I. GENERAL PRINCIPLES

Principles of Local Autonomy

Constitutional Provisions

- The State shall ensure the local autonomy of local governments
- The territorial and political subdivisions shall enjoy local autonomy
- The principle of local autonomy under the 1987 Constitution simply means “DECENTRALIZATION”.
- It does not make the local government sovereign within the state or an imperium in iperio.
- Autonomy is either:
  1. decentralization of administration
     - no valid constitutional challenge
     - delegation of administrative powers to broaden the base of governmental power.
  2. decentralization of power
     - abdication by the national government of political power in favor of the local government
- Congress retains control over the LGUs although significantly reduced under the Constitution. National legislature is still the principal of LGUs which cannot defy its will or modify or violate it.
- Power to tax of LGUs which cannot be withdrawn by mere statute.
- Any form of autonomy granted to local governments will necessarily be limited and confined within the extent allowed by the central authority.
- Exercise of local autonomy remains subject to:
  1. power of control by Congress and
  2. general supervision by the President
- Scope of President’s supervisory powers:
  - President can only interfere in the affairs and activities of a local government unit if he finds that the latter had acted contrary to law;
  - Cannot interfere in local affairs as long as the concerned local government unit acts within the parameters of the law and the Constitution;
  - Otherwise, violates the principle of local autonomy and the doctrine of separation of powers.
  - Liga ng mga Barangay is not subject to the control by the Chief Executive or his alter ego.

Corporation

- Artificial being created by operation of law, having the right of succession and the powers, attributes and properties expressly authorized by law or incident to its existence.

Classification

1. Public: organized for the government of a portion of a state.
2. Private: formed for some private purpose.
3. Quasi-Public: private corporation that renders public service or supplies public wants.

Criterion to determine whether corporation is public
- Relationship of the corporation to the State; if it is created by the State as its own agency to help the State in carrying out its governmental function then it is public. Otherwise, it is private.

Classes of public corporations
1. Quasi-corporation – created by the state for a limited purpose.
2. Municipal Corporation – body politic and corporate constituted by the incorporation of the inhabitants for the purpose of local government.

Municipal Corporation
Elements:
1. Legal creation or incorporation
   - Law creating or authorizing the creation or incorporation of a municipal corporation.
2. Corporate name
   - Sanggunian Panlalawigan may change the name of component cities or municipalities:
     1. consultation with Philippine Historical Institute
     2. effective upon ratification in a plebiscite
3. Inhabitants
   - People residing in the territory.
4. Territory
   - Land mass where the inhabitants reside
   - Together with external and internal waters and the airspace above.

Dual Nature and Functions
- Exercise powers as a political subdivision of the National Government and
- As a corporate entity representing the inhabitants of the territory.
  1. Public or Governmental – acts as agents of the State, for the government of the territory and the inhabitants.
  2. Private or Proprietary – acts as agents of the community in the administration of local affairs. Acts as a separate entity for its own purposes and not as a subdivision of the state.

Roles of Municipal Corporations in the Philippines
- The territorial and political subdivisions of the Philippines are the PROVINCES, CITIES, MUNICIPALITIES and BARANGAYS. There shall be AUTONOMOUS REGIONS in MUSLIM MINDANAO and the CORDILLERAS.
Provinces
- Cluster of municipalities or municipalities and component cities.
- Dynamic mechanism for developmental processes and effective governance of LGUs within its territorial jurisdiction.

City
- More urbanized and developed barangays
- General purpose government for the coordination and delivery of basic, regular and direct services.
- Effective governance of the inhabitants within its jurisdiction.

Municipality
- Group of barangays
- General purpose government for the coordination and delivery of basic, regular and direct services.
- Effective governance of the inhabitants within its jurisdiction.

Barangay
- Basic political unit
- Primary planning and implementing unit of government policies, plans, programs, projects and activities in the community.
- Forum where collective views of the people may be expressed.
- Where disputes may be amicably settled.

Autonomous Regions in Muslim Mindanao and the Cordilleras
- Datu Firdausi Abbas vs. COMELEC: act establishing the Autonomous Regional Government of Muslim Mindanao was held valid.
- Cordillera Broad Coalition vs. Commission on Audit: exercise of legislative powers, creating the Cordillera Administrative Region was held valid. It prepared the groundwork for autonomy and the adoption of the organic law.
- Ordillo vs. COMELEC: sole province of Ifugao which, in the plebiscite, alone voted in favor RA 6766, cannot validly constitute the Autonomous Region of the Cordilleras.

Special Metropolitan Political Subdivision
- Congress may by law create special metropolitan political subdivisions subject to a plebiscite.
- The component cities and municipalities shall retain their basic autonomy
- Entitled to their own local executives and legislative assemblies
Jurisdiction of the metropolitan authority shall be limited to basic services requiring coordination.

Creation and Dissolution of Municipal Corporations

Authority to Create

- LGU may be created, divided, merged, abolished or its boundaries substantially altered either by:
  1. law enacted by Congress – provinces, city, municipality or any other political subdivision
  2. ordinance passed by Sangguniang Panlalawigan or Sangguniang Panlungsod – barangay

Requisites/Limitation on Creation or Conversion

- No province, city, municipality or barangay may be created, divided, merged, abolished or its boundary substantially altered, EXCEPT
  1. in accordance with criteria established in the LGC
  2. subject to approval by a majority of the votes cast in a plebiscite in the political units directly affected

- Plebiscite Requirement: conducted by the COMELEC within 120 days from the date of effectivity of the law or ordinance effecting such action, unless said law or ordinance fixes another date.

- Plebiscite for creating a new province should include the participation of the residents of the mother province in order to conform to the constitutional requirement.

- Where the law authorizing the holding of a plebiscite is unconstitutional, the Court cannot authorize the holding of a new one.

- The fact that the plebiscite which the petition sought to stop had already been held and officials of the new province appointed does not make the petition moot and academic, as the petition raises an issue of constitutional dimensions.

- Section 7, RA 7160 – verifiable indicators of viability and projected capacity to provide services:
  1. Income
     - Sufficient, based on acceptable standards
     - To provide for all essential government facilities and services and special functions
     - Commensurate with the size of its population
     - Average annual income for the last 2 consecutive years based on 1991 constant prices:
       1. Municipality: 2,500,000
       2. City 100,000,000
       3. Highly Urbanized City: 50,000,000
       4. Province: 20,000,000
     - Internal Revenue Allotment should be included in the computation of the average annual income of the municipality.
(for purposes of determining whether the municipality may be validly converted into a city)

- For conversion to cities, the municipality’s income should not include the IRA.

2. Population

- Total number of inhabitants within the territorial jurisdiction of the LGU concerned.
- Required minimum population:
  1. Barangay: 2,000 inhabitants; except in Metro Manila and other metropolitan political subdivisions or in highly urbanized cities where the requirement is 5,000 inhabitants
  2. Municipality: 25,000
  3. City: 150,000
  4. Highly Urbanized City: 200,000
  5. Province: 250,000

3. Land Area

- Contiguous, unless it comprises 2 or more islands or is separated by a LGU independent of the others
- Properly identified by metes and bounds with technical descriptions
- Sufficient to provide for such basic services and facilities to meet the requirements of its populace.
- Area Requirements:
  1. Municipality: 50 sq. kms.
  2. City: 100 sq. kms.
  3. Province: 2,000 sq. kms.

- Compliance with the foregoing indicators shall be attested to by the Department of Finance, the National Statistics Office and the Lands Management Bureau of the Department of Environment and Natural Resources.
- Requirement that the territory of the newly-created local government units be identified by metes and bounds is intended to provide the means by which the area of the local government unit may be reasonably ascertained.
- Territorial jurisdiction of the newly created city may be reasonably ascertained – by referring to common boundaries with neighboring municipalities – then the legislative intent has been sufficiently served.

- Other constitutional limitations: Bill of Rights

Beginning of Corporate Existence

- ELECTION and QUALIFICATION of its Chief Executive and a majority of the members of its sanggunian.
- UNLESS some other time is fixed therefore by the law or ordinance creating it.
Division and Merger, Abolition of LGUs

- **Division and Merger**
  - Comply with same requirements, provided that such division shall not reduce the income, population or land area of the local government unit/s concerned to less than the minimum requirements prescribed.
  - Provided, further, that the income classification of the original local government unit/s shall not fall below its current income classification prior to the division.

- **Abolition**
  - LGU may be abolished when its income, population or land area has been irreversibly reduced to less than the minimum standards.
  - Law or ordinance abolishing a LGU shall specify the province, city, municipality or barangay with which the local government unit sought to be abolished will be incorporated or merged.

**De Facto Municipal Corporation**

**Requisites:**
1. Valid law authorizing incorporation
2. Attempt in good faith to organize under it
3. Colorable compliance with the law
4. Assumption of corporate powers
   - Not de facto municipal corporations, because there was no law authorizing incorporation.

**Attack Against Invalidity of Incorporation**

- No collateral attack
- Inquiry into the legal existence of a municipal corporation is reserved to the state in a proceeding for quo warranto or other direct proceeding.
- Rule is applicable only when the municipal corporation is at least a de facto municipal corporation

**The Local Government Code**

- Effectivity: January 1, 1992; after its complete publication in at least 1 newspaper of general circulation.
- Scope of Application: all provinces, cities, municipalities, barangays and other political subdivisions as may be created by law and to officials, offices or agencies of the National Government.

**Declaration of Policy**

1. Territorial and political subdivision of the State shall enjoy genuine and meaningful local autonomy to enable them to attain their fullest development as self-reliant communities and make them more effective partners in the attainment of national goals.
2. Ensure accountability of LGUs through the institution of effective mechanisms of recall, initiative and reference.
3. Require all national agencies and offices to conduct periodic consultations with appropriate LGUs, non-governmental and people’s organizations and other concerned sectors of the community before any project or program is implemented in their respective jurisdiction.

Rules of Interpretation
1. Any provision on a power of a LGU shall be liberally interpreted in its favor; in case of doubt, any question shall be resolved in favor of devolution of power.
2. Any tax ordinance or revenue measure shall be construed strictly against the LGU enacting it and liberally in favor if the taxpayer.
3. Any tax exemption, incentive or relief granted by any LGU shall be construed strictly against the person claiming it.
4. The general welfare provision shall be liberally interpreted to give more powers to LGUs in accelerating economic development and upgrading the quality of life for the people in the community.
5. 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 LGU shall be governed by the original terms and conditions of said contracts or the law force at the time of such rights were vested.
6. In the resolution of controversies arising under this Code where no legal provision of jurisprudence applies, resort may be had to the customs and traditions in the place where the controversies take place.

II. GENERAL POWERS AND ATTRIBUTES OF LOCAL GOVERNMENT UNITS

Powers in General

Sources
1. Philippine Constitution
2. Statutes
3. Charter
4. Doctrine of the right of self-government

Classification
1. express, implied, inherent
2. public, governmental, private or proprietary
3. intramural, extramural
4. mandatory, directory, ministerial, discretionary

Execution of powers
1. statute prescribes the manner of exercise – the procedure must be followed
2. statute is silent – LGUs have discretion to select reasonable means and methods of exercise
Governmental Powers

1. General Welfare
2. Basic Services and Facilities
3. Power to Generate and Apply Resources
4. Eminent Domain
5. Reclassification of Lands
6. Closure and Opening of Roads
7. Local Legislative Power
8. Authority over Police Units

**General Welfare**

- Exercise powers expressly granted, necessarily implied, and powers necessary, appropriate or incidental for its efficient and effective governance and those which are essential to the promotion of the general welfare
- w/ respective territorial jurisdiction,
  1. preservation and enrichment of culture
  2. promote health and safety
  3. enhance the right of the people to a balanced ecology
  4. encourage and support the development of appropriate and self-reliant scientific and technological capabilities
  5. improve public morals
  6. enhance economic prosperity and social justice
  7. promote full employment among its residents
  8. maintain peace and order
  9. preserve the comfort and convenience of their inhabitants
- general welfare clause – statutory grant of police power to LGUs
- Limitations
  1. exercisable only within territorial limits EXCEPT for protection of water supply
  2. Equal protection clause
  3. Due process clause (means employees are reasonably necessary and not unduly oppressive for the accomplishment of the purpose)
  4. not be contrary to the Constitution and the laws.
- Prohibited activities cannot be legalized in the guise of regulation.
- Activities allowed by law cannot be prohibited, only regulated.
- LGU may close a bank for failure to secure the appropriate mayor’s permit and business licenses.
- LGU may not regulate the subscriber rate by CATV operators within its territorial jurisdiction – jurisdiction of NTC; This does not mean that LGU cannot prescribe regulations over CATV operators.
- Ordinance prohibiting the operation of casino is invalid for being contrary to the Charter of PAGCOR (PD1869)
- Mayor authorized to issue permits and licenses for the holding of activities for any charitable or welfare purposes.
- LLDA which has exclusive jurisdiction to issue permits for the enjoyment of fishery privileges in Laguna de Bay
Ordinance is not unconstitutional merely because it incidentally benefits a limited number of persons – the support for the poor has long been an accepted exercise of the police power in the promotion of the common good.

Municipality cannot grant exclusive fishing privileges without prior public bidding and for a period of more than 5 years – violates Fisheries Law.

Permits to operate cockpits – mayor

Ordinance prohibiting operation of night-clubs is invalid – prohibitory and not mere regulatory

Basic Services and Facilities
- Endeavor to be self-reliant
- Continue exercising the powers and discharge the duties and functions currently vested upon them
- Discharge the functions and responsibilities of national agencies and others devolved upon them
- Exercise such other powers and discharge such other functions as are necessary, appropriate or incidental to efficient and effective provision of the basic services and facilities.
- PUBLIC WORKS and INFRASTRUCTURE PROJECTS and other FACILITIES, PROGRAMS and SERVICES FUNDED BY THE NATIONAL GOVERNMENT are NOT covered under Section 17 EXCEPT where the LGU is duly designated as the implementing agency for such projects, facilities, programs and services.
- Devolution: act by which the national government confers power and authority upon various LGUs to perform specific function and responsibilities,
  - Includes the transfer of assets, equipments, records and personnel of national agencies and offices to LGUs
  - Regional offices of national agencies shall be phased out within 1 years from approval of Code.
  - Career regional director which cannot be absorbed by the LGU shall be retained by the national government w/o diminution.

Power to Generate and Apply Resources
- Establish an organization that shall be responsible for the efficient and effective implementation of their development plans, programs, objectives and priorities
- To create their own sources of revenue
- To levy taxes, fees and charges which shall accrue exclusively to their own use and disposition and which shall be retained by them
- To have a just share in the national taxes which shall be automatically and directly released to them without need of any further action
- To have an equitable share in the proceeds from the utilization and development of the national wealth and resources with their respective territorial jurisdictions
- Develop, lease, encumber, alienate or otherwise dispose of real or personal property held by them in their proprietary capacity and to apply their resources and assets for productive, developmental or proprietary powers and functions and
thereby ensure their development into self-reliant communities and active participants in the attainment of national goals.

- LGUs have no power to tax instrumentalities of the National Government, e.g. PAGCOR
- Fundamental Principles governing the exercise of taxing and other revenue-raising powers of LGUs
  1. Taxation shall be uniform in all LGUs
  2. Taxes, fees, charges and other impositions shall be 
     - equitable based as far as practicable on the taxpayer’s ability to pay;
     - levied and collected only for public purpose;
     - not unjust, excessive, oppressive or confiscatory; and
     - not contrary to law, public policy, national economic policy or in restrain of trade;
  3. collection of taxes, fees, charges and other impositions shall not be left to any private person
  4. revenue collected shall inure solely to the benefit and be subject to the disposition by the LGU, unless specifically provided herein
  5. each LGU shall evolve a progressive system of taxation.

- Exercise by LGU of the power to tax is ordained by the Constitution; only guidelines and limitations that may be established by Congress can define and limits such power of local governments.
- Secretary of Justice can review the constitutionality or legality of tax ordinance – and if warranted, revoke it on either grounds
- Exemption may be withdrawn at the pleasure of the taxing authority.
  - Exception: where the exemption was granted to private parties based on material consideration of a mutual nature, which then becomes contractual and is covered by the non-impairment clause of the Constitution.

- Fundamental Principles governing financial affairs, transactions and operations of the local government:
  1. no money shall be paid out of the local treasury EXCEPT in pursuance of appropriation ordinance or law
  2. local government funds and monies shall be spent solely for public purpose
  3. local revenue is generated only from sources expressly authorized by law or ordinance and collection shall at all times be acknowledged properly
  4. all monies officially received by a local government officer in any capacity shall be accounted for as local funds unless otherwise provided by law
  5. trust funds in the local treasury shall not be paid out except in fulfillment of the purpose for which the trust was created or the funds received
  6. every officer of the LGU whose duties permit or require the possession or custody of local funds shall be properly bonded and such officer shall be accountable and responsible for said funds and for safekeeping
  7. local governments shall formulate sound financial plans and the local budgets shall be based on functions, activities and projects in terms of expected results
8. local budget plans and goals shall, as far as practicable, be harmonized with national development plans, goals, strategies in order to optimize the utilization of resources and to avoid duplication in the use of fiscal and physical resources
9. local budgets shall operationalize approved local development plans
10. LGUs shall ensure that theirs respective budget incorporate the requirements of their component units and provide for equitable allocation of resources among those
11. national planning shall be based on local planning
12. fiscal responsibility shall be shared by all those exercising authority over financial affairs, transactions and operations of the LGUs
13. the LGU shall endeavor to have a balanced budget in each fiscal year of operation

Eminent Domain
- Through chief executive and acting pursuant to an ordinance
- For public purpose/use/welfare, for the benefit of the poor and landless
- Payment of just compensation
- Valid and definite offer has been previously made to the owners and such offer was not accepted
- LGU may immediately take possession:
  1. upon filing of the expropriation and
  2. making a deposit with the proper court of at least 15% of the FMV of the property based on current tax declaration of the property
- Amount to be paid for the property shall be determined by proper court based on FMV at the time of TAKING of the property.
- Additional Limitations
  1. exercised by local chief executive, pursuant to VALID ordinance
  2. public use or purpose or welfare, for the benefit of the poor and landless
  3. after valid and definite offer has been made to and not accepted by the owner
- Power of eminent domain is expressly granted to the municipality under the LGC
- What is required by law is an ORDINANCE, not a resolution.
  ➢ Ordinance is a law while a resolution is merely a declaration of sentiment or opinion of a law-making body on a specific matter
  ➢ 3rd reading is needed for an ordinance, not for a resolution unless decided otherwise by a majority of the members of the Sanggunian

Reclassification of Lands
- City/municipality through ordinance passed after conducting public hearings
- Authorize reclassification of agricultural lands
- And provide for the manner of their utilization/disposition
- Grounds:
  1. land ceases to be economically feasible and sound for agricultural purposes as determined by Department of Agriculture
  2. land shall have substantially greater economic value for residential, commercial or industrial purposes, as determined by the sanggunian
Reclassification shall be limited to the following percentage of the total agricultural land area at the time of the passage of the ordinance:
1. highly urbanized cities and independent component cities: 15%
2. component cities and 1st to 3rd class municipalities: 10%
3. 4th to 6th class of municipalities: 5% Provided that agricultural land distributed to land reform beneficiaries shall not be affected by such reclassification.

Closure and Opening of Roads
- Pursuant to an ordinance
- Permanently or temporarily close or open any road, alley, park or square falling within its jurisdiction
- Provided, in case of permanent closure, ordinance must be approved by at least 2/3 of all members of the sanggunian and when necessary, an adequate substitute for the public facility shall be provided.
- Additional limitations:
  1. adequate provision for the maintenance of public safety
  2. property may be used or conveyed for any purpose for which other real property may be lawfully used or conveyed but no freedom parks shall be closed permanently without provision for its transfer or relocation to a new site.
  3. temporary closure may be made during an actual emergency, fiesta celebration, public rallies, etc.
- Municipality has the authority to:
  1. prepare and adopt a land use map
  2. promulgate zoning ordinance
  3. close any municipal road
- Provincial roads and city streets are property for public use and under absolute control of Congress; they are outside commerce of man and cannot be disposed to private persons
- Power to vacate is discretionary on the Sanggunian
- When properties are no longer intended for public use, the same may be used or conveyed for any lawful purpose and may even become patrimonial and subject to common contract.
- City Council has the authority to determine whether or not a certain street is still necessary for public use.

Local Legislative Power
- Exercised by local sanggunian
- Products of legislative action
  1. ordinance – prescribes permanent rule of conduct
  2. resolution – temporary character; expresses sentiment
- Requisites:
  1. not contravene the Constitution or statute
  2. must not be unfair or oppressive
  3. must not be partial or discriminatory
  4. must not prohibit but regulate trade
5. must not be unreasonable  
6. must be general in application and consistent with public policy

- Approval of Ordinances – passed by SANGGUNIANG PANLALAWIGAN, SANGGUNIANG PANLUNGSOD, SANGGUNIANG BAYAN shall be approved by:
  1. the local chief executive, affixing his signature on each and every page
  2. local chief executive vetoes the same and the veto is overridden by 2/3 vote of all the members of the sanggunian.
     - The local chief executive may veto only once.
     - Grounds:
       1. ultra vires
       2. prejudicial to the public welfare
     - He may veto any particular item/s of an:
       1. appropriation ordinance
       2. ordinance/resolution adopting a development plan and public investment program
       3. ordinance directing the payment of money or creating liability
     - The veto shall not affect the item/s not objected to.
     - The veto shall be communicated by the local chief executive to the sanggunian
       - w/in 15 days in case of a province
       - w/in 10 days in case of a municipality
     - Otherwise, the ordinance shall be deemed approved, as if signed

- Grant of veto power accords the Mayor the discretion whether or not to approve the resolution… signature on the resolution is NOT ministerial duty of the Mayor.

- Ordinance enacted by the sangguniang barangay shall, upon approval by a majority of all its members, be signed by the punong barangay → no veto power.

- Review by Sangguniang Panlalawigan
  - w/in 3 days from approval, the secretary of the sangguniang panlungsod (in component cities) or sangguniang bayan shall forward to the sangguniang panlalawigan for review copies of approved ordinances and resolutions.
  - Sangguniang panlalawigan shall review the same w/in 30 days
  - If it finds that it is beyond the power of the sangguniang panlungsod/sangguniang bayan, it shall declare the ordinance/resolution invalid.
  - If no action is taken w/in 30 days, it is presumed consistent w/ law and valid.

- Review of Barangay Ordinance
  - w/in 10 days from enactment, the sangguniang barangay shall furnish copies of all barangay ordinances to the sangguniang panlungsod or sangguniang bayan for review.
If the reviewing sanggunian finds that it is inconsistent with law or city or municipal ordinances, the sangguniang concerned, shall within 30 days return the same with its comments and recommendations to the sangguniang barangay for adjustment, amendment or modification.

- The effectivity of the ordinance is suspended.
- If no action is taken by the reviewing sangguninan within 30 days, the ordinance is deemed approved.

**Enforcement of Disapproved Ordinance/Resolutions**

- Attempt to enforce an ordinance or resolution approving the local development plan and public investment program, after disapproval, shall be sufficient ground for the suspension or dismissal of the official or employee concerned.

**Effectivity**

- Unless otherwise stated in the ordinance/resolution, the same shall take effect AFTER 10 DAYS from the DATE A COPY IS POSTED IN THE BULLETIN BOARD at the entrance of the provincial capitol or city, municipal or barangay hall, and in at least 2 other conspicuous places in the LGU.
- Gist of all ordinance W/ PENAL SANCTIONS shall be
  - PUBLISHED in a newspaper of general circulation within the province where the local legislative body belongs;
  - absence of newspaper of general circulation, POSTING shall be made in all municipalities and cities of the province where the sanggunian of origin is situated.
- In highly urbanized and independent component cities, the main features of the ordinance or resolution duly enacted shall,
  - POSTED,
  - PUBLISHED once in a local newspaper of general circulation within the city;
  - if there is no such newspaper within the city, then PUBLICATION shall be made in any newspaper of general circulation.

Authority over Police Units

- As may be provided by law.

Corporate Powers

- LGUs shall enjoy full autonomy in the exercise of their proprietary functions and in the management of their economic enterprises

1. 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 or personal property
5. Power to enter into contracts
6. To exercise such other powers as are granted to corporations, subject to
   limitations provided in the Code and other laws

Continuous succession in its corporate name

To sue and be sued

- Suit is commenced by the LOCAL EXECUTIVE, upon authority of the
  SANGGUINIAN except when the CITY COUNCILORS, by themselves
  and as representatives of or on behalf of the City bring the action to
  prevent unlawful disbursement of City funds.
- Municipality cannot be represented by a private attorney.
  - Only the Provincial Fiscal or the Municipal Attorney. This is
    mandatory.
  - Exception: when the Provincial Fiscal is disqualified to represent it
    and the fact of disqualification appears on record.
  - Fiscal’s refusal to represent the municipality is not a legal
    justification. The Municipality should request DOJ Secretary to
    appoint an Acting Provincial Fiscal
- The legality of the representation of an unauthorized counsel may be
  raised at any stage of the proceeding.
- Municipal Attorney may validly adopt the work already performed by a
  private lawyer provided that no injustice is committed against the adverse
  party and that no compensation has been paid to the private counsel.

To have and use a corporate seal

- Use, modify or change corporate seal
- Any change shall be registered with DILG

To acquire and convey real or personal property

- LGU may acquire real or personal, tangible or intangible property in any
  manner allowed by law.
- LGU may only alienate patrimonial property, upon proper authority
- Absence of proof that the property was acquired through corporate or
  private funds, the presumption is that it came from the State, thus,
  governmental or public property.
- Town plazas are properties of public domain; they may be occupied
  temporarily but only for the duration of an emergency
- Public Plaza is beyond the commerce of man and cannot be the subject of
  lease or other contractual undertaking
- Public streets or thoroughfares are property for public use, outside the
  commerce of man and may not be the subject of lease or other contracts
- Procurement of supplies is made through public competitive bidding
  - Exception: amount is minimal

Power to enter into contracts
Requisites of Valid Municipal Contracts

1. LGU has the express, implied or inherent power to enter into the particular contract
2. The contract is entered into by the proper department, board, committee, officer, or agent.
   - Unless otherwise provided, no contract may be entered into by the local chief executive without prior authorization by the sanggunian concerned.
3. comply with substantive requirements
4. comply with formal requirements

Ultra Vires Contracts: contracts entered into without compliance with first and third requisites → ultra vires and void.

- Cannot be ratified or validated.
- Ratification of defective municipal contracts is possible only when there is non-compliance with the 2nd and/or 4th requisite.

Does not provide that the absence of an appropriation ordinance ipso facto makes a contract entered into by a LGU null and void. Public funds may be disbursed not only pursuant to an appropriation law, but also pursuant of other specific statutory authority.

Police power prevails over non-impairment clause.

Breach of contractual obligations – city liable for damages

Authority to negotiate and secure grants
- Local chief executive upon authority of the sanggunian
- Negotiate and secure financial grants or donations in kind
- In support of the basic services and facilities in Section 17
- From local and foreign assistance agencies
- Without necessity of securing clearance or approval from any department, agency, or office of the national government or from any higher LGU
- Provided, projects financed by such grant or assistance with national security implications shall be approved by the national agency concerned.

To exercise such other powers as are granted to corporations, subject to limitations provided in the Code and other laws

III. MUNICIPAL LIABILITY

Rule: LGUs and their officials are NOT exempt from liability for DEATH or INJURY to persons or DAMAGE to property

Specific Provisions Making LGUs liable:

1. Article 2189, CC: The LGU is liable in damages for death or injuries suffered by reason of the DEFECTIVE CONDITION of roads, streets, bridges, public buildings and other public works.
- Attaches even if the road does not belong to the LGU, provided that the City exercises control or supervision over said road.
2. Article 2180, CC: The State is responsible when it acts through special agents
3. Article 34, CC: The LGU is subsidiarily liable for damages suffered by a person by reason of the FAILURE or REFUSAL of a member of the POLICE FORCE to render aid and protection in case of danger to life and property.

Liability for Tort – decisions PRIOR to LGC
1. if a LGU is engaged in GOVERNMENTAL functions, it is NOT liable
2. if a LGU is engaged in proprietary function, it is liable
   - City is liable for the tortuous acts of its employees under the principle of respondeat superior
3. Liability for illegal dismissal of employee
   - Absent proof of malice or bad faith which attended the illegal dismissal – cannot be held personally accountable
   - Municipal corporation, whether or not included in the complaint for recovery of back salaries due to wrongful removal from office is liable
4. Local officials may be held personally liable
   - Acted beyond the scope of their authority and with bad faith
   - Must be sued in their personal capacity
   - When they act maliciously and wantonly and injure individuals rather than discharged a public duty, they are personally liable.

Liability for Violation of the Law
1. closed part of a municipal street without indemnification  responsible for damages
2. non-payment of minimum wage to employees
3. refusal to abide by the TRO

Liability for Contracts
1. Rule: A municipal corporation, like an ordinary person, is liable on a contract it enters into, provided that the contract is intra vires.
   - If the contract is ultra vires, the municipal corporation is not liable.
2. a private individual who deals with a municipal corporation is imputed constructive knowledge of the extent of the power of authority of the municipal corporation to enter into contracts.
3. ordinarily, estoppel does not lie against the municipal corporation.
4. Doctrine of Implied Municipal Liability: a municipality may become obligated upon an implied contract to pay the reasonable value of the benefits accepted or appropriated by it as to which it has the general power to contract.
   - Applies to all cases where money or property of a party is received under such circumstances that the general law, independent of an express contract, implies an obligation to do justice with respect to the same.
   - Cannot set up plea that it is ultra vires but still retain the benefits.
   - ESToppel cannot be applied against a municipal corporation in order to validate a contract which the municipal corporation has no power to make or which it is authorized to make only under prescribed limitations or in a
prescribed mode or manner – even if the municipal corporation has accepted benefits.

- If a suit is filed against a local official which could result in personal liability, the latter may engage the services of private counsel.

### IV. LOCAL OFFICIALS

Provisions applicable to elective and appointive local officials

1. **Prohibited Business and Pecuniary Interest**
   - Unlawful for any local government official/EE, directly or indirectly, to:
     1. engage in any business transaction with the LGU which he is an official or employee or over which he has the power of supervisions
     2. hold such interest in any cockpit or other games licensed by the LGU
     3. purchase any real estate or other property forfeited in favor of the LGU for unpaid taxes or by virtue of legal process at the instance of LGU
     4. be a surety for any person contracting or doing business with the LGU for which a surety is required
     5. possess or use any public property of the LGU for private purpose
     6. prohibitions and inhibitions prescribed in RA 6713

2. **Practice of Profession**
   - GOVERNORS, CITY and MUNICIPAL MAYORS are prohibited from practicing their profession or engaging in any occupation other than the exercise of their function.
   - SANGGUNIANS Members may practice their profession, engage in any occupation, or teach in schools EXCEPT during session hours.
     - Provide that those who are also MEMBERS of the BAR shall NOT:
       1. appear as counsel before any court in any civil case wherein the LGU is the adverse party
       2. appear as counsel in any criminal case wherein an officer or EE of the national or local government is accused of an offense committed in relation to his office
       3. collect any fee for their appearance in administrative proceedings involving the LGU
       4. use property and personnel of the government except when the sanggunian member is defending the interest of the government.

    - Prohibition against private practice, if such practice represents interests adverse to the government.
3. DOCTORS of medicine may practice their profession even during OFFICIAL HOURS of work only on occasions of emergency. Provided they do not derive monetary compensation.

3. Prohibition Against Appointment
   1. not eligible for appointment/designation in any capacity to any public office/position during his tenure.
      ➢ Shall not hold any other office or employment in the government, unless otherwise allowed by law or the primary functions of the office.
   2. no candidate who lost in any election shall, within one year after such election be appointed to any office in the government
      ➢ Except: losing candidates in barangay elections

Elective Local Officials
   Qualifications
   1. CITIZENS of the Philippines
   2. REGISTERED VOTER in the barangay, municipality, city, province
      ➢ or in case of a member of the Sangguniang Panlalawigan, Panlungsod or Bayan ➢ the district where he intends to be elected.
   3. RESIDENT therein for at least 1 year immediately preceding the election
   4. able to read and write Filipino or any other local language or dialect
   5. on election day, must be at least
      ➢ 25 – governor, vice-gov, members of the sangguniang panlalawigan, mayor, vice-mayor or members of the sangguniang panlungsod of highly urbanized cities
      ➢ 21 – mayor, vice-mayor of independent component cities, component cities or municipalities
      ➢ 18 – members of the sangguniang panlungsod or sangguniang bayan or punong barangay or member of the sangguniang barangy
      ➢ At least 15 but not more than 21 – sangguniang kabataan
      ➢ “not more than 21” is not equivalent to “less than 22”

Disqualifications
   1. sentenced by final judgment for an offense involving moral turpitude or for an offense punishable by 1 year or more of imprisonment within 2 years after serving sentence
   2. removed from office as a result of administrative case
   3. convicted by final judgment for violating the oath of allegiance to the Republic
   4. dual citizenship
   5. fugitives from justice in criminal or non-political cases here or abroad
   6. permanent residents in a foreign country or those who have acquired the right to reside abroad and continue to avail of the same right after the effectivity of the Code
7. insane or feebele-minded

➢ ELECTIVE LOCAL OFFICIAL removed via administrative case before January 1, 1992 (date of effectivity of the LGC) is NOT disqualified.

Manner of Election
1. Governor, Vice-Governor, City or Municipal Mayor, City or Municipal Vice-Mayor and Punong Barangay → elected at large
2. Sangguniang Kabataan Chairman → elected by registered voters of the katipunan ng kabataan
3. Regular Members of the Sangguniang Panlalawigan, Panlungsod and Bayan → elected by district.
4. Presidents of the leagues of Sangguniang Members of component cities and municipalities → serve as ex-officio members of the sangguniang panlalawigan
5. Presidents of the Liga ng mga Barangay and Pederasyon ng mga Sangguniang Kabataan elected by their respective chapters → serve as ex-officio members of the sangguniang panlalawigan
6. 1 sectoral representative from women, worker and any of the ff:
   a. Urban poor
   b. Indigenous cultural communities
   c. Disabled persons
   d. Any other sectors as may be determined by the sanggunian concerned w/in 90 days prior to the holding of the next local election.

Date of Election
➢ Every 3 years
➢ 2nd Monday of may
➢ Unless otherwise provided by law

Term of Office
➢ 3 years starting from noon of June 30, 1992 OR such date as may be provided by law
➢ Except that of barangay official
➢ No elective local official shall serve for more than 3 consecutive terms in the same position
➢ Term of barangay officials and members of the sangguniang kabataan → 5 years

- 3-term limit on a local official is to be understood to refer to terms for which the official concerned was elected.
- He must have been elected to the same position for the same number of times before the disqualification can apply.
- Prohibited election refers to the next regular election for the same office following the end of the third consecutive term. Any subsequent election, like a recall election, is no longer covered by the prohibition:
1. subsequent election like a recall election is no longer an immediate re-election after three consecutive terms
2. intervening period constitutes an involuntary interruption in the continuity of service

Rules on Succession

- Permanent vacancies:
  1. fills a higher vacant office
  2. refuses to assume office
  3. fails to qualify
  4. dies
  5. removed from office
  6. voluntarily resigns
  7. permanently incapacitated to discharge the functions

a. Governor/Mayor → Vice-Governor/Vice-Mayor
b. Vice-Governor/Vice-Mayor → highest ranking sanggunian member
   OR 2nd highest ranking, and subsequent vacancies shall be filled automatically by the other sanggunian members according to their ranking
   ➢ Ranking in the sanggunian member 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 election.
   ➢ Mode of succession for permanent vacancies may also be applied in cases of temporary vacancies.
c. Punong Barangay → highest ranking sanggunian barangay member
   OR 2nd highest
   ➢ Tie between or among the highest ranking sanggunian members shall be resolved by drawing lots.
d. Sanggunian member → where automatic succession do not apply:
   1. appointment by PRESIDENT, through Executive Secretary in the case of Sangguniang Panlalawigan or Panlungsod of highly urbanized cities and independent component cities
   2. appointed by GOVERNOR → sangguniang panlungsod of component cities and the sangguniang bayan
   3. appointed by CITY or MUNICIPAL MAYOR → sangguniang barangay upon recommendation of the sangguniang barangay concerned

   ➢ 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.
A nomination and a certificate of membership of the appointee from the highest official of the political concerned are conditions sine qua non.

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

Reason: to maintain party representation

Recommendation by the sanggunian takes the place of nomination by the political party (since members of the sanggunian barangay are prohibited to have party affiliation) and is considered condition sine qua non.

Vacancy in the representation of the youth and the barangay in the sanggunian filled automatically by the official next in rank of the organization concerned.

Member of the Sangguniang Kabataan who obtained the next highest number of votes shall succeed as Chairman if the latter:

1. refuses to assume office
2. fails to qualify
3. convicted of a crime
4. voluntarily resigns
5. dies
6. permanently incapacitated
7. removed from office
8. has been absent without leave for more than 3 consecutive months

* ineligibility is not one of the causes enumerated in LGC

Temporary Vacancies

Governor/City or Municpal Mayor/Punong Barangay is temporarily incapacitated, due to but not limited to:

1. leave of absence
2. travel abroad
3. suspension from office

Vice governor/city or municipal vice-mayor or the highest ranking sanggunian barangay member shall automatically exercise the powers and perform the duties EXCEPT:

1. power to appoint
2. power to suspend
3. power to dismiss
* which can be exercised only if the period of temporary incapacity exceeds 30 working days.

- Temporary incapacity shall terminate upon submission to the appropriate sanggunian of a written declaration that he has reported back to office.
- If temporary incapacity due to legal causes shall also submit necessary documents showing that legal cause no longer exists.

If local chief executive traveling within the country but outside his territorial jurisdiction for a period not exceeding 3 consecutive days, he may designate in writing the officer-in-charge of the office.

- Such shall specify the powers and functions
- If the local chief executive refuses to issue such authorization, the vice governor/city or municipal vice-mayor or the highest ranking sanggunian barangay member shall have the right to assume on the 4th day of the absence of the local chief executive EXCEPT

1. power to appoint
2. power to suspend
3. power to dismiss

Compensation
- determined by the Sanggunian concerned
- elective barangay official:
  1. honoraria
  2. allowances and other emoluments, which in no case less that P1,000/month for the punong barangay and P600 for the sangguniang barangay members
- Elective local officials entitled to the same leave privileges as those enjoyed by appointive local officials, including cumulation and commutation

Resignation
- deemed effective upon acceptance by the ff:
  1. President – governor/vice-gov/mayor/vice-mayor of highly urbanized cities and independent component cities
  2. Governor – municipal mayors/vice-mayors/city mayors/vice-mayors of component cities
  3. Sanggunian concerned – sanggunian members
  4. city or municipal mayor – barangay officials

- resignation is deemed accepted if not acted upon within 15 working days from receipt
- irrevocable resignations by sanggunian members shall be deemed accepted upon
  1. presentation before an open session
  2. duly entered in its record
3. EXCEPTION: where sangguniang members are subject to recall elections or to cases where existing laws prescribe the manner of acting upon such resignations.

Grievance Procedure
- Local chief executive shall establish procedure

 Discipline
Grounds – disciplined/suspended/removed
1. Disloyalty to the Philippines
2. Culpable violation of the Constitution
3. Dishonesty, oppression, misconduct in office, gross negligence, or dereliction of duty
   - Acts of lasciviousness cannot be considered misconduct; to constitute a ground for disciplinary action, official charged with the offense must be convicted in the criminal action
4. Commission of any offense involving moral turpitude or an offense punishable by at least prision mayor
5. abuse of authority
6. unauthorized absence of 15 consecutive working days except in the case of members of the sangguniang panlalawigan, panlungsod, bayan and barangay
7. application for, or acquisition of, foreign citizenship or residence or the status of an immigrant of another country
8. other grounds as may be provided in this code and other laws

- An elective local official may be removed from office on the above grounds by order of the proper court.

Complaints – verified complaint against;
1. provincial/highly urbanized city or independent component city elective official → filed before Office of the President
2. Elective municipal officials → filed before Sangguniang Panlalawigan → appealable to Office of the President
3. Elective barangay official → filed before Sangguniang Panlungsod or Sangguniang Bayan → final and executory

PROVINCIAL/HIGHLY URBANIZED CITY OR INDEPENDENT COMPONENT CITY ELECTIVE OFFICIAL → FILED BEFORE OFFICE OF THE PRESIDENT

- Local governments under supervision of the Executive.
- The Constitution allows Congress to include in LGC provisions for removal of local officials; LGC has delegated its exercise to the President.
- President has delegated the power to investigate complaints to the Secretary of DILG → alter ego principle
- Right to formal investigation – appeal and defend himself in person or by counsel; confront witnesses against him; compulsory process for the attendance of witnesses and the production of documents.

**ELECTIVE MUNICIPAL OFFICIALS ➔ FILED BEFORE SANGGUJNIANG PANLALAWIGAN ➔ APPEALABLE TO OFFICE OF THE PRESIDENT**

- On appeal from decision of the Sanggunian Panlalawigan, the President may stay execution of appealed decision
- Decision of Sanggunian Panlalwigan must be:
  1. in writing
  2. state clearly and distinctly the facts and the reasons for the decisions
  3. signed by the requisite majority of the sanggunian

**ELECTIVE BARANGAY OFFICIAL ➔ FILED BEFORE SANGGUJNIANG PANLUNGSOD OR SANGGUJNIANG BAYAN ➔ FINAL AND EXECUTORY**

Preventive Suspension may be imposed by the PRESIDENT, GOVERNOR or MAYOR
- any time after the issues are joined
- evidence of guilt is strong
- given the gravity of the offense
- there is great probability that the continuance in office could influence the witnesses or pose threat to the safety and integrity of the records and other evidence
- Provided, single preventive suspension shall not extend beyond 60 days
- In the event that several administrative cases are filed, he cannot be suspended for more than 90 w/in a single year on the same ground or grounds existing and known at the time of the first suspension.

- Authority to preventively suspend is exercised concurrently by the Ombudsman ➔ six (6) months
- The preventive suspension of an elective local official by the Sandiganbayan shall only be for 60 days and not 90 days.
- Upon expiration of preventive suspension, officer shall be REINSTATED to office without prejudice to the CONTINUATION OF THE PROCEEDINGS which shall be terminated within 120 days from the time he was formally notified of the case against him.
- Abuse of exercise of power of preventive suspension ➔ abuse of authority

**Penalty**
- Penalty of suspension shall not exceed his unexpired term or a period of 6 months for every administrative offense
- Nor shall penalty be a bar to candidacy as long as he meets requirements
- Penalty of removal from office as a result of an administrative case shall be a bar to the candidacy for any elective office.
- Not more than 6 months for each offense; provide, the total does not exceed the unexpired portion of his term

Administrative Appeal – w/in 30 days from receipt
1. to Sangguniang Panlalawigan → component cities’ sangguniang panlungsod and sangguniang bayan
2. to OP → Sangguniang Panlalawigan and Sangguniang Panlungsod of highly urbanized cities and independent component cities
   - decisions of OP – final and executory
   - administrative appeal to OP is possible; only means that administrative appeal will not prevent enforcement of the decision

Execution Pending Appeal
- appeal shall not prevent decision from being executed
- during pendency of appeal – shall be considered as having been placed under preventive suspension
- OP may stay execution of a decision pending appeal

Effect of Re-election
- Bars continuation of administrative case against him
- Re-election is tantamount to condonation by the people

Appointive Local Officials

    Responsibility for human resources and development
    - Local chief executive
    - May employ emergency or casual employees or laborers paid on daily wage or piecework basis and hired through job orders for local projects authorized by sanggunian, without need of approval from CSC
    - Said employment shall not exceed 6 months.

Officials Common to all Municipalities/Cities/Provinces
1. Secretary to the Sanggunian
2. Treasurer
3. Assessor
4. Accountant
5. Budget Officer
6. Planning and Development Coordinator
7. Engineer
8. Health Officer
9. Civil Registrar
10. Administrator
11. Legal Officer
12. Agriculturist
13. Social Welfare and Development Officer
14. Environment and Natural Resources Officer
15. Architect
16. Information Officer
17. Cooperatives Officer
18. Population Officer
19. Veterinarian
20. General Services Officer

- In the barangay, mandated appointive officials:
  1. Barangay Secretary
  2. Barangay Treasurer

Administrative Discipline – in accordance with civil service law and other pertinent laws
1. Preventive Suspension
   - Local chief executive
   - Period not exceeding 60 days
   - Any subordinate officer or employee under his authority
   - Pending investigation
   - If the charge involves:
     1. dishonesty
     2. oppression
     3. grave misconduct
     4. neglect in the performance of duty
     5. or if there is reason to believe that respondent is guilty of the
        charges which would warrant removal

2. Disciplinary Jurisdiction
   - Local chief executive may impose penalty of:
     1. removal
     2. demotion in rank
     3. suspension for not more than 1 year without pay
     4. fine in an amount not exceeding 6 months’ salary
     5. reprimand
   - If penalty is suspension without pay for not more than 30 days, decision
     shall be final.
   - If heavier, appealable to CSC which shall decide the appeal within 30 days
     from receipt.

- Disciplinary authority over City Revenue Officer  City Treasure NOT Mayor.

V. INTER-GOVERNMENTAL RELATIONS

National Government
Power of General Supervision
- President over LGUs
- Supervisory authority directly over provinces, highly urbanized cities and
  independent component cities.
- Through the Province with respect to component cities and municipalities
Through City and Municipality with respect to barangays

Coordination with National Agencies
- National agencies and offices with project implementation functions shall coordinate with one another and with the LGU
- Ensure participation of LGU in planning and implementation of national projects.

Consultation
- Before project or program shall be implemented:
  1. consultation
  2. prior approval of sanggunian
- Provided, occupants in areas where such projects are to be implemented shall not be evicted unless appropriate relocation sites have been provided.

Philippine National Police
- Operational supervision of local chief executive → police force, fire protection unit and jail management personnel

Inter-Local Government Relations
- Province through Governor
  - Ensure that every component city and municipality within its territorial jurisdiction acts within the scope of its prescribed powers
  - Highly urbanized cities and independent component cities shall be independent of the province.
  - Governor shall review all EO's promulgated by the component city or municipal mayor within its jurisdiction.
  - The city or municipal mayor shall review all EO's promulgated by the punong barangay within his jurisdiction.
  - Failure to act within 30 days from submission → deemed consistent with law and therefore valid.
- In the absence of a municipal legal officer, municipal government may secure opinion of provincial legal officer; absence of the latter, provincial prosecutor.
- City or Municipal Mayor → exercise general supervision over component barangays
- LGUs may through appropriate ordinance group themselves, consolidate or coordinate their efforts/services/resources for purposes commonly beneficial to them.
  - Contribute fund upon approval by sanggunian after public hearing

People’s and Non-Governmental Organizations
- LGU’s shall promote their establishment to become active partners in the pursuit of local autonomy.
- LGUs may enter into joint ventures and other cooperative arrangements with People’s and Non-Governmental Organizations to engage in the delivery of basic services.
LGU, through local chief executive with concurrence of sanggunian, provide assistance – financial or otherwise – to People’s and Non-Governmental Organizations for economic, socially-oriented, environmental or cultural projects to be implemented within its territorial jurisdiction.

Mandated Local Agencies

1. Local School Board
2. Local Health Board
3. Local Development Council
4. Local Peace and Order Council

Settlement of Boundary Disputes

1. Boundary Disputes between and among LGUs
   - Settled amicably
   - Rules
     a. Involving 2 or more barangays in the same city/municipality – referred to Sangguniang Panlungsod or Sangguniang Bayan
     b. Involving 2 or more municipalities in the same province – referred to Sangguniang Panlalawigan
     c. Involving municipalities or component cities in different provinces – jointly referred to the sanggunians of the provinces
     d. Involving a component city or municipality on the one hand and a highly urbanized city on the other, or 2 or more highly urbanized cities – jointly referred to the respective sanggunians of the parties

2. Sanggunian fails to effect a settlement within 60 days from the date the dispute was referred to it, it shall issue a certification.
3. Dispute shall then be formally tried by the sanggunian, which shall decide the issue within 60 days from the date of the certification.
4. within the time and manner prescribed by the ROC, any party may elevate the decision of the sanggunian concerned to the proper RTC having jurisdiction over the area in dispute which shall decide the appeal within 1 year from filing.
5. Settlement of boundary dispute between a municipality and an independent component city in the same province → RTC in the province that can adjudicate the controversy.
6. The boundaries must be clear for they define the limits of the territorial jurisdiction of the LGU. It can legitimately exercise powers of government only within the limits of its territorial jurisdiction. Beyond these limits, its acts are ultra vires.

VI. LOCAL INITIATIVE AND REFERENDUM

Local Initiative

- It is the legal process whereby the registered voters of a local government unit may directly propose, enact or amend any ordinance.
It may be exercised by all registered voters.

Procedure

1. Petition filed with the sanggunian proposing the adoption, enactment, repeal or amendment of an ordinance
   - Not less than 2,000 registered voters in the region
   - Not less than 1,000 registered voters in cases of provinces and cities
   - Not less than 100 voters in case of municipalities
   - Not less than 50 voters in case of barangays
2. If no favorable action taken, within 30 days from presentation, the proponents through their duly authorized and registered representatives, may invoke their power of initiative, giving notice to the sanggunian concerned.
3. The proposition shall be numbered serially – starting from Roman Numeral I. Two or more propositions may be submitted in an initiative. The COMELEC or designated representative shall extend assistance in the formulation of the proposition.
4. Proponents collect the required number of signatures within
   - 90 days in case of provinces and cities
   - 60 days in case of municipalities
   - 30 days in case of barangays
   - From NOTICE
5. The petition shall be signed before the election registrar or his representative, in the presence if the a representative of a proponent and a representative of the sanggunian in a public place in the local government unit.
6. Lapse of the period, COMELEC shall certify as to whether the required the number of signatures has been obtained. Failure to obtain the required number of signatures. Failure to obtain the required number of signatures defeats the proposition.
7. If required number is obtained, the COMELEC shall set a date for the initiative during which the proposition is submitted to the registered voters for their approval:
   - w/in 60 days in case of provinces
   - w/in 45 days in case of municipalities
   - w/in 30 days in case of barangays
   - from date of CERTIFICATION by COMELEC.
   The initiative shall be held on the date set, after which the results shall be certified and proclaimed by the COMELEC.
8. If the proposition is approved by a majority of the votes cast, it shall take effect 15 days after certification by the COMELEC.

Limitations

On Local Initiative

1. not be exercised more than once a year
2. extend only to subjects or matters which are within the legal powers of the sanggunian to enact
3. at any time before the initiative is held, the sanggunian 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 apply for initiative.

On the Sanggunian

- Any proposition or ordinance approved through an initiative and referendum shall not be repealed, modified or amended by the sanggunian w/in 6 months from date of approval.
- Amended, modified or repealed w/in 3 years by a vote of all its members.
- In case of barangays, the period shall be 18 months after the approval.

Local Referendum

- Legal process whereby the registered voters of the LGUs may approve, amend or reject any ordinance enacted by the sanggunian.
- The local referendum shall be held under the control and direction of the COMELEC:
  1. w/in 60 days in case of provinces
  2. w/in 45 days in case of municipalities
  3. w/in 30 days in case of barangays
- COMELEC shall certify and proclaim the results of the said referendum.

Authority of Courts

- Nothing shall preclude the proper courts from declaring null and void any proposition approved pursuant for violation of the Constitution or want of capacity of the Sanggunian concerned to enact said measure.

VII. LOCAL GOVERNMENT UNITS

The Barangay

Chief Officials and Offices

- There shall be in each barangay:
  1. PUNONG BARANGAY
  2. 7 SANGGUNIANG BARANGAY MEMBERS
  3. The SANGGUNIANG KABATAAN CHAIRMAN
  4. BARANGAY SECRETARY
  5. BARANGAY TREASURER
  6. LUPONG TAGAPAMAYAPA

- The Sangguniang Barangay may form brigades and create such other positions or offices as may be deemed necessary to carry out the purposes of the barangay government.
- 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 may be designated by law or ordinance and charged with maintenance, protection and security, and any barangay members who comes to the aid of persons in authority shall be deemed agents of persons in authority.

- Barangay Chairman is a public officer who may be charged with arbitrary detention.
- Barangay Chairman entitled to possess and carry firearms within the territorial jurisdiction of the barangay.

The Barangay Assembly

- Composed of:
  1. All persons who are actual residents of the barangay for at least 6 months,
  2. 15 years of age or over
  3. Citizens of the Philippines
  4. Duly registered in the list of barangay assembly members

- Meet at least 2x a year to hear and discuss the semestral report to the sangguniang barangay concerning its activities and finances and problems affecting the barangay.

Katarungang Pambarangay

Lupong Tagapamayapa

- Punong barangay as chairman
- 10 to 20 members
- Constituted every 3 years

Powers of the Lupon

1. Exercise administrative supervision over the conciliation panels
2. Meet regularly once a month to provide a forum for exchange of ideas among its members and the public of matters relevant to the amicable settlement of disputes, and to enable various conciliation panel members to share with one another their observations and experiences in effecting speedy resolution of disputes
3. Exercise such other powers and perform such other duties and functions as may be prescribed by law or ordinance

Pangkat ng Tagapagkasundo

- Conciliation panel or Pangkat ng Tagapagkasundo shall be constituted for each dispute brought before the lupon.
- Consists of 3 members
  - Chosen by the parties to the dispute
  - From list of members of the lupon
  - Should the parties fail to agree on the pangkat membership, the same shall be determined by lots drawn by the lupon chairman

Subject Matter of Amicable Settlement
1. procedure
2. conciliation
3. arbitration
4. effects of settlement and arbitration award

Sangguniang Kabataan
- Creation: There shall be in every barangay a Sangguniang Kabataan
  1. a Chairman
  2. 7 Members
  3. a secretary
  4. a treasurer
- An official who, during his term of office, shall have passed the age of 21 shall be allowed to serve the remaining portion of the term for which he was elected.

Katipunan ng Kabataan
- Shall be composed of:
  1. all citizens of the Philippines actually residing in the barangay for at least 6 months
  2. who are 15 but not more than 21 years of age
  3. duly registered in the list of the sangguniang kabataan or in the official barangay list in the custody of the barangay secretary.
- It shall meet once every 3 month, or at the call of the sangguniang kabataan chairman, or upon written petition of at least 1/20 of its members.

Pederasyon ng mga Sangguniang Kabataan
- There shall be an organization of all the pederasyon ng mga sangguniang kabataan:
  1. in municipalities → pambayang pederasyon
  2. in cities → panlungsod ng pederasyon
  3. in provinces → panlalawigang pederasyon
  4. special metropolitan political subdivision → pangmetropolitang pederasyon
  5. on national level → pambansang pederasyon

Leagues of Local Government Units/Officials
- Liga ng mga Barangay
  ➢ Organization of all the barangays for the primary purpose of determining the representation of the Liga in the sanggunians
  ➢ And for ventilating, articulating and crystallizing issues affecting barangay government administration and securing, through proper and legal means, solutions.
  ➢ Liga is empowered to create such other positions as may be deemed necessary.

League of Municipalities
- Organized for the primary purpose of ventilating, articulating and crystallizing issues affecting municipal government administration, and securing through proper and legal means, solutions.