative shall announce the acceptance of candidates to the position and thereafter prepare the list of candidates which shall include the name of the official sought to be recalled.**

NOTES/EXPLANATIONS

Recall is a mode of removal of a local elective public officer by the people before the end of his/her term of office due to loss of confidence. Evardone in the case of *Evardone vs. COMELEC et al*, defines loss of confidence as " *the formal withdrawal by an electorate of their trust in a person's ability to discharge his office previously bestowed on him by the same electorate.*" As stipulated in the case of *Garcia vs. COMELEC*, 227 SCRA 100, 1993, The Supreme Court held that, " *the people's prerogative to remove a public officer is an incident of their sovereign power and in the absence of constitutional restraint, the power is implied in all governmental operations.*" It means that sovereign power is indispensable for the proper administration of public affairs and is the fundamental right of the people in a representative democracy. However, the Code failed to define the grounds for loss of confidence. ever, the Code was not specific on defining the grounds for defining loss of confidence as a basis for recall.

Local elective officials may be recalled by the registered voters or by the appropriate Preparatory Recall Assembly (PRA) composed of certain elective officials of an LGU.

The power to initiate recall is vested upon two groups: (a) at least twenty five percent (25%) of the registered voters of the LGU at the time of the election of the official concerned and (b) the Preparatory Recall Assembly (PRA).

The Provincial PRA is composed of all mayors, vice-mayors, and sanggunian members of the municipalities and component cities within the province concerned, who are politically neutral, meaning not apportioned to political parties. It deals with the recall resolutions of ag elective provincial officials. However when Sangguniang Panlalawigan members who are elected by district are sought to be recalled, the proper body to handle is the Legislative District Preparatory Recall Assembly, which is composed of all elective municipal officials in the district; and in cases where sangguniang panlungsod members are elected by district, all elective barangay officials in the district. *The Implementing Rule of this Code, specifically Rule XXI Article 156 (3), contains an error when it states that in legislative district, the PRA is composed of "all elective barangay officials of the district..."* What the law actually provides is that the Legislative District Preparatory Assembly of a province is composed of all elective municipal officials in the district. All elective barangay officials of the district compose the Legislative District PRA of the city where the Sangguniang Panlungsod member who is the object of recall proceedings was elected. The Municipal PRA is composed of all elective barangay officials of the municipality. Finally, barangay recall petitions may be initiated by at least twenty five percent (25%) of the registered voters of the barangay where the official concerned was elected.

If initiated by a PRA, a *resolution of recall* must be approved by a majority of all the members of the Assembly in a session called for that purpose in a public place. If initiated by registered voters, a *written petition for recall* shall be signed and filed

with the COMELEC by at least twenty five (25%) of the voters who were registered at the time the official sought to be recalled was elected. The signing of the written petition for recall shall be done in presence of the COMELEC registrar or his/her representative, a representative of the petitioner(s), and a representative of the official sought to be recalled. It shall then be filed with the local COMELEC office.

The petition shall be posted in a public and conspicuous place for a period of not less than ten (10) days nor more than 20 days for the purpose of verifying the authenticity of the petition and the required percentage of voters.

Upon the lapse of the said period, candidates for the position sought to be declared vacant will be listed by the COMELEC. The official being recalled is automatically included as a candidate. The official is not allowed to resign while the recall process is in progress

Justifying the legality of the role of the PRA, the Supreme Court also held in the case of Garcia v. COMELEC that the 1997 Constitution *did not* suggest that the people have sole and exclusive right to decide whether to initiate a recall proceeding. The basic law directed the Congress to provide for effective mechanisms of recall. *The PRA resolution is not the recall itself but merely starts the process.* Recall becomes effective upon the election and proclamation of a successor.

SECTION 81. *Compensation of Local Officials and Employees.* – The compensation of local officials and personnel shall be determined by the sanggunian concerned: *Provided*, That the increase in compensation of elective local officials shall take effect only after the terms of office of those approving such increase shall have expired: *Provided further*, That the increase in compensation of the appointive officials and employees shall take effect as provided in the ordinance authorizing such increase: *Provided*, however, That said increases shall not exceed the limitations on budgetary allocations for personal services provided under Title Five, Book II of this Code: *Provided*, finally, That such compensation may be based upon the pertinent provisions of Republic Act Numbered Sixty-seven fifty-eight (R.A. No. 6758), otherwise known as the “Compensation and Position Classification Act of 1989”.

The punong barangay, the sangguniang barangay members, the sangguniang kabataan chairman, the barangay treasurer, and the barangay secretary shall be entitled to such compensation, allowances, emoluments, and such other privileges under Title One, Book III of this Code.

Elective local officials shall be entitled to the same leave privileges as those enjoyed by appointive local officials, including the cumulation and commutation thereof.

NOTES/EXPLANATIONS

The Code stipulates that the compensation of local officials, elective and appointive, including the personnel of local government units shall be determined by the sanggunian concerned. However, it shall be fixed based upon RA 6758, otherwise known as the Compensation and Position Classification Act of 1989. Increases in compensation are also set by the sanggunian. However, the date of the increase's application depends on the recipient of the increase, whether they are elective or appointive officials. The increases for elective officials are effective only after their term.

Human Resource And Development

SECTION 97. *Annual Report.* — On or before March 31 of each year, every local chief executive shall submit an annual report to the sanggunian concerned on the socioeconomic, political and peace and order conditions, and other matters concerning the local government unit, which shall cover the immediately preceding calendar year. A copy of the report shall be forwarded to the Department of the Interior and Local Government. Component cities and municipalities shall likewise provide the sangguniang panlalawigan copies of their respective annual reports.

NOTES/EXPLANATIONS

There are two basic reasons for annual reports: (1) it summarizes the accomplishment of one's administration of the local affairs, and (2) it pinpoints areas of concern or failure thus enabling the proper authorities to explore and decide on remedial measures. The Implementing Rules of this Code (Article 190) requires that the Report shall be comprehensive in scope. It shall be prepared in accordance with the following form and contents: (a) Message, (b) Executive Summary, (c) Brief Description of the LGU, (d) Organization and Management, (e) Budget Performance and Financial Statements, (f) Plans, Programs, and Accomplishments, (g) Local legislation, and (h) Plans and Programs for the Ensuing year.

This report shall be submitted to the central and regional offices of DILG, which shall evaluate these annual reports and use the same for the development and recommendation of integrated and comprehensive technical assistance packages for the LGUs. Component cities and municipalities shall likewise submit to the sangguniang panlalawigan copies of their annual reports. Submission shall be done formally in a sanggunian session called for the purpose of receiving and reviewing such reports. This occasion shall be used by the province to assist the component LGUs in identifying and defining problems, issues and concerns, development assistance requirements, and interlocal linkages for consideration of the governor.

Local Development Councils

SECTION 107. *Composition of Local Development Councils.* —
The composition of the local development council shall be as follows:

(a) The barangay development council shall be headed by the punong barangay and shall be composed of the following members:

- (1) Members of the sangguniang barangay;
- (2) Representatives of the nongovernmental organizations operating in the barangay, who shall constitute not less than one-fourth (1/4) of the members of the fully organized council;
- (3) A representative of the congressman.

(b) The city or municipal development council shall be headed by the mayor and shall be composed of the following members:

- (1) All punong barangay in the city or municipality;
- (2) The chairman of the committee on appropriations of the sangguniang panlungsod or sangguniang bayan concerned;
- (3) The congressman or his representatives; and
- (4) Representatives of nongovernmental organizations operating in the city or municipality, as the case may be, who shall constitute not less than one-fourth (1/4) of the members of the fully organized council.

(c) The provincial development council shall be headed by the governor and shall be composed of the following members:

- (1) All mayors of component cities and municipalities;
- (2) The chairman of the committee on appropriations of the sangguninag panlalawigan;
- (3) The congressman or his representative; and
- (4) Representatives of nongovernmental organizations operating in the province, who shall constitute not less than one-fourth (1/4) of the members of the fully organized council.

(d) The local development councils may call upon any local official concerned or any official of national agencies or offices in the local government unit to assist in the formulation of their respective development plans and public investment programs.

NOTES/EXPLANATIONS

The local development council (LDC) is the central planning agency of the LGUs. With its creation, the local government can provide direction, supervision, control and coordination thereby avoiding fragmentation in the implementation of programs or projects causing the wastage of funds, delays, inefficiencies, and haphazard results.

The local chief executives chair the LDC: (a) the governor for the provincial development council, (b) the mayor for the municipal or city development council and (c) the punong barangay for the barangay development council.

It is noteworthy to consider the membership of the non-governmental organizations (NGOs), which is at least $\frac{1}{4}$ of the full membership of the council. The Code gives the NGOs a sizable number of representatives in recognition of the vital role that the private sector plays in the development of LGUs. But it is also an obvious issue that the number of qualified NGO in the some local governments may not meet the mentioned specification in the creation of the LDC.

While title XIII of the Implementing Rules of this Code provided procedures and guidelines for the selection of representatives of POs, NGOs, or private sector in the LDC, but it is insufficient in setting criteria by which an NGO can qualify and be accredited as member of the LDC. As of this moment there is no enabling legislation on this matter yet.

In addition, the LDCs have the inherent power to summon any official of an LGU concerned or of the national government agency or office to assist them in the formulation of their respective development plans and public investment programs.

SECTION. 115. *Budget Information.* – The Department of Budget and Management shall furnish the various local development councils information on financial resources and budgetary allocations applicable to their respective jurisdictions to guide them in their planning actions.

NOTES/EXPLANATIONS

It is the obligation of the Department of Budget and Management to furnish the LDCs with information on financial resources of and budgetary allocations to the LGUs to guide them in the discharge of their functions. The Code, however, did not define the extent of this guidance. LGUs are complaining about DBM guidelines putting limits on LGU spending for certain items, e.g. personnel services. This provision is in conflict with the principles in local government budgeting as stipulated in Rule XXXIV of the Implementing Rules. Article 405 (a) states that “*National planning shall be based on local planning to ensure that the needs and aspirations of the people as well as those of the LGUs shall be considered in the formulation of budgets of National Government Agencies.*” But this does not discount the role of the DBM in granting advice on the budget of the LGUs. However, the DBM being a national agency defeats the aim of the Code with regard to local autonomy.

Local Initiative And Referendum

SECTION. 120. *Local Initiative Defined.* – Local initiative is the legal process whereby the registered voters of a local government unit may directly propose, enact, or amend any ordinance.

NOTES/EXPLANATIONS

This section entitles registered voters of the local government to directly participate in the local legislative process. A local initiative as defined by the Code as the legal process whereby the registered voters of the LGU may directly propose, enact, or amend any ordinance. It is done for two purposes: to adopt or enact an ordinance proposed by the initiating petitioner (new ordinance), or to repeal or amend an existing ordinance.

Initiative has two forms: the indirect and the direct initiative. *Direct initiative is the process where the voters start the legislative process for the enactment, amendment or repeal of an ordinance or resolution in the absence of positive action of the sanggunian concerned.* It is the form of initiative discussed in this section. On the other hand, *indirect initiative* as recognized by RA 6735 (otherwise known as *An Act Providing for a System of Initiative and Referendum*) refers to the *process wherein a proposal to enact, amend or repeal a law or ordinance is submitted by a required number of registered voters for the national legislature or in the local councils.* Pimentel explained that the manner is called *indirect* because, *the registered voters concerned want a piece of legislation or an ordinance enacted, amended or repealed but they not do so directly; they channel their action through their elected representatives in the national legislature or in the local councils.* However, there is nothing in the law that allows proponents to participate in the debates on the floor of the legislature or in the session halls of the Sanggunian. The most significant participation of the proponents of indirect initiative is to file the measure and probably explain its purposes and provisions before the proper committee of the legislature or sanggunian to which it may be referred. After that, the measure is left to the discretion of the legislators or members of the sanggunian.

All sorts of measures may be subject of direct initiative for as long as these measures are within the competence of the sanggunian to enact. Regarding the form of the measure, *this section speaks only of "ordinance"*. However, the wording of Section 25 of this Code, deals not only with ordinances but also with "*any proposition*" which implies that initiative includes enacting resolutions.

The 1987 Constitution mandated the Congress to act on the provision for a system of initiative and referendum as provided in Sec. 32 Article VI and Sec. 3, Article X. In addition, RA 6735 otherwise known as *An Act Providing for a System of Initiative and Referendum* provided for the same. However, such law was enacted prior to the Local Government Code of 1991. Thus, it is evident that there is no enabling legislation specifically designed for the provinces, cities, municipalities, and barangays for the system of initiative and referendum stipulated in this Code

SECTION 121. *Who May Exercise.* – The power of local initiative and referendum may be exercised by all registered voters of the provinces, cities, municipalities, and barangays.

SECTION. 122. *Procedure in Local Initiative.* – (a) Not less than one thousand (1,000) registered voters in case of provinces and cities, one hundred (100) in case of municipalities, and fifty (50) in case of barangays, may file a petition with the sanggunian concerned proposing the adoption, enactment, repeal, or amendment of an ordinance.

(b) If no favorable action thereon is taken by the sanggunian concerned within thirty (30) days from its presentation, the proponents, through their duly authorized and registered representatives, may invoke their power of initiative, giving notice thereof to the sanggunian concerned.

(c) The proposition shall be numbered serially starting from Roman numeral I. The COMELEC or its designated representative shall extend assistance in the formulation of the proposition.

(d) Two (2) or more propositions may be submitted in an initiative.

(e) Proponents shall have ninety (90) days in case of provinces and cities, sixty (60) days in case of municipalities, and thirty (30) days in case of barangays, from notice mentioned in subsection (b) hereof to collect the required number of signatures.

(f) The petition shall be signed before the election registrar, or his designated representatives, in the presence of a representative of the proponent, and a representative of the sanggunian concerned in a public place in the local government unit, as the case may be. Stations for collecting signatures may be established in as many places as may be warranted

(g) Upon the lapse of the period herein provided, the COMELEC, through its office in the local government unit concerned, shall certify as to whether or not the required number of signatures has been obtained. Failure to obtain the required number defeats the proposition.

(h) If the required number of signatures is obtained, the COMELEC shall then set a date for the initiative during which the proposition shall be submitted to the registered voters in the local government unit concerned for their approval within sixty (60) days from the date of certification by the

COMELEC, as provided in subsection (g) hereof, in case of provinces and cities, forty-five (45) in case of municipalities, and thirty (30) days in case of barangays. The initiative shall then be held on the date set, after which the results thereof shall be certified and proclaimed by the COMELEC.

SECTION 124. *Limitations on Local Initiatives.*

(a) The power of local initiative shall not be exercised more than once a year.

(b) Initiative shall extend only to subjects or matters which are within the legal powers of the sanggunian to enact.

(c) If any time before the initiative is held, the sanggunian concerned adopts *in toto* the proposition presented and the local chief executive approves the same, the initiative shall be cancelled. However, those against such action may, if they so desire, apply for initiative in the manner herein provided.

NOTES/EXPLANATIONS

The **registered voters** can exercise the power of initiative and referendum. The initiative is begun by some registered voters while the referendum covers all registered voters. A simple majority is enough to affirm the move to amend, repeal or propose the ordinance.

If the sanggunian does not listen to the petition presented upon the initiative of some registered voters, then the power of initiative may be invoked by soliciting signatures to collect the required number of signatures. A *petition* containing the propositions and other details as prescribed by Article 136 of the Implementing Rules shall be prepared and furnished to the local government election supervisor concerned. A notice for distribution shall also be included. Upon the receipt of the notice and the petition, the election officers concerned shall reproduce and post the notice and petition in a public and conspicuous place, together with the notice of dates of signing stated in the Implementing Rules.

The collection of signatures shall start on the first Saturday and Sunday following the receipt of the notice, and every Saturday and Sunday thereafter for a period of ninety (90) days in case of provinces and cities, sixty (60) days in case of municipalities, and thirty (30) days in case of barangays. Signing is also permitted during weekdays in the office of the proper election registrar. Signing stations for collecting signatures may be established in as many places as necessary and as far as practicable in public school buildings nearest the residence of the voters. On any days scheduled for signing, any registered voter may sign the petition, before the election registrar, or his designated representatives, in the presence of the representative of the proponent and of the sanggunian concerned in a public place in the LGU concerned. During the period of signing, the election registrar shall verify the authenticity of the signatures by referring to the book of voters, voters' affidavit, and voters' identification used in the immediately preceding election. Any vote that is falsified or forged, or the signatory not a registered voter, or the signature of the voter appeared more than once in the forms, shall be canceled.

It appears that the process shall be done twice: the first is for the purpose of filing of a petition proposing an amendment, enactment or repeal of ordinances; the second is for the purpose of submitting the proposition for the consideration of the registered voters.

The COMELEC shall certify the total number of registered voters in the LGU and determine the percentage needed to validate the initiative.

Local initiatives are limited in the subject matter and the number of times they be exercised. It can cover only matters that are within the capabilities and legal powers of the sanggunian to enact. Initiatives in local government shall be exercised only once every year. Lastly, it is cancelled if the sanggunian concerned has consented to the proposal, and the local chief executive has given his approval. However, if there are objections to the approval, an initiative may still be applied against the proposition or ordinance.

Financial Matters And Local Fiscal Administration

SECTION 129. *Power to Create Source of Revenue.* — Each local government unit shall exercise its power to create its own sources of revenue and to levy taxes, fees, and charges subject to the provisions herein, consistent with the basic policy of local autonomy. Such taxes, fees, and charges shall accrue exclusively to the local government units

NOTES/EXPLANATIONS

The power to tax is an attribute of sovereignty and is governed by due process and equal protection clauses. The authority granted to local governments to create their own sources of revenue and to levy taxes, fees and charges is a fundamental feature of fiscal autonomy provided by Section 5 Article X of the 1987 Constitution. Nonetheless, this power is subject to guidelines and limitations provided by the Congress. Taxes, fees, and charges levied by the LGU accrue exclusively to the local governments.

SECTION 130. *Fundamental Principles.* — The following fundamental principles shall govern the exercise of the taxing and other revenue-raising powers of local government units:

- (a) **Taxation shall be uniform in each local government unit;**
- (b) **Taxes, fees, charges and other impositions shall:**
 - (1) **be equitable and based as far as practicable on the taxpayer's ability to pay;**
 - (2) **be levied and collected only for public purposes;**
 - (3) **not be unjust, excessive, oppressive, or confiscatory;**
 - (4) **not be contrary to law, public policy, national economic policy, or in restraint of trade;**
- (c) **The collection of local taxes, fees, charges and other impositions shall in no case be let to any private person;**

- (d) **The revenue collected pursuant to the provisions of this Code shall inure solely to the benefit of, and be subject to disposition by, the local government unit levying the tax, fee, charge or other imposition unless otherwise specifically provided herein; and,**
- (e) **Each local government unit shall, as far as practicable, evolve a progressive system of taxation.**

NOTES/EXPLANATIONS

Uniformity in taxation means that all taxable articles or kinds of property of the same class shall be taxed at the same rate. It is not the same as equality. Thus, a taxable activity or business may be arranged into classes, provided that the basis of such classification is reasonable so as not to contravene constitutional rights. The rule of uniformity also extends to territorial bounds of the taxing jurisdiction. If the tax is a city tax, it must be uniform throughout the city; if the tax is a municipal tax, it must be uniform throughout the municipality.

Taxation is said to be equitable when its burden falls on those better able to pay, and it is progressive when its rate goes up depending on the resources of the taxpayer. Since the taxes, charges and fees are local in nature, these are to be utilized solely for the benefit of the LGU that levies such taxes, charges and fees. The tax must be equitable and fair in order not to be unjust or oppressive. It is contrary to law if the tax is beyond the authority of an LGU to impose.

SECTION 138. *Tax on Sand, Gravel and Other Quarry Resources.*

— **The province may levy and collect not more than ten percent (10%) of fair market value in the locality per cubic meter of ordinary stones, sand, gravel, earth, and other quarry resources, as defined under the National Internal Revenue Code, as amended, extracted from public lands or from the beds of seas, lakes, rivers, streams, creeks, and other public waters within its territorial jurisdiction.**

The permit to extract sand, gravel and other quarry resources shall be issued exclusively by the provincial governor, pursuant to the ordinance of the sangguniang panlalawigan.

The proceeds of the tax on sand, gravel, and other quarry resources shall be distributed as follows:

- (1) Province – Thirty percent (30%);**
- (2) Component City or Municipality where the sand, gravel, and other quarry resources are extracted – Thirty percent (30%);**
and
- (3) Barangay where the sand, gravel, and other quarry resources are extracted – Forty percent (40%).**

NOTES/EXPLANATIONS

The permit to extract sand, gravel and other quarry resources is lodged with the governor, subject to the approval of the sangguniang panlalawigan through an ordinance. Quarry resources are defined as any common stone or other common mineral substance including but not restricted to marl, marble, granite, volcanic cinders, basalt, tuff and rock phosphate, provided that they do not contain metal or valuable minerals in economically workable quantities.

Highly urbanized and independent component cities also have the authority to grant permits for the extraction of sand, gravel and quarry resources in barangays within their territorial jurisdiction, as well as to levy taxes thereon.

Real Property Taxation

SECTION 198. *Fundamental Principles.* — The appraisal, assessment, levy and collection of real property tax shall be guided by the following fundamental principles:

- (a) Real property shall be appraised at its current and fair market value;**
- (b) Real property shall be classified for assessment purposes on the basis of its actual use;**
- (c) Real property shall be assessed on the basis of a uniform classification within each local government unit;**

- (d) **The appraisal, assessment, levy and collection of real property tax shall not be let to any private person; and**
- (e) **The appraisal and assessment of real property shall be equitable.**

SECTION 201. *Appraisal of Real Property.* — All real property, whether taxable or exempt, shall be appraised at the current and fair market value prevailing in the locality where the property is situated. The Department of Finance shall promulgate the necessary rules and regulations for the classification, appraisal, and assessment of real property pursuant to the provisions of this Code.

NOTES/EXPLANATIONS

The principles that govern the appraisal, assessment, levy and collection of real property tax are laid down by this section. The governing principles are that real property shall be: (a) appraised at its current and fair market value, (b) assessed on the basis of its actual use, (c) assessed on the basis of a uniform classification within each LGU, and (d) appraised and assessed equitably. It cannot be let to any private person.

The rule is that appraisals of real property must be based upon the current and fair market value prevailing in the locality where the property is located. The term "current and fair market value" is defined as the price at which a willing seller would sell and a willing buyer would buy, neither being under undue pressure.

Allotment of Internal Revenue

SECTION 284. *Allotment of Internal Revenue Taxes.* – Local government units shall have a share in the national internal revenue taxes based on the collection of the third fiscal year preceding the current fiscal year as follows:

- (a) **On the first year of the effectivity of this Code, thirty percent (30%);**
- (b) **On the second year, thirty-five percent (35%); and**
- (c) **On the third year and thereafter, forty percent (40%).**

Provided, That in the event that the national government incurs an unmanageable public sector deficit, the President of the Philippines is hereby authorized upon the recommendation of Secretary of Finance, Secretary of Interior and Local Government and Secretary of Budget and Management, and subject to consultation with the presiding officers of both Houses of Congress and the presidents of the liga, to make the necessary adjustments in the internal revenue allotment of local government units but in no case shall the allotment be less than thirty percent (30%) of the collection of national internal revenue taxes of the third fiscal year preceding the current fiscal year; Provided, further, That in the first year of the effectivity of this Code, the local government units shall, in addition to the thirty percent (30%) internal revenue allotment which shall include the cost of devolved functions for essential public services, be entitled to receive the amount equivalent to the cost of devolved personal services.

NOTES/EXPLANATIONS

The internal revenue allotment of local government units is the accumulation of all allotments received by them under existing laws, such as the regular internal allotments, the specific tax allotments, and shares from the Local Government Revenue Stabilization Fund. This section increases the share of LGUs in the national internal revenue taxes from 11% to 30% from the date of the Code's promulgation, to 35% in 1993, and 40% in 1994 and onwards.

The IRA of LGUs may be reduced by the President in the event of an unmanageable public sector deficit on the part of the national government.

SECTION 285. *Allocation to Local Government Units.* — The share of local government units in the internal revenue allotment shall be allocated in the following manner:

- (a) Provinces – Twenty-three percent (23%)
- (b) Cities – Twenty-three percent (23%)
- (c) Municipalities – Twenty-four percent (24%)
- (d) Barangays – Twenty percent (20%)

Provided, however, That the share of each province, city, and municipality shall be determined on the basis of the following formula:

- (a) Population – Fifty percent (50%)
- (b) Land Area – Twenty-five percent (25%)
- (c) Equal Sharing – Twenty-five percent (25%)

Provided, further, That the share of each barangay with a population of not less than one hundred (100) inhabitants shall not be less than Eighty thousand pesos (P80,000.00) per annum chargeable against the twenty percent (20%) share of the barangay from the internal revenue allotment, and the balance to be allocated on the basis of the following formula:

- (a) On the first year of the effectivity of this Code:
 - (1) Population – Forty percent (40%); and
 - (2) Equal sharing – Sixty percent (60%)
- (b) On the second year:
 - (1) Population – Fifty percent (50%); and
 - (2) Equal sharing – Fifty percent (50%)
- (c) On the third year thereafter:
 - (1) Population – Sixty percent (60%)
 - (2) Equal sharing – Forty percent (40%)

Provided, finally, That the fiscal requirements of barangays created by local government units after the effectivity of this Code shall be the responsibility of the local government unit concerned.

NOTES/EXPLANATIONS

The provinces, cities, municipalities and barangays are entitled to the distribution of their internal revenue shares as follows: provinces, twenty three percent (23%); Cities, twenty three percent (23%); Municipalities, twenty four percent (24%); Barangays, twenty percent (20%). Every province, city, or municipality gets a definite share of the IRA pursuant to the following criteria: population, fifty percent (50%); land area, twenty five percent (25%); equal sharing, twenty five percent (25%).

Every barangay also gets an annual share of PhP80,000 per annum chargeable against the barangay internal revenue allotment of twenty percent (20%) provided that it has at least 100 residents.

SECTION 286. *Automatic Release of Shares.* – (a) The share of each local government unit shall be released, without need of any further action, directly to the provincial, city, municipal or barangay treasurer, as the case may be, on a quarterly basis within five (5) days after the end of each quarter, and which shall not be subject to any lien or holdback that may be imposed by the national government for whatever purpose.

(b) Nothing in this Chapter be understood to diminish the share of local government units under existing laws.

NOTES/EXPLANATIONS

The shares of local governments in internal revenue taxes are to be released automatically within the first five (5) days of every quarter and are not subject to any lien and may not be withheld for any reason. Moreover, the share of LGUs under laws prior to the enactment of the Code cannot be reduced or diminished.

SECTION 287. *Local Development Projects.* – Each local government unit shall appropriate in its annual budget no less than twenty percent (20%) of its annual internal revenue allotment for development projects. Copies of the development plans of local government units shall be furnished the Department of the Interior and Local Government.

NOTES/EXPLANATIONS

At least twenty percent (20%) of its annual internal revenue allotments must be appropriated by an LGU for development projects. However, a mechanism by which the term “development” must be defined should be provided, by enumerating and identifying specific program of actions for such purpose.

Share of Local Government Units in the National Wealth

SECTION 289. *Share in the Proceeds from the Development and Utilization of the National Wealth.* – Local government units shall have an equitable share in the proceeds derived from the utilization and development of the national wealth within their respective areas, including sharing the same with the inhabitants by way of direct benefits.

SECTION 290. *Amount of Share of Local Government Units.* – Local government units shall, in addition to the internal revenue allotment, have a share of forty percent (40%) of the gross collection derived by the national government from the preceding fiscal year from mining taxes, royalties, forestry and fishery charges, and such other taxes, fees, or charges, including related surcharges, interests, or fines, and from its share in any co-production, joint venture or production sharing agreement in the utilization and development of the national wealth within their territorial jurisdiction.

NOTES/EXPLANATIONS

The phrase "national wealth" means the natural resources of the nation, namely the land, waters, forests, the fishes, the minerals, and the like which are being utilized and developed anywhere in the country. The local governments are entitled to equitable shares from the utilization and development of such wealth within their respective area.

SECTION 294. *Development and Livelihood Projects.* – The proceeds from the share be appropriated pursuant to this chapter shall be appropriated by their respective sanggunian to finance local development and livelihood projects: Provided, however, That at least eighty percent (80%) of the proceeds derived from the development and utilization of hydrothermal, geothermal, and other sources of energy shall be applied solely to lower the cost of electricity in the local government unit where such a source of energy is located.

NOTES/EXPLANATIONS

The share of the local governments in the proceeds derived from the utilization and development of the national wealth are intended for local development projects and local livelihood projects. Moreover, the Code requires that at least eighty percent (80%) of the proceeds derived from hydrothermal, geothermal and other sources of energy shall be used solely to lower the cost of electricity in local government areas where the source is located.

Credit Financing

SECTION 297. *Loans, Credits, and Other Forms of Indebtedness of Local Government Units.* — (a) A Local government unit may contract loans, credits, and other forms of indebtedness with any government or domestic private bank and other lending institutions to finance the construction, installation, improvement, expansion, operation, or maintenance of public facilities, infrastructure facilities, housing projects, the acquisition of real property, and the implementation of other capital investment projects, subject to such terms and conditions as may be agreed upon by the local government unit and the lender. The proceeds from such transactions shall accrue directly to the local government unit concerned.

(b) A local government unit may likewise secure from any government bank and lending institution short, medium, and long-term loans and advances against security of real estate or other acceptable assets for the establishment, development, or expansion of agricultural, industrial, commercial, house financing projects, livelihood projects, and other economic enterprises.

(c) Government financial and other lending institutions are hereby authorized to grant loans, credits, and other forms of indebtedness out of their loanable funds to local government units for purposes specified above.

NOTES/EXPLANATIONS

The scope of local government power to create indebtedness or borrow from domestic sources encompasses practically all known activities which a local government may undertake in its capacity as a political subdivision of the central government or in its proprietary capacity as a corporate entity.

SECTION 299. *Bonds and Other Long-Term Securities.* – Subject to the rules and regulations of the Central Bank and the Securities and Exchange Commission, provinces, cities, and municipalities are hereby authorized to issue bonds, debentures, securities, collaterals, notes and other obligations to finance self-liquidating, income-producing development or livelihood projects pursuant to the priorities established in the approved local development plan or the public investment program. The sanggunian concerned shall, through an ordinance approved by a majority of all its members, declare and state the terms and conditions of the bonds and the purpose for which the proposed indebtedness is to be incurred.

NOTES/EXPLANATIONS

Local governments may now issue bonds, debentures, securities, collaterals, notes and other obligations to finance self-liquidating, income-producing development or livelihood projects in accordance with the priorities set forth in the local development plan or the public investment program.

Bonds are evidences of indebtedness which may be issued by the local governments in the nature of promissory notes, promising to pay a sum of money on a certain day in the future, usually covering long periods of time and secured by a mortgage on the property of the issuer.

Debentures are similar to bonds except that they usually cover a shorter period and are not usually secured by a mortgage. Securities on the other hand are income-yielding documents which LGUs may issue. These may carry interest and may be redeemable or irredeemable.

Collaterals are impersonal securities such as stocks and shares which LGUs may issue; they are different from personal security such as guarantees. Notes may include promissory note which LGUs may issue as evidence of indebtedness to another party.

These forms of indebtedness are issued subject to the rules and regulations of the Central Bank and the Securities and Exchange Commission. The local authorization for the issuance of such must come in the form of ordinance duly approved by a majority of all the members of the sanggunian concerned and which sets out the terms and conditions thereof and the purpose for the issuance of bonds.

Barangay Assembly

SECTION 397. *Composition; Meetings.* – (a) There shall be a barangay assembly composed of all persons who are actual residents of the barangay for at least six (6) months, fifteen (15) years of age or over, citizens of the Philippines, and duly registered in the list of barangay assembly members.

(b) The barangay assembly shall meet at least twice a year to hear and discuss the semestral report of the sangguniang barangay concerning its activities and finances as well as problems affecting the barangay. Its meetings shall be held upon call of the punong barangay or at least four (4) members of the sangguniang barangay, or upon written petition of at least five percent (5%) of the assembly members.

(c) No meeting of the barangay assembly shall take place unless a written notice is given one (1) week prior to the meeting except on matters involving public safety or security, in which case notice within a reasonable time shall be sufficient. The punong barangay, or in his absence, the sangguniang barangay member acting as punong barangay, or any assembly member selected during the meeting, shall act as presiding officer in all meetings of the assembly. The barangay secretary, or in his absence, any member designated by the presiding officer to act as secretary, shall discharge the duties of secretary of the barangay assembly.

NOTES/ANNOTATIONS

The holding of barangay assemblies is the expression of people empowerment at the barangay level. The barangay chairman, at least four (4) sanggunian members, or at least five percent (5%) of the assembly members can initiate an assembly. The members of the barangay assembly must be at least 15 years old, Filipino citizen and duly registered in the list of barangay assembly members prepared by the barangay secretary. It is also the duty of the barangay secretary to post the list of members in noticeable places in the barangay. He/she is also obliged to keep an updated record of all inhabitants of the barangay as well as in assisting the municipal registrar in the registration of births, deaths and marriages.

A written notice is required a week prior to the conduct of a barangay assembly except on matters involving public safety and security. A verbal invitation is not enough; thus, notices must be posted in strategic public places where it can easily be seen. Section 397 does not require individual written notices because it may be costly and can consume considerable amount of barangay funds and supplies.

SECTION 398. Powers of the Barangay Assembly. – The barangay assembly shall:

(a) Initiate legislative processes by recommending to the sangguniang barangay the adoption of measures for the welfare of the barangay and the city or municipality concerned;

(b) Decide on the adoption of initiative as a legal process whereby the registered voters of the barangay may directly propose, enact, or amend any ordinance; and

(c) Hear and pass upon the semestral report of the sangguniang barangay concerning its activities and finances.

NOTES/EXPLANATIONS

Barangay assemblies serve as a forum for the discussion of barangay development plans or petitions for the adoption of an initiative to amend or enact a barangay ordinance. It hears and passes upon, the report of performance of the sangguniang barangay. It can also recommend measures for legislation by the sangguniang barangay and can decide on legislation by initiative.

Katarungang Pambarangay

SECTION 399. *Lupong Tagapamayapa.* – (a) There is hereby created in each barangay a lupong tagapamayapa, hereinafter referred to as the lupon, composed of the punong barangay as chairman and ten (10) to twenty (20) members. The lupon shall be constituted every three (3) years in the manner provided herein.

(b) Any person actually residing or working in the barangay, not otherwise expressly disqualified by law, and possessing integrity, impartiality, independence of mind, sense of fairness, and reputation for probity, may be appointed a member of the lupon.

(c) A notice to constitute the lupon, which shall include the names of proposed members who have expressed their willingness to serve, shall be prepared by the punong barangay within the first fifteen (15) days from the start of his term of office. Such notice shall be posted in three (3) conspicuous places in the barangay continuously for a period of not less than (3) weeks.

(d) The punong barangay, taking into consideration any opposition to the proposed appointment or any recommendations for appointments as may have been made within the period of posting, shall within ten (10) days thereafter, appoint as members those whom he determines to be suitable therefore. Appointments shall be in writing, signed by the punong barangay, and attested to by the barangay secretary.

(e) The list of appointed members shall be posted in three (3) conspicuous places in the barangay for the entire duration of their term of office; and

(f) In barangays where majority of the inhabitants of indigenous cultural communities, local systems of settling disputes through their councils of datos or elders shall be recognized without prejudice to the applicable provisions of this Code.

NOTES/ANNOTATIONS

The Lupon Tagapamayapa is the barangay peace-seeking committee. It is a body for settling disputes composed of the punong barangay as chair and of ten (10) to twenty (20) actual residents or workers in the barangay concerned as members who shall be appointed by the punong barangay. The Lupon members must possess integrity, impartiality, independence of mind, a sense of fairness, and a reputation for decency. As stated, *the punong barangay exercises judicial functions, powers not granted to chief executives of other LGUs.*

The main objective of the Lupon is to bring controversies among barangay residents to an agreeable conclusion. As stated in PD 1508, which is the original barangay law, *"The perpetuation and official recognition of the time-honored tradition of*

amicably settling of disputes among family and barangay members at the barangay level without judicial recourse would promote speedy administration of justice and implement the constitutional mandate to preserve and develop Filipino culture and to strengthen the family as a basic social institution." As explained by Nollado, in the case of *Morata vs. Go* 125 SCRA 449, the Supreme Court stated that, "By compelling the disputants to settle their differences through the intervention of the barangay leader and other respected members of the barangay, the animosity generated by protracted litigations between members of the same political unit, a disruptive factor toward unity and cooperation, is avoided." However, the requirement to refer controversies among residents of the same barangay to the Lupong Tagapamayapa before cases are brought to court *does not prevent the filing of cases in court directly*. Recourse to the Lupon is held to be unnecessary and the disputing parties concerned may file their cases directly with the proper court in the following instances:

- (a) If the case also alleges causes of action based on the provisional remedies like support while the case is pending and the delivery of personal properties.
- (b) If the parties reside in different municipalities in barangays that are not adjacent to each other.
- (c) If the party to a controversy fails to appear before the punong barangay, thereby making the convening of the Pangkat ng Tagapagkasundo unnecessary.
- (d) If the alleged offense is punishable by imprisonment of more than one (1) year and respondents are barangay officials but the alleged offense was not committed while in performance of duties.

In paragraph (f), the power of indigenous and customary ways of settling disputes is recognized but without bias to applicable provisions of this Code. This means that in case of conflict, the customs of the cultural minorities shall prevail.

This section as provided for by the Implementing Rules of the Code shall take effect through a set of rules and regulation to be promulgated by the Department of Justice.

Sangguniang Kabataan

SECTION. 423. *Creation and Election.* – (a) **There shall be in every barangay a sangguniang kabataan to be composed of a chairman, seven (7) members, a secretary, and a treasurer.**

(b) **A sangguniang kabataan official who, during his term of office, shall have passed the age of twenty-one (21) years shall be allowed to serve the remaining portion of the term for which he was elected.**

NOTES/EXPLANATIONS

The Sangguniang Kabataan is part of the local government structure. It is an assembly by itself and a training ground for the youth. The Constitution, through Section 13 Article II, mandated the State to "*inculcate in the youth patriotism and nationalism, and encourage their involvement in public and civic affairs.*"

The age limit for membership in the SK is twenty one (21) years and the minimum is fifteen (15) years. But if an SK is elected when he/she is below 21, but had since the election, passed the age of 21, he/she shall be allowed to serve the full term of the office to which he/she had been elected. To qualify for membership in the SK, they must be duly registered in the list of Sangguniang Kabataan or in the official list of barangay residents in the custody of the Barangay Secretary.

The members of the Sangguniang Kabataan are elective. However, the elected chairperson is not an elective barangay official. His/her status is that of an *ex-officio* member. The members of the Katipunan ng Kabataan directly vote an SK chairperson. The city or municipal mayor has no authority to appoint one. The secretary and treasurer of the SK are mandatory members of the SK. The applicable provisions on the SK elections are those governing barangay elections in the *Omnibus Election Code*. SK elections are supposed to be non-partisan.

Role And Creation Of The City

SECTION. 451. *Cities, Classified.* – A city may either be component or highly urbanized: Provided, however, that the criteria established in this Code shall not affect the classification and corporate status of existing cities.

Independent component cities are those component cities whose charters prohibit their voters from voting for provincial elective officials. Independent component cities shall be independent of the province.

NOTES/EXPLANATIONS

Cities are categorized into three types namely: (a) highly urbanized cities; (b) independent component cities (ICC); and (c) component cities. Highly urbanized cities (HUC) are proclaimed as such by the President upon compliance with the annual income of at least P50 million based on 1991 constant prices as certified by the City Treasurer, and a population of at least 200,000 as certified by the NSO. The registered voters of the HUCs are not entitled to vote for the elective provincial officials. But if the voters concerned were entitled to vote for provincial officials prior to the conversion of their city to HUC or ICC status after the ratification of the 1987 Constitution and prior to the effectivity of RA 7160, they shall continue to exercise such right. Independent Component Cities (ICC) are cities whose charter prohibits their voters from voting for provincial elective officials and whose annual income and population does not qualify them to be highly urbanized. Component Cities (CC) have an annual income and population that does not qualify them to be HUCs. Registered voters of Component Cities are allowed to participate in the election of provincial officials. If a component city is located within the boundaries of two or more provinces, the city is considered a component of the province to which it belonged as a former municipality.

A city seeking HUC status shall apply formally to the Office of the President. The conversion has to be ratified in a plebiscite by registered voters in the applicant city.

However, the Code is obviously lacking in setting a fixed criteria and details on the features of ICCs and CCs, since the provision focused primarily on the features of the HUCs.

SECTIONS PROVIDING FOR EMERGENCIES, DISASTERS, CALAMITIES AND CRISIS MITIGATION AND PREVENTION

The Punong Barangay

SECTION 389. – *Chief Executive: Powers, Duties, and Functions.*

– (a) The punong barangay, as the chief executive of the barangay government, shall exercise such powers and perform such duties and functions, as provided by this Code and other laws.

(b) For efficient, effective and economical governance, the purpose of which is the general welfare of the barangay and its inhabitants pursuant to Section 16 of this Code, the punong barangay shall:

(6) Organize and lead an emergency group whenever the same may be necessary for the maintenance of peace and order or on occasions of emergency or calamity within the barangay;

The Sangguniang Bayan

SECTION 447. *Powers, Duties, Functions and Compensation.* (a)

The sangguniang bayan, as the legislative body of the municipality, shall enact ordinances, approve resolutions and appropriate funds for the general welfare of the municipality and its inhabitants pursuant to Section 16 of this Code and in the proper exercise of the corporate powers of the municipality as provided for under Section 22 of this Code, and shall:

(1) Approve ordinances and pass resolutions necessary for an efficient and effective municipal government, and in this connection shall:

(iv) Adopt measures to protect the inhabitants of the municipality from the harmful effects of man-made or natural disasters and calamities and to provide relief services and assistance for victims during and in the aftermath of said disasters or calamities and their return to productive livelihood following said events;

The Sangguniang Panlungsod

SECTION 458. Powers, Duties, Functions and Compensation. (a) The sangguniang panlungsod, as the legislative body of the city, shall enact ordinances, approve resolutions and appropriate funds for the general welfare of the city and its inhabitants pursuant to Section 16 of this Code and in the proper exercise of the corporate powers of the city as provided for under Section 22 of this Code, and shall:

(2) Approve ordinances and pass resolutions necessary for an efficient and effective city government, and in this connection shall:

(iv) Adopt measures to protect the inhabitants of the city from the harmful effects of man-made or natural disasters and calamities and to provide relief services and assistance for victims during and in the aftermath of said disasters or calamities and their return to productive livelihood following said events;

The Sangguniang Panlalawigan

SECTION 468. Powers, Duties, Functions and Compensation. (a) The sangguniang panlalawigan, as the legislative body of the province, shall enact ordinances, approve resolutions and appropriate funds for the general welfare of the province and its inhabitants pursuant to Section 16 of this Code and in the proper exercise of the corporate powers of the province as provided for under Section 22 of this Code, and shall:

(3) Approve ordinances and pass resolutions necessary for an efficient and effective provincial government, and in this connection shall:

(iv) Adopt measures to protect the inhabitants of the province from the harmful effects of man-made or natural disasters and calamities and to provide relief services and assistance for victims during and in the aftermath of said disasters or calamities and their return to productive livelihood following said events;

NOTES/EXPLANATIONS

The sections above empowers the local legislative bodies of the province, city and municipality, including the punong barangay to adopt measures to protect its inhabitants from the harmful effects of man-made or natural disasters and the like. It mandates them to provide relief and assistance for victims during and in the aftermath of said disasters or calamities and in their return to productive livelihood. This is in accordance to the general welfare clause provided by the Code.

Provisions for Implementation

SECTION 521. *Mandatory Review Every Five Years.* – Congress shall undertake a mandatory review of this Code at least once every five (5) years and as often as it may deem necessary, with the primary objective of providing a more responsive and accountable local government structure.

NOTES/EXPLANATIONS

The power of reviewing the Local Government Code to make it more accountable and responsive to the changing times is vested on Congress. More than two decades have passed but a review has yet to be conducted by Congress, though there have been numerous legislative proposals to repeal or amend the Code.

THE LOCAL GOVERNMENT CODE OF THE PHILIPPINES

BOOK II

LOCAL TAXATION AND FISCAL MATTERS

TITLE ONE, - LOCAL GOVERNMENT TAXATION

CHAPTER I, - GENERAL PROVISIONS

SECTION 128. Scope - The provision herein shall govern the exercise by provinces, cities, municipalities and barangays of their taxing and other revenue-raising powers.

SECTION 129. Power to Create Source of Revenue - Each local government unit shall exercise its power to create its own sources of revenue and to levy taxes, fees, and charges subject to the provisions consistent with the basic policy of local autonomy. Such taxes, fees, and charges shall accrue to the local government units.

SECTION 130. Fundamental Principles - The following fundamental principles shall govern the exercise of the taxing and other revenue-raising powers of local government units:

(1) Taxation shall be uniform in each local government unit;

(2) Taxes, fees, charges and other impositions shall:

be equitable and based as far as practicable on the taxpayer's ability to pay

Appendix B

Recommendations to Amend the Local Government Code of 1991

Recommendations To Amend The Code

Appendix B is composed of six (6) sections containing the recommendations of the various stakeholders to amend the Local Government Code of 1991.

- B1. League of Provinces of the Philippines
- B2. League of Cities of the Philippines
- B3. League of Municipalities of the Philippines
- B4. Liga ng mga Barangay sa Pilipinas
- B5. Other Sectors
- B6. Common Recommendations
- B7. Summary of Recommendations
- B8. ULAP Organizational Chart

The stakeholders include the local government leagues, some national government agencies (NGAs) and non-governmental organizations (NGOs).

The local government leagues are the League of Provinces of the Philippine (LPP), the League of Cities of the Philippines (LCP), the League of Municipalities of the Philippines (LMP), and the Liga ng mga Barangay sa Pilipinas (LBP).

The other stakeholders include the Bureau of Local Government Supervision (BLGD) - DILG, the Bureau of Local Government Development (BLGD) - DILG, the National Tax Research Center (NTRC), and the Philippine Institute of Environmental Planners (PIEP).

Appendix B also includes a summary of the common recommendations of the stakeholders mentioned. Recommendations which are proposed by at least two stakeholders are already considered common.

The recommendations are classified into five (5) categories which are Relations and Principles, Devolution of Powers and Functions, Fiscal Matters, Structures and Systems, and Popular Participation.

All in all, there are one hundred thirty-five (135) recommendations.

Relations and Principles	15	11%
Devolution of Powers and Functions	15	11%
Fiscal Matters	73	54%
Structures and Systems	23	17%
Popular Participation	9	7%
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Total	135	100%

It is evident from the proportions of recommendations that the main concern of most local governments has a lot to do with money. Out of the one hundred thirty-five (135) recommendations, fiscal matters comprised more than half at seventy-three (73) which translates to fifty-four percent (54%).

On the other hand, recommendations pertaining to Popular Participation covered a measly seven percent (7%) of the total. It can be inferred from this number that many LGUs do not put enough attention to people empowerment, which is considered to be one of the most important elements in local governance.

Appendix B1 – Recommendations from the *League Of Provinces Of The Philippines*

Relations And Principles

- define the concept of “general supervision” in the Code [Secs. 25, 32]
- strengthen Code provision on mandatory prior consultation in implementing national programs [Secs. 26-27]
- president and DILG shall have no authority to review, revise or declare valid ordinances, resolutions and local executive orders [Sec. 30]

Devolution of Powers and Functions

- DENR shall not exercise control and supervision over LGUs [Secs. 17(b)(2)(ii), 17(b)(3)(ii)]
- implementation, supervision and administration of infrastructure projects of local nature should be devolved to LGUs [Sec. 17(c)]
- school building programs should be devolved to LGUs [Sec. 17(c)]
- give LGUs more responsibility/authority for environmental protection by allowing them to issue Environmental Compliance Certificates (ECC) [Sec. 26]
- LGUs should be allowed to regulate legalized gambling operations through issuance of permits [Sec. 447(1)(v)]

Fiscal Matters

- non-diminution of the IRA/IRS even in case of unmanageable public sector deficit [Sec. 284]
- gradual increase of IRA/IRS to fifty percent (50%) of the national internal revenue [Secs. 284, 290]
- automatic release of IRA to be referred to as internal revenue share (IRS) [Sec. 286]
- automatic appropriation of the LGUs' share in the national taxes and income [Sec. 286]
- provide for penalties for the non-implementation of the automatic release of IRA/IRS [Sec. 286]

Structures And Systems

- president and DILG shall have no authority to impose disciplinary actions against local officials [Secs. 61, 63, 66, 67]

Popular Participation

- expand membership of some Local Special Bodies (LSBs) to include Civil Society Organizations/Non-Governmental Organizations (CSO/NGO) representatives particularly the Local School Board [Sec. 35]
- provide for enabling laws for election of sectoral representatives in the local sanggunians in order to operationalize the provisions of the Code on sectoral representation [Sec. 41(c)]
- abolish the preparatory recall assembly (PRA) [Sec. 70(b)]
- lower the percentage requirement to initiate recall from twenty-five percent (25%) to twenty percent (20%) [Sec. 70(d)]

Appendix B2 – Recommendations From The *League Of Cities Of The Philippines*

Relations And Principles

- define the concept of “general supervision” in the Code [Secs. 25]
- require all NGAs, GOCCs and public-quasi corporations to consult with LGUs, NGOs and other sectors before implementing their programs or projects in the LGU jurisdiction, on any undertaking, not only those with potential adverse effects on the environment as currently provided [Sec. 26]
- include “costs” among the subjects to be reported during consultations [Sec. 26]
- require government authorities to submit copies of their project/program documents to the LGUs concerned [Sec. 27]
- DBM and concerned national government agencies should require resolutions of consultations from LGUs concerned prior to initial release of funds for projects [Sec. 27]
- require the national government agencies concerned to pay for the benefits, compensation and other financial assistance given to their employees working in the LGU jurisdiction but allow to augment the same [Sec. 81]

Devolution of Powers and Functions

- explicitly allow LGUs to exercise those powers that are not otherwise expressly prohibited by law **[Sec. 16]**
- remove from the Secretary of Finance the current authority to appoint the local treasurer and assistant local treasurer, and give the authority to the local chief executives **[Secs. 470(a), 470(b), 471(a)]**

Fiscal Matters

- ensure the funding of mandates later given to LGUs by subsequent laws, executive orders, and such other issuances **[Sec. 3(d)]**
- allow LGUs to let the private sector the collection of local taxes, fees, charges, and other impositions **[Sec. 130(c)]**
- allow LGUs to collect registration fees from vessels three (3) tons and below **[Sec. 133(d)]**
- give LGUs the power to impose excise taxes on articles enumerated in the National Internal Revenue Code except petroleum **[Sec. 133(h)]**
- allow LGUs to collect taxes from GOCCs and other public quasi-corporations **[Sec. 133(o)]**
- allow municipalities to collect community tax of not more than twenty pesos (P20.00) from a fixed amount of five pesos (P5.00) every year, and two pesos, in lieu of one peso (P1.00), for every one thousand pesos (P1,000.00) of income **[Sec.157]**
- allow the Sangguniang Bayan to tax local water districts, cooperatives, non-stock and non-profit hospitals and educational institutions **[Sec. 193]**
- define “national wealth” **[Sec. 289]**

- increase LGU share from the use of national wealth from forty percent (40%) to sixty percent (60%) of the gross collection of taxes, fees and charges imposed on the use of development of such wealth; and require all national government or private entities engaged in the utilization of national wealth to furnish the LGU with their annual reports and the sharing computation [Secs. 290-291]
- allow LGUs to contract guarantees, aside from the current loans and credits with banks and non-bank financing intermediaries, not only local but foreign as well, subject to applicable laws, rules and regulations [Sec. 297]
- exempt long-term bonds and similar obligations issued by LGUs from the payment of income tax, documentary stamp tax, and other national or local taxes [Sec. 299]
- lift the preference of government-owned banks and allow local treasurers to maintain depository accounts with the private banks [Sec. 311]

Structures and Systems

- allow LGUs to incorporate their cooperative undertakings [Sec. 33]
- include vice-mayors and vice-governors in the Local Development Councils (LDC) [Sec 107]
- give to the SK chairman the authority to appoint the SK secretary and treasurer [Sec. 423]
- prohibit government officials from giving direct or indirect support to the election of any SK candidate [Sec. 423]

Popular Participation

- specify the players who relate to the LGUs: national government, GOCCs and public quasi-corporations **[Sec. 5]**
- provisions to expand NGO-PO participation be liberally interpreted in favor of the NGOs and Pos **[Sec. 5]**
- require government authorities to give notices to the general public and to conduct public hearings before implementing their projects **[Sec. 27]**
- specify the roles of local chief executives and sanggunians in the provision on linkages with NGOs and Pos **[Sec. 35]**
- abolish the preparatory recall assembly (PRA) **[Sec. 70(b)]**
- lower the percentage requirement to initiate recall from twenty-five percent (25%) to twenty percent (20%) **[Sec. 70(d)]**

Appendix B3 – Recommendations from the League Of Municipalities Of The Philippines

Relations And Principles

- require all NGAs, GOCCs and public-quasi corporations to consult with LGUs, NGOs and other sectors before implementing their programs or projects in the LGU jurisdiction, on any undertaking, not only those with potential adverse effects on the environment as currently provided [Sec. 26]
- require the national government agencies concerned to pay for the benefits, compensation and other financial assistance given to their employees working in the LGU jurisdiction but allow to augment the same [Sec. 81]

Devolution of Powers and Functions

- explicitly allow LGUs to exercise those powers that are not otherwise expressly prohibited by law [Sec. 16]
- return the operational control of local police forces to local chief executives [Sec. 28]
- allow municipalities to regulate the operation of jeepneys and buses plying within their respective territorial jurisdiction [Sec. 443]
- remove from the Secretary of Finance the current authority to appoint the local treasurer and assistant local treasurer, and give the authority to the local chief executives [Secs. 470(a), 470(b), 471(a)]

Fiscal Matters

- ensure the funding of mandates later given to LGUs by subsequent laws, executive orders, and such other issuances **[Sec. 3(d)]**
- allow LGUs to let the private sector the collection of local taxes, fees, charges, and other impositions **[Sec. 130(c)]**
- allow LGUs to collect registration fees from vessels three (3) tons and below **[Sec. 133(d)]**
- give LGUs the power to impose excise taxes on articles enumerated in the National Internal Revenue Code except petroleum **[Sec. 133(h)]**
- allow LGUs to collect taxes from GOCCs and other public quasi-corporations **[Sec. 133(o)]**
- allow municipalities to collect community tax of not more than twenty pesos (P20.00) from a fixed amount of five pesos (P5.00) every year, and two pesos, in lieu of one peso (P1.00), for every one thousand pesos (P1,000.00) of income **[Sec.157]**
- allow the Sangguniang Bayan to tax local water districts, cooperatives, non-stock and non-profit hospitals and educational institutions **[Sec. 193]**
- change the codal formula used to determine the IRA shares of municipalities by increasing it from thirty-four percent (34%) to thirty-six percent (36%) by including the fifteen (15) km. radius from the coastal line in the IRA computation in case of coastal municipalities **[Sec. 285(c)]**
- define “national wealth” **[Sec. 289]**
- increase LGU share from the use of national wealth from forty percent (40%) to fifty percent (50%) of the gross collection of taxes, fees and charges imposed on the use of development of such wealth; and require all national government or private entities engaged in the utilization of national wealth to furnish the LGU with their annual reports and the sharing computation **[Secs. 290-291]**

- allow LGUs to contract guarantees, aside from the current loans and credits with banks and non-bank financing intermediaries, not only local but foreign as well, subject to applicable laws, rules and regulations [Sec. 297]
- exempt long-term bonds and similar obligations issued by LGUs from the payment of income tax, documentary stamp tax, and other national or local taxes [Sec. 299]
- lift the preference of government-owned banks and allow local treasurers to maintain depository accounts with the private banks [Sec. 311]

Structures and Systems

- make all mandatory positions in all LGU level optional five years after the effectivity of the proposed act [Secs. 443, 454, 463, 469-470, 474-476, 478-487, 490]
- authorize the local treasurer in all LGU levels to validate the computation on the sharing of the proceeds from the use of national wealth prepared by national government agencies or GOCCs concerned [Sec. 470]

Popular Participation

- abolish the preparatory recall assembly (PRA) [Sec. 70(b)]
- lower the percentage requirement to initiate recall from twenty-five percent (25%) to twenty percent (20%) [Sec. 70(d)]

CHAPTER 3. - Collection of Taxes

SECTION 165. Tax Period and Manner of Payment. - Unless otherwise provided in the period of all local taxes, fees and charges shall be the calendar year. Such taxes, fees and charges shall be paid in quarterly installments.

SECTION 166. Accrual of Tax. - Unless otherwise provided in this Code, all local taxes, fees and charges shall accrue on the first (1st) day of January of each year. However, new taxes, fees and charges in the rates thereof, shall accrue on the first (1st) day of the quarter next following the ordinance imposing such new levies or rates.

SECTION 167. Time of Payment. - Unless otherwise provided in this Code, all local taxes, fees and charges shall be paid within the first twenty (20) days of January or of each subsequent quarter. The Sanggunian concerned may, for a justifiable reason or cause, extend the time of payment of taxes, fees, or charges without surcharges or penalties, but only for a period not exceeding thirty (30) days.

SECTION 168. Surcharges and Penalties on unpaid Taxes, fees, or Charges. - Any person who fails to pay any local tax, fee, or charge on time shall be liable to pay a surcharge not exceeding twenty-five percent (25%) of the amount of such tax, fee, or charge on time and an interest at the rate not exceeding two percent (2%) per month on the unpaid amount or portion thereof until such amount is fully paid but in no case shall the total surcharge and interest exceed thirty-six (36) months.

Appendix B4 – Recommendations from the *Liga Ng Mga Barangay Sa Pilipinas*

Fiscal Matters

- adjust from fifty thousand pesos (P50,000.00) or less to one hundred thousand pesos (P100,000.00) or less, in case of cities, and from thirty thousand pesos (P30,000.00) or less to sixty thousand pesos (P60,000.00) or less, in case of municipalities, the gross sales or receipts of store or retailers with fixed business establishments to be taxed by a rate of not more than one percent (1%) [Sec. 152]

Structures and Systems

- omit the restriction on the number of barangay tanods who shall be granted insurance and other benefits in paragraph (d) [Sec. 393(d)]

Popular Participation

- increase the percentage requirement to initiate recall from twenty-five percent (25%) to thirty percent (30%) [Sec. 70]

THE LOCAL GOVERNMENT CODE OF THE PHILIPPINES

BOOK III

LOCAL GOVERNMENT UNITS

TITLE ONE. – THE BARANGAY

CHAPTER I. – ROLE AND CREATION OF THE BARANGAY

SECTION. 384. Role of the Barangay. – As the basic political unit, the Barangay serves as the planning and implementing unit of government policies, plans, programs, projects, and activities of community, and as a forum wherein the collective views of the people may be expressed, crystallized, considered, and where disputes may be amicably settled.

SECTION. 385. Manner of Creation. – A Barangay may be created, divided, merged, abolished, or its boundary substantially altered, by law or by an ordinance of the Sangguniang Panlalawigan or Panlungsod, subject to approval by a majority of the votes cast in a plebiscite to be conducted in the local government unit or units directly affected within such period of time as may be provided by law or ordinance creating said Barangay. In the case of the creation of Barangays by the Sangguniang Panlalawigan, the recommendation of the Sangguniang Bayan concerned shall be necessary.

SECTION. 386. Requisites for Creation. – (a) A Barangay may be created out of a territory which has a population of at least two thousand (2,000) inhabitants as certified by the Office of the City and Municipal Assessor, or the Office of the Sangguniang Panlungsod, or the Office of the Sangguniang Panlalawigan, except in cities and municipalities within Metro Manila and other metropolitan areas, or in highly urbanized cities where such territory shall have a certified population of at least five thousand (5,000) inhabitants. Provided, That the creation thereof shall not reduce the population of the existing Barangays to less than the minimum requirement prescribed herein.

To enhance the delivery of basic services in the indigenous cultural communities and other communities by an Act of Congress, notwithstanding the above require-

Appendix B5 – Other Sectors

Recommendations from the *Bureau of Local Government Supervision (BLGS)*

Relations and Principles

- emphasize that the income requirement for the creation or conversion of LGU should be based on locally-sourced revenues **[Sec. 7(a)]**
- baseline income requirement should not be less than Php50M for a municipality, Php100M for a component city and Php300M for a province **[Sec. 7(a)]**
- define and clarify “consultation” **[Sec. 27]**
- the phrase *subject to pertinent accounting and auditing rules and regulations* should be amended to refer to government accounting and auditing rules and regulations **[Sec. 505]**

Devolution of Powers and Functions

- empower capable provinces, cities or municipalities to maintain, repair or rehabilitate public works or infrastructure projects **[Sec. 17(c)]**
- distinguish between the authority granted to the Congress and the devolved power of the province, to issue a franchise **[Sec. 137]**

Fiscal Matters

- in relation to Sections 235 and 272, the issues on the expense items chargeable against the Special Education Fund should be clarified **[Sec. 100]**
- empower the local authorities concerned to perform both the registration and licensing for the operation of fishing vessels weighing three (3) tons or less **[Sec. 149]**
- restate or amend the provision by stating the scope of taxing powers and not as a regulatory power **[Sec. 152]**
- supplement and amend the determinants of the allocation formula such as population growth rate instead of population (the lower the growth rate the higher the share); real property tax base instead of land area; equal sharing; poverty incidence (the higher the rate, the higher the share); and state of development and revenue performance **[Sec. 285]**
- define development to mean programs or projects **[Sec. 287]**
- increase the minimum requirement of 20% IRA to at least 25% **[Sec. 287]**
- the minimum of 80% of the proceeds should be dedicated to finance development initiatives and the remaining amount be utilized to subsidize the cost of electricity in the concerned LGU **[Sec. 294]**
- give emphasis to paragraph (i) to harmonize the budget with the plan **[Sec. 305]**
- incorporate RA 8185 s. 1996 known as An Act Amending Section 324 (d) of the RA 7160, and the Joint Memorandum Circulars of the DILG and DBM, in the Code or the Implementing Rules **[Sec. 324(d)]**

Structures and Systems

- the causes for temporary incapacity should include medical or health reasons [Sec. 46(b)]
- the phrase “*Elective local officials*” in the last sentence of the provision should be clarified to mean provincial, city, and municipal elective local officials only [Sec. 81]
- should be supplemented to include injunctions, restrictions, or qualifications relative to the practice of profession by the local government appointive personnel [Sec. 90]
- include the types of interpersonal disputes that can be settled by the Lupon [Sec. 408]

Popular Participation

- the ambiguity of the phrase, *two (2) representatives of nongovernmental organizations* should be addressed or clarified in the Code or IRR [Sec. 37(a)(4)]

Recommendations from the *Bureau of Local Government Development (BLGD)*

Relations And Principles

- the classification of positions must conform with the prescribed guidelines under RA 6758 and subsequent laws that may be enacted pursuant to constitutional mandates [Sec. 76]
- salary adjustments initiated by the National Government shall be exempted from the prohibition of this section [Sec. 81]
- compensations should be in accordance with the existing salary standardization law [Secs. 447, 458, 468(a)(1)]

Devolution Of Powers And Functions

- include provision of fire protection service [Sec. 17]
- integrate the functions stated in 1, 2, 3 [Sec. 476(b)]

Fiscal Matters

- amusement places should include country and sports clubs, golf-courses, beach and other resorts, recreation parks, cockpits and other areas where one also watches shows, participate in the activities or use the facilities there [Sec. 131(c)]
- gross sales or receipts shall be the amount of money or counterpart received during the taxable year [Sec. 131(n)]
- should include the definition of National Wealth [Sec. 131]

- provided other working definitions for contractor, resident foreign corporation, fee, gross sales or receipts, peddler, retailer, and wholesale **[Sec. 131]**
- grant the city or municipal mayor the recommendatory power in issuing permit to extract quarry resources **[Sec. 138]**
- exporter contractors should be included **[Sec. 143]**
- simplify the local business tax by specifying a maximum rate of 50% of 1% of gross sales and receipts **[Sec. 143]**
- impose a reasonable fee of PhP500 for application of clearance **[Sec. 152(c)]**
- proposal for a new tax schedule **[Sec. 157]**
- persons over sixty-five (65) years of age unless gainfully employed or engaged in business **[Sec. 159]**
- appraisal shall be uniform in each LGU **[Sec. 198]**
- the goal of real property assessment and appraisal shall be equitable distribution of the tax burden **[Sec. 198]**
- assessment shall be based on a uniform standard of value **[Sec. 198]**
- improve the definition of the term "machinery" **[Sec. 199]**
- propose additional to the definition of terms such as agricultural land, assessment level, commercial land, industrial land, machinery, mineral lands **[Sec. 199]**
- declaration of real property be kept and filed by the provincial, city or municipal assessor under a uniform classification system defined by the DOF **[Sec. 207]**
- include recreational lands in the special classes **[Sec. 216]**

- compute the IRA based on the BIR gross collections of the second fiscal year based on the LGUs tax effort and equalization factors **[Sec. 284]**
- sixty percent (60%) must be allotted as the share of LGUs in the national revenue taxes **[Sec. 284]**
- provision for penalty and sanctions for failure to comply with the preceding sections **[Sec. 286]**
- increase in the shares and percentage provided by the existing section **[Sec. 291]**
- fifty percent (50%) of the proceeds should be dedicated to lower the cost of electricity; at least 25% shall be used for livelihood projects; and 25% to the general fund **[Sec. 294]**
- the local sanggunian must be represented **[Sec. 316]**
- balances of appropriations out of the 20% development fund, and 5% calamity fund shall not revert to the unappropriated surplus of the general fund **[Sec. 322]**

Structures and Systems

- define agricultural land, and how often reclassification may be allowed **[Sec. 20]**
- reclassification shall be undertaken in accordance with land requirement for urban development in the approved land **[Sec. 20]**
- the role of the presiding officer must be given to the LCE **[Sec. 49]**
- the responsibility of designing local organizational structure and staffing pattern shall be exercised by the local sanggunian **[Sec. 77]**
- should include the Budget Officer of the concerned LGU in the board **[Sec. 98]**
- barangay treasurers should be at least high school graduate **[Sec. 395]**

Recommendations from the *National Tax Research Center (NTRC)*

Fiscal Matters

- amusement places should include country and sports clubs, golf-courses, beach and other resorts, recreation parks, cockpits and other areas where one also watches shows, participate in the activities or use the facilities there [Sec. 131(c)]
- gross sales or receipts shall be the amount of money or counterpart received during the taxable year [Sec. 131(n)]
- allow LGUs to impose regular fees on vessels with tonnage of three (3) tons and below [Sec. 133(d)]
- allow LGUs to impose excise tax on articles enumerated under the NIRC with the exception of petroleum products [Sec. 133(h)]
- allow LGUs to impose taxes on GOCCs, income tax, agricultural and aquatic products when sold by marginal fishermen [Sec. 133]
- allow LGUs to tax for the registration and issuance of licenses or permits of motor vehicles except tricycles and public utility vehicles operating within the province [Sec. 133]
- allow the provinces to impose taxes on business enjoying a franchise, whether local, national, or legislated [Sec. 137]
- grant the city or municipal mayor the recommendatory power in issuing permit to extract quarry resources [Sec. 138]
- increase the professional tax to PhP600 per person engaged in the practice of profession [Sec. 139]
- increase the tax to PhP1,000 [Sec. 141]

- simplify the local business tax by specifying a maximum rate of 2% (on gross receipts) and deleting the enumeration of businesses with corresponding graduated tax schedules **[Sec. 143]**
- empower the local authorities concerned to perform both the registration and licensing for the operation of fishing vessels weighing three (3) tons or less **[Sec. 149]**
- broaden the scope of taxing powers of barangays by allowing them to levy taxes on stores and retailers with gross sales of PhP75,000 in the case of cities and PhP45,000 in the case of municipalities **[Sec. 152(a)]**
- increase the basic community tax **[Sec. 157]**
- shorten the period on the deadline for filing of and deciding on, protests **[Sec. 195]**
- should be done by the DOF in consultation with the Association of Local Assessors and Treasurers **[Sec. 201]**
- consolidation of the Assessment Rolls of the municipalities by the provincial assessor **[Sec. 205]**
- declaration of real property be kept and filed by the provincial, city or municipal assessor under a uniform classification system defined by the DOF **[Sec. 207]**
- the frequency of the general revision of real property should be every five (5) years, provided that a conjunctive measure shall be included in the IRR **[Sec. 219]**
- should not include exemption to machineries and equipments used by local water districts and GOCCs engaged in the supply and distribution of water and/or transmission of electric power **[Sec. 234]**
- fix uniformly the SEF tax rate at one-half (1/2) of the rate for basic real property tax **[Sec. 235]**
- set the maximum rate of idle land tax at three percent (3%), and amend the definition and coverage of the idle land tax **[Sec. 236]**

- transfer the primary responsibility to collect real property tax and deputize the barangay treasurers from the municipal treasurer to the provincial treasurer **[Sec. 247]**
- deputize the barangay treasurers to the city and municipal treasurers in the MMA to collect the real property tax **[Sec. 247]**
- increase the application of interest on delinquent real property tax to sixty (60) months **[Sec. 255]**
- distribute the proceeds of the RPT as follows: province (40%); municipality (45%); barangay (15%), and in the MMA: City/municipality (75%); barangay (25%) **[Sec. 271]**
allocate 20% to the general fund of the municipality instead of dividing the same between the province and municipality **[Sec. 272]**
- fix the shares of the province and the municipality, and the MMA share from the collections of municipalities in Metro Manila in accordance with the schedule in Section 271 **[Sec. 273]**
- compute the IRA based on the BIR gross collections of the second fiscal year based on the LGUs tax effort and equalization factors **[Sec. 284]**
- exclude from the computation of the certified gross BIR collection those that actually accrue to the LGUs **[Sec. 284]**

Recommendations from the *Philippine Institute Of Environmental Planners*

Structures and Systems

- reclassification of agricultural lands should be made consistent with national and regional planning standards and guidelines [**Sec. 20**]
- CLUP should be made as the basis for reclassification and dispense with the requirement of DAR conversion if the lands has already been rezoned to urban use under the CLUP [**Sec. 20**]
- a licensed environmental planner should be appointed for cities and to be given priority to municipalities within three (3) years from the amendment (professionalization of the PDC) [**Sec. 476**]

Appendix B6 - Common Recommendations

Relations and Principles

- effective consultations by the GOCCs and other public-quasi corporations [Sec. 2(c)] **SB2064/HB7845*
- define the concept of “general supervision” in the Code [Secs. 25] **LPP/LCP*
- require all NGAs, GOCCs and public-quasi corporations to consult with LGUs, NGOs and other sectors before implementing their programs or projects in the LGU jurisdiction, on any undertaking, not only those with potential adverse effects on the environment as currently provided [Sec. 26] **SB2064/LMP/LCP/HB5636*
- include “costs” among the subjects to be reported during consultations [Sec. 26] **LCP/HB5636*
- require government authorities to give notices to the general public and to conduct public hearings before implementing their projects [Sec. 27] **LCP/HB5636*
- require the national government agencies concerned to pay for the benefits, compensation and other financial assistance given to their employees working in the LGU jurisdiction but allow to augment the same [Sec. 81] **LMP/LCP*
- remove from the DBM the authority to review appropriation ordinances of provinces, HUCs, ICCs and Metropolitan Manila Area (MMA) municipalities [Sec. 326] **SB2046/SB2111*

Devolution of Powers and Functions

- explicitly allow LGUs to exercise those powers that are not otherwise expressly prohibited by law [Sec. 16] **LMP/LCP*
- include provision of fire protection service [Sec. 17] **SB2064/BLGD*
- mandate the municipalities to provide port facilities, and wharves and water catchments [Sec. 17(b)(2)] **SB2064/HB7845*
- allow the barangays to create its PBAC with a representative from the NGO/ PO in the area sitting as a member [Sec. 37(d)] **SB2064/HB7845*
- remove from the Secretary of Finance the current authority to appoint the local treasurer and assistant local treasurer, and give the authority to the local chief executives [Secs. 470(a), 470(b), 471(a)] **LMP/LCP*

Fiscal Matters

- ensure the funding of mandates later given to LGUs by subsequent laws, executive orders, and such other issuances [Sec. 3(d)] **LMP/LCP*
- allow LGUs to let the private sector the collection of local taxes, fees, charges, and other impositions [Sec. 130(c)] **LMP/LCP*
- amusement places should include country and sports clubs, golf-courses, beach and other resorts, recreation parks, cockpits and other areas where one also watches shows, participate in the activities or use the facilities there [Sec. 131(c)] **SB2064/BLGD/NTRC*
- gross sales or receipts shall be the amount of money or counterpart received during the taxable year [Sec. 131(n)] **SB2064/BLGD/NTRC*
- should include the definition of National Wealth [Sec. 131] **SB2064/BLGD*
- allow LGUs to collect registration fees from vessels three (3) tons and below [Sec. 133(d)] **SB2064/HB7845/LMP/LCP/NTRC*

- give LGUs the power to impose excise taxes on articles enumerated in the National Internal Revenue Code except petroleum [Sec. 133(h)] **HB7845/LMP/LCP/NTRC*
- allow LGUs to collect taxes from GOCCs and other public quasi-corporations [Sec. 133(o)] **SB2064/HB7845/LMP/LCP/BLGD/NTRC*
- allow LGUs to tax for the registration and issuance of licenses or permits of motor vehicles except tricycles and public utility vehicles operating within the province [Sec. 133] **SB2064/HB7845/NTRC*
- allow the provinces to impose taxes on business enjoying a franchise, whether local, national, or legislated [Sec. 137] **SB2064/HB7845/NTRC*
- grant the city or municipal mayor the recommendatory power in issuing permit to extract quarry resources [Sec. 138] **SB2064/BLGD/NTRC*
- increase the professional tax to PhP600 per person engaged in the practice of profession [Sec. 139] **HB7845/NTRC*
- increase the tax to PhP1,000 [Sec. 141] **HB7845/NTRC*
- simplify the local business tax by specifying a maximum rate of 2% (on gross receipts) and deleting the enumeration of businesses with corresponding graduated tax schedules [Sec. 143] **SB2064/HB7845/NTRC*
- empower the local authorities concerned to perform both the registration and licensing for the operation of fishing vessels weighing three (3) tons or less [Sec. 149] **HB7845/BLGS/NTRC*
- broaden the scope of taxing powers of barangays by allowing them to levy taxes on stores and retailers with gross sales of PhP75,000 in the case of cities and PhP45,000 in the case of municipalities [Sec. 152(a)] **HB7845/NTRC*
- allow municipalities to collect community tax of not more than twenty pesos (P20.00) from a fixed amount of five pesos (P5.00) every year, and two pesos, in lieu of one peso (P1.00), for every one thousand pesos (P1,000.00) of income [Sec.157] **HB7845/LMP/LCP/NTRC*

- allow the Sangguniang Bayan to tax local water districts, cooperatives, non-stock and non-profit hospitals and educational institutions [Sec. 193] **LMP/LCP*
- shorten the period on the deadline for filing of and deciding on, protests [Sec. 195] **SB2064/HB7845/NTRC*
- improve the definition of the term “machinery” [Sec. 199] **HB7845/BLGD*
- consolidation of the Assessment Rolls of the municipalities by the provincial assessor [Sec. 205] **HB7845/NTRC*
- declaration of real property be kept and filed by the provincial, city or municipal assessor under a uniform classification system defined by the DOF [Sec. 207] **HB7845/BLGD/NTRC*
- should not include exemption to machineries and equipments used by local water districts and GOCCs engaged in the supply and distribution of water and/or transmission of electric power [Sec. 234] **HB7845/NTRC*
- transfer the primary responsibility to collect real property tax and deputize the barangay treasurers from the municipal treasurer to the provincial treasurer [Sec. 247] **HB7845/NTRC*
- deputize the barangay treasurers to the city and municipal treasurers in the MMA to collect the real property tax [Sec. 247] **HB7845/NTRC*
- increase the application of interest on delinquent real property tax to sixty (60) months [Sec. 255] **HB7845/NTRC*
- fix the shares of the province and the municipality, and the MMA share from the collections of municipalities in Metro Manila in accordance with the schedule in Section 271 [Sec. 273] **HB7845/NTRC*
- compute the IRA based on the BIR gross collections of the second fiscal year based on the LGUs tax effort and equalization factors [Sec. 284] **HB7845/BLGD/NTRC*
- exclude from the computation of the certified gross BIR collection those that actually accrue to the LGUs [Sec. 284] **HB7845/NTRC*

- amend the IRA sharing schemes by allocating 23% to the provinces; 27% to the cities; 34% to the municipalities; and 16% to the barangays [Sec. 285] **SB2064/BLGS*
- define “national wealth” [Sec. 289] **SB2064/LMP/LCP*
- allow LGUs to contract guarantees, aside from the current loans and credits with banks and non-bank financing intermediaries, not only local but foreign as well, subject to applicable laws, rules and regulations [Sec. 297] **SB2064/LMP/LCP*
- exempt long-term bonds and similar obligations issued by LGUs from the payment of income tax, documentary stamp tax, and other national or local taxes [Sec. 299] **LMP/LCP*
- lift the preference of government-owned banks and allow local treasurers to maintain depository accounts with the private banks [Sec. 311] **LMP/LCP*

Structures and Systems

- conversion of land for other purposes for fourth (4th) to sixth (6th) class municipalities which had already been distributed to agrarian reform beneficiaries pursuant to the Comprehensive Agrarian Reform Law shall not be governed by Section 65 of the same Act [Sec. 20(a)(3)] **SB2064/SB2111*
- allow the vice-governor or vice-mayor as sanggunian presiding officers to relinquish the chair and participate in the deliberation of the sanggunian [Sec. 49] **SB2064/HB7845*

Popular Participation

- ensure accountability of LGUs by institutional participation of people's organization, non-governmental, and sectoral organizations in local governance [Sec. 2(b)] **SB2064/HB7845*
- provisions to expand NGO-PO participation be liberally interpreted in favor of the NGOs and Pos [Sec. 5] **LCP/HB5636*
- provide for a working definition of NGOs and POs [Sec. 35] **HB7845/HB5636/LCP*
- provide for enabling laws for election of sectoral representatives in the local sanggunians in order to operationalize the provisions of the Code on sectoral representation [Sec. 41(c)] **LPP/HB5636*
- abolish the preparatory recall assembly (PRA) [Sec. 70(b)] **LPP/LMP/LCP/HB5636*
- lower the percentage requirement to initiate recall from twenty-five percent (25%) to twenty percent (20%) [Sec. 70(d)] **LPP/LMP/LCP/HB5636*

Appendix B7 – Summary of Recommendations from the Various Leagues

CHAPTER 2 – Barangay Officials and Offices

SECTION 387. Chief Officials and Offices. – (a) There shall be in each Barangay a Punong Barangay, seven (7) Sangguniang Barangay members, the Sangguniang Kabataan chairman, a Barangay Secretary, an Barangay treasurer,

(b) There shall also be in every Barangay a Lupong Tagapamayapa. The Sangguniang Barangay may community brigades and create such other positions or offices as may be deemed necessary to carry out purposes of the Barangay government in accordance with the needs of public service, subject to the budget limitations on personal services prescribed under Title Five, Book II of this Code.

SECTION 388. Persons in Authority. – For purposes of the Revised Penal Code, the Punong Barangay, Sangguniang Barangay members, and members of the Lupong Tagapamayapa in each Barangay shall be deemed as persons in authority in their jurisdiction, while other Barangay officials and members who are designated by law or ordinance and charged with the maintenance of public order, protection and life and property, or the maintenance of a desirable and balanced environment, and any Barangay official who comes to the aid of persons in authority, shall be deemed agents of persons in authority.

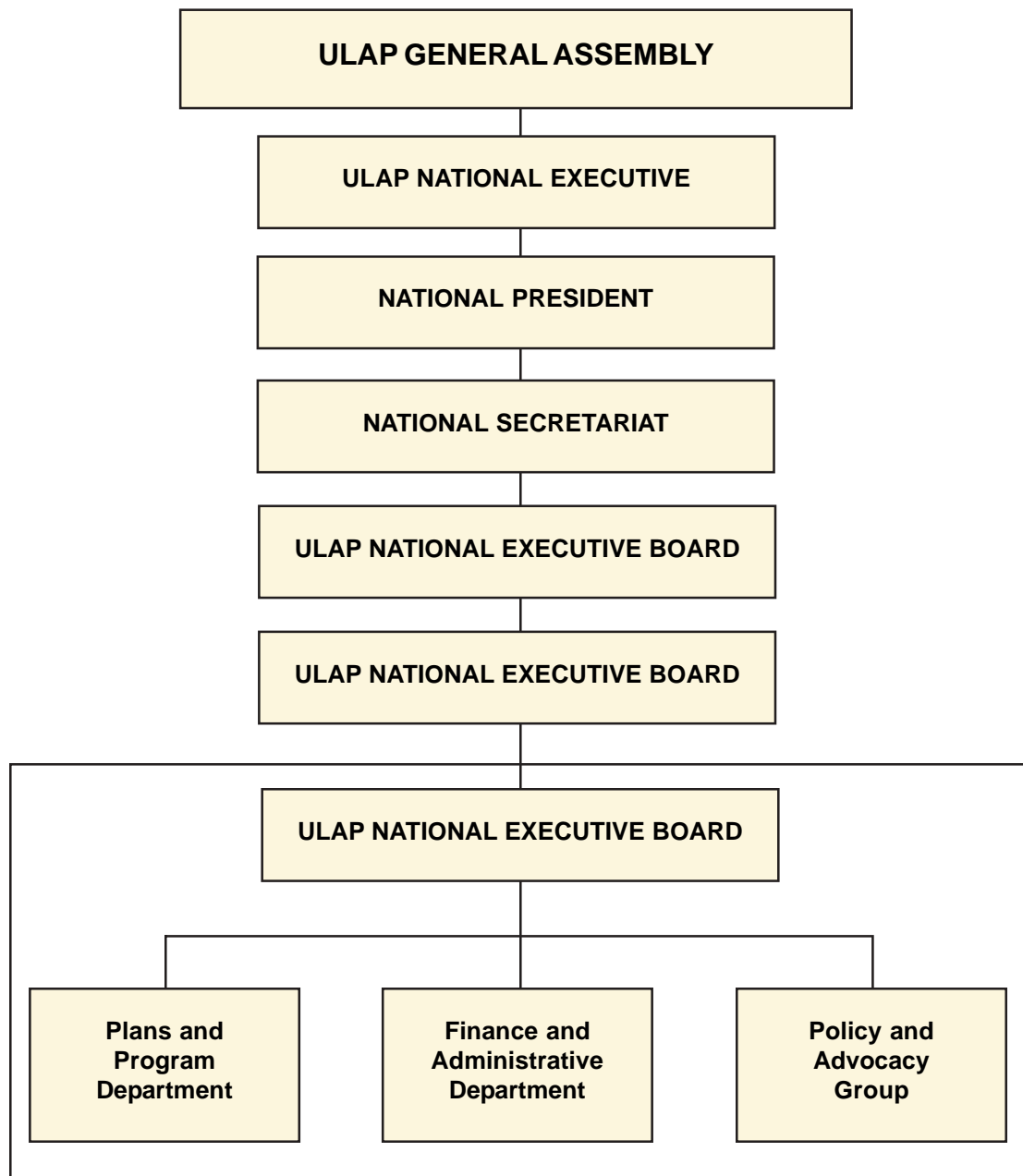
CHAPTER 3 – THE Punong Barangay

SECTION 389. Chief Executive: Powers, Duties, and Functions. – (a) The Punong Barangay, as the executive of the Barangay government, shall exercise such powers and perform such duties as are provided by this Code and other laws.

(b) For efficient, effective and economical governance, the purpose of which is the general welfare of the Barangay and its inhabitants pursuant to Section 16 of this Code, the Punong Barangay shall

(a) Enforce all laws and ordinances which are applicable within the Barangay;

Appendix B8 - Union of Local Authorities of the Philippines (ULAP) Organizational Chart



THE LOCAL GOVERNMENT CODE OF THE PHILIPPINES

BOOK IV

MISCELLANEOUS AND FINAL PROVISIONS

TITLE ONE. – PENAL PROVISIONS

SECTION 511. Posting and Publication of Ordinances with Penal Sanctions. – (a) Ordinances with penal sanctions shall be posted at prominent places in the provincial capital, city, municipal or Barangay hall, as the case may be, for a minimum period of three (3) consecutive weeks. Such ordinances shall also be published in a newspaper of general circulation, where available, within the territorial jurisdiction of the local government unit concerned, except in the case of Barangay ordinances. Unless otherwise provided therein, said ordinance shall take effect on the day following its publication, or at the end of the period of posting, whichever occurs later.

(b) Any public officer or employee who violates an ordinance may be meted administrative disciplinary action, without prejudice to the filing of the appropriate civil or criminal action.

(c) The secretary to the Sanggunian concerned shall transmit official copies of such ordinances to the chief executive officer of the Official Gazette within seven (7) days following the approval of the ordinance for publication purposes. The Official Gazette may publish ordinances with penal sanctions for archival and reference purposes.

SECTION 512. Withholding of Benefits Accorded to Barangay Officials. – Willful and malicious withholding of any of the benefits accorded to Barangay officials under Section 393 hereof shall constitute a cause for suspension or dismissal from office of the official or employee responsible therefor.

SECTION 513. Failure to Post and Publish the Itemized Monthly Collections and Disbursements. – Failure by the local treasurer or the local chief accountant to post the itemized monthly collections and disbursements shall constitute a cause for suspension or dismissal from office of the official or employee responsible therefor.

Appendix C

Bibliography

Bibliography

One of the major deliverables of this research is to come up with an anthology or bibliography on the subjects of local autonomy, decentralization and the Local Government Code of 1991. It must be noted that there are only a few books written on these topics especially on decentralization.

The references gathered were books, journals, primers, pamphlets, research papers, monographs, newspaper articles and even legislative bills.

These reading materials on local autonomy, decentralization and the Local Government Code of 1991 may be found in the libraries of the following institutions:

- Asian Development Bank (ADB)
- Ateneo College of Law
- Ateneo School of Governance
- Bureau of Local Government Development (BLGD) – DILG
- Bureau of Local Government Supervision (BLGS) – DILG
- Local Government Academy (LGA) - DILG
- Local Government Development Foundation (LOGODEF)
- Office of Project Development Services (OPDS) – DILG
- University of the Philippines - National College of Public Administration and Governance (UP-NCPAG)
- World Bank

Books

Agra, Alberto C. **Compendium of Decisions, Rulings, Resolutions and Opinions on Local Autonomy and Local Government**, 1996.

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Presidential Decrees Nos. 684, 1191, 1508 and such other decrees, orders, instructions, or issuances related to or concerning the Barangay are hereby repealed.

The provisions of Sections 2, 3, and 4 of Republic Act No. 1939 regarding hospital fund and b (2) of Republic Act No. 5447 regarding the Special Education Fund; Presidential Decree No. 436 as amended by Presidential Decree No. 559 and 1741; Presidential Decree No. 231 as amended by Presidential Decree No. 558; and Presidential Decrees Nos. 387, 526, 632, 752, and 1136 are hereby repealed and rendered of no force and effect.

(d) Presidential Decree No. 1594 is hereby repealed insofar as it governs locally-funded

(e) The following provisions are hereby repealed or amended insofar as they are inconsistent with the provisions of this Code: Sections 2, 16, and 29 of Presidential Decree No. 704; Section 12 of Presidential Decree No. 87, as amended; Sections 52, 53, 66, 67, 68, 69, 70, 71, 72, 73, and 74 of Presidential Decree No. 463, as amended; and Section 16 of Presidential Decree No. 972, as amended, and

(f) All general and special laws, acts, city charters, decrees, executive orders, proclamations, administrative regulations, or part or parts thereof which are inconsistent with any of the provisions of this Code are hereby repealed or modified accordingly.

SECTION 535. Separability Clause. – If, for any reason or reasons, any part or provision of this Code shall be held to be unconstitutional or invalid, other parts or provisions hereof which are not affected thereby shall continue to be in full force and effect.

SECTION 536. Effectivity Clause. – This Code shall take effect on January first, nineteen hundred and ninety-two, unless otherwise provided herein, after its complete publication in at least one issue of general circulation.

APPENDIX D

Contact Names and Addresses of Stakeholders Involved in the Review

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Appendix E

Definition of Terms

CIVIL SOCIETY

- *Civil society* is the self-organized section of society composed mainly of voluntary associations including NGOs and Pos [Institute of Politics and Governance, 1996].

CONTROL

- *Control* implies the power to manage, direct, or govern and includes the power to supervise [De Leon, 1999].

CORPORATE POWERS

- *Corporate powers* are those possessed by local governments as public corporations, and these are: (1) to have a continuous succession in its corporate name; (2) to sue and be sued; (3) to have and use a corporate seal; (4) to acquire and convey real personal property; (5) to enter into contracts; and (6) to exercise such other powers as are granted to corporations, subject to limitations provided in the Local Government Code of 1991 and other laws [Agra, 2003].

DEBUREAUCRATIZATION

- *Debureaucratization* involves the transfer of powers and authorities to units not within the purview of the government [Brillantes, 1998].

DECENTRALIZATION

- *Decentralization* generally refers to the systematic and rational dispersal of power, authority and responsibility from the center to the periphery, from top to lower levels, or from the national to local governments [Brillantes, 1998].
- *Decentralization* may be defined as the state, condition, or process of systematically and rationally dispersing power, authority and responsibility from the central government to local government units, including private entities in performing basic governmental functions [Acosta, Belay, Carada, Gotis, Pilar and Sosmena, 1994].

- *Decentralization* can be simplistically defined as the rational downward transfer of power within and/or outside a formal organization. This refers to a basic administrative concept and process of shifting and delegating power and authority from a central point to subordinate levels within the administrative hierarchy, in order to promote independence, responsibility, and quicker decision making in adopting policies and programs to the needs of these levels [Sosmena, 1991].
- *Decentralization* is the process of transferring basic powers from the national to the local governments to allow maximum participation of the citizens in governmental and community activities [De Leon, 1999].

DECONCENTRATION

- *Deconcentration* involves the transfer of functions to lower level administrative units designated by the central office [Brillantes, 1998].
- *Deconcentration* is the transfer of requisite authority and powers to the appropriate regional or field offices whose major functions are not devolved to local governments [Agra, 2003].
- *Deconcentration* is the transfer of power, authority and responsibility from central to regional/sub-regional agencies of the central government [Acosta, Belay, Carada, Gotis, Pilar and Sosmena, 1994].
- *Deconcentration* may also be referred to administrative decentralization [Acosta, Belay, Carada, Gotis, Pilar and Sosmena, 1994].

DEVOLUTION

- *Devolution* involves the transfer of powers and authorities to lower level political or local government units [Brillantes, 1998].
- *Devolution* refers to the act by which the national government confers power and authority upon the various local government units to perform specific functions and responsibilities [Agra, 2003].
- *Devolution* refers to the transfer of responsibility to perform basic governmental functions from the central/local governments to private/NGO entities [Acosta, Belay, Carada, Gotis, Pilar and Sosmena, 1994].
- *Devolution* may also be referred to as political decentralization [Acosta, Belay, Carada, Gotis, Pilar and Sosmena, 1994].

EXECUTIVE POWER

- *Executive power* is the authority to enforce laws and ordinances. This includes the power to file expropriation proceedings, prerogative to veto ordinances and power to collect tax due [Agra, 2003].

FINANCIAL/FISCAL AUTONOMY

- *Financial autonomy* means the capacity to generate financial resources from local taxation measures without relying on dole-outs, grants, and shares from nationally-generated income [Acosta, Belay, Carada, Gotis, Pilar and Sosmena, 1994].
- *Fiscal autonomy* means that local governments have the power to create their own resources of revenue in addition to their equitable share in the national taxes released by the national government, as well as the power to allocate their resources in accordance with their own priorities [Agra, 2003].
- *Fiscal autonomy* refers to the broad latitude given to local governments in accessing revenues, disbursing and utilizing funds [Agra, 2003].

GOVERNMENTAL/PUBLIC/POLITICAL POWERS

- *Governmental or public powers* of local governments which spring from sovereignty are those exercised in administering the powers of the State and promoting the public welfare [Agra, 2003].

INTERNAL REVENUE ALLOTMENT (IRA)

- *Internal Revenue Allotments (IRA)* (1) form part of the income of local government units; (2) form part of the gross accretion of the funds of local government units; (3) regularly and automatically accrue to the local treasury without need of further action on the part of local government units; (4) are a regular and recurring item of income; (5) accrue to the general fund of the local government units; (6) are used to finance local operation subject to modes provided by the Local Government Code of 1991 and its implementing rules; and (7) are included in the computation of the average annual income for purposes of conversion of local government units [Agra, 2003].

INITIATIVE

- *Initiative* is the legal process whereby the registered voters of a local government unit may directly propose, enact, or amend any law or ordinance at polls called for the purpose independently of the regularly constituted local legislative body [De Leon, 1999].

LEGISLATIVE POWER

- *Legislative power* is the authority to enact, repeal or modify ordinances and resolutions. This includes the power to authorize the exercise of eminent domain, authority to review ordinances of local governments and power to enact tax ordinances [Agra, 2003].

LOCAL AUTONOMY

- *Local autonomy* is described as the ability of LGUs for self-government [Acosta, Belay, Carada, Gotis, Pilar and Sosmena, 1994].
- *Local autonomy* may be defined as the state of self-determination of local governments and their relative freedom from central government control over local affairs and other community concerns [Sosmena, 1991].
- *Local autonomy* may be defined as the measure of the delegated authority, discretion, and participation of the local government in the making of decisions affecting its jurisdiction and community [Sosmena, 1991].
- *Local autonomy* may be defined as the degree of self-determination and self-government enjoyed by local units in their relation with the central government, thus implying a measure of independence from national control [Sosmena, 1991].
- *Local autonomy* is the exercise of certain basic powers by local government units so as to best serve the interest and promote the general well-being of their inhabitants [De Leon, 1999].

LOCAL DEVELOPMENT COUNCIL (LDC)

- *Local Development Councils* are bodies in LGUs which are tasked to initiate comprehensive multi-sectoral development plans. They are to assist their corresponding sanggunians in setting the direction of economic and social development, and coordinating development efforts within their territorial jurisdiction [Sec. 106, Local Government Code of 1991].

LOCAL GOVERNANCE

- *Local governance* means wielding power, authority and resources to resolve and meet the problems, needs and demands of LGUs [Acosta, Belay, Carada, Gotis, Pilar and Sosmena, 1994].

LOCAL GOVERNMENT

- The term *local government* refers to a political subdivision of a nation or a state which is constituted by law and has substantial control of local affairs [Rodriguez, 1995].
- *Local governments* are political and territorial subdivisions. Under a unitary set-up, *local governments* are intra-sovereign subdivisions of one sovereign nation [Agra, 2003].
- *Local governments* are political subdivisions which are constituted by law and possessed of substantial control over its own affairs [Agra, 2003].

LOCAL GOVERNMENT CAPABILITY/CAPACITY-BUILDING

- *Local government capability/capacity-building* is a set of interventions designed to enhance the knowledge and skills of local officials and functionaries, enabling the LGUs to improve delivery of services to its constituents.

NON-GOVERNMENTAL ORGANIZATIONS

- *Non-governmental organizations (NGOs)* are non-profit institutions established and maintained for the public interest with the personnel, skills, assets and resources that they use to assist a disadvantaged community or sector, to provide skills enhancement and technical assistance, or to pursue specific issues and concerns. [Abad, *House Bill No. 5636, Sec. 5*]
- *Non-governmental organizations (NGOs)* are community based or sectoral organizations that promote the welfare of the nation [De Leon, 1999].

PEOPLE EMPOWERMENT

- *Empowerment* is an act or a process of actualizing the aspirations and decisions of a constituency or polity, with less or without the intervention and interdiction of the coercive power of the state. It is an operationalization of the human ascent to full development, liberating a community of individuals from the constraints and restrictions of forces irrelevant to the concept of "home rule" and the consent of the governed [Sosmena, 1991].

PEOPLE'S ORGANIZATIONS

- *People's organizations (POs)* are community or sector-focused formations of individuals bound together by a common vision and an internal structure of accountability to mass membership [Abad, *House Bill No. 5636, Sec. 5*].

PEOPLE'S PARTICIPATION

- *People's participation* is the active involvement of citizens in assessing local problems, identifying appropriate solutions to these problems, and initiating and sustaining appropriate actions [Acosta, Belay, Carada, Gotis, Pilar and Sosmena, 1994].

PROPRIETARY/PRIVATE POWERS

- *Proprietary or private powers* arising from local governments' existence as legal persons and not as public entities are those exercised for the special benefit and advantage of the community [Agra, 2003].

RECALL

- *Recall* of officers the legal process by which the registered voters of a local government unit remove, for loss of confidence, elective local officials. It is the method of removing persons from office by the submission of the question as to whether or not they shall be removed, to the qualified voters at an election held for the purpose or at a general election [De Leon, 1999].

REFERENDUM

- *Referendum* is the legal process whereby the registered voters of the local government unit concerned may approve, amend, or reject an ordinance enacted by a local legislative body when the question is submitted to them for decision [De Leon, 1999].

ZONING ORDINANCES

- *Zoning ordinances* are defined as a local city or municipal legislation which logically arranges, prescribes, defines and apportions a given political subdivision into specific land uses as present and future projection of needs [Agra, 2003].
- In the Agriculture and Fisheries Modernization Act of 1997, *zoning ordinances* are referred to as local legislation approving the development/land providing for the regularizations and other conditions on the uses of land including the limitation on the infrastructure that may be placed within the territorial jurisdiction of a city or municipality [Agra, 2003].

Appendix F

Acronyms And Abbreviations

·	COA	-	Commission on Audit
·	COMELEC	-	Commission on Elections
·	CC	-	Component City
·	CARP	-	Comprehensive Agrarian Reform Program
·	CLUP	-	Comprehensive Land Use Plan
·	DA	-	Department of Agriculture
·	DBM	-	Department of Budget and Management
·	DECS	-	Department of Education Culture and Sports
·	DILG	-	Department of the Interior and Local Government
·	DOJ	-	Department of Justice
·	GOCC	-	Government-Owned and Controlled Corporation
·	GDP	-	Gross Domestic Product
·	GNP	-	Gross National Product
·	HUC	-	Highly-Urbanized City
·	HLURB	-	Housing and Land Use Regulatory Board
·	ICC	-	Independent Component City
·	IRA	-	Internal Revenue Allotment
·	IRR	-	Implementing Rules and Regulations
·	LCE	-	Local Chief Executive
·	LDC	-	Local Development Council
·	LDP	-	Local Development Plan
·	LGA	-	Local Government Academy
·	LGC	-	Local Government Code
·	LOGODEF	-	Local Government Development Foundation
·	LGU	-	Local Government Unit
·	MIS	-	Management Information System
·	MOA	-	Memorandum of Agreement
·	MMA	-	Metropolitan Manila Area
·	NEDA	-	National Economic Development Authority
·	NGA	-	National Government Agency
·	NGO	-	Non-Governmental Organization

- **NSO** – National Statistics Office
- **PO** – People’s Organization
- **PRA** – Preparatory Recall Assembly
- **RA** – Republic Act
- **SK** – Sangguniang Kabataan
- **UNCHS** – United Nations Center for Human Settlements
- **UNDP** – United Nations Development Programme
- **UNICEF** – United Nations International Children’s Emergency Fund
- **USAID** – United States Agency for International Development

Appendix G

Project Milestones

ACTIVITIES		SEPTEMBER				OCTOBER				NOVEMBER				DECEMBER			
		1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4
1	Organizing Project Study Team																
2	Formulation of Full Project activity / schedule																
3	Review of Literature on Decentralization and Local Autonomy																
4	Simplification of significant Codal Provisions																
5	Review/ Summarizations of various recommendations to amend the Code																
6	First Experts' Forum																
7	Second Experts' Forum																
8	Stakeholders Conference																
9	Writing Best Practices																
10	Finalization and submission of Report																

Author of Submission



The Local Government Academy

The LGA was created as a national training institution that would coordinate, synchronize, rationalize and deliver training programs for local governments. It was formally organized in August 1988 as the training arm of the Department of the Interior and Local Government to which it is attached.

LGA is governed by a Board of Trustees chaired by the Secretary of the DILG and four (4) members appointed by the President. An Executive Director manages the operations of the Academy.

A council of Advisers provides the Academy with advisory services. It is composed of representatives from the Academe, NGO, business sector and the leagues of local governments.

Mandate

The creation of the LGA in 1988 was mandated by Section 14 of Executive Order 262 which states that:

...there shall be established in the DILG a Local Government Academy which shall be responsible for human resource development and training of local government officials and the Department personnel.

The LGA is an attached agency of the DILG which functions as the national training institution that coordinates, synchronizes and delivers training programs to local governments.

Vision

The LGA is the premier training and development institution for capability building towards innovative and effective local governance.

Mission

As the LGA advances towards its vision, it reiterates its commitment to all its stakeholders...

- *To the local officials*, that it shall ensure availability of appropriate education and training services;
- *To the functionaries*, that it shall continuously ensure the availability of appropriate training and development services directed to specific needs;
- *To our partners*, that it shall strengthen networking and collaborative efforts to deliver our commitments to our clients;
- *To the DILG personnel*, that it shall continuously upgrade the capability of the DILG personnel towards excellence in the performance of their functions and responsibilities;
- *To the LGA personnel*, that it shall continuously upgrade and promote the capability of LGA as a training development institution.

Goals

The LGA aims to provide continuing education on local governance, and to strengthen and enhance its linkages and partnerships with various leagues and local academic institutions.

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Unpacking the Local Government Code of 1991

Republic Act 7160

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United Nations Development Programme