

MALACAÑAN PALACE
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER NO. 98

CREATING A NATIONAL URBAN PLANNING COMMISSION AND DEFINING
ITS POWERS AND DUTIES

WHEREAS, many of our cities have been destroyed on account of war operations and it is necessary that plans be prepared for their rebuilding; and

WHEREAS, city planning is now a recognized governmental function; and

WHEREAS, the substance of this Order embodies the provisions of the National Urban Planning bill which was passed by the Congress of the Philippines in its last Second Special Session, but was subject to presidential veto because the bill was rendered unconstitutional by the inclusion of two members of the Congress of the Philippines on the commission;

NOW, THEREFORE, I, SERGIO OSMEÑA, President of the Philippines, by virtue of the powers vested in me by the Constitution and existing laws of the Philippines, do hereby create a National Urban Planning Commission to prepare general plans, zoning ordinances, and subdivision regulations, to guide and accomplish a coordinated, adjusted, harmonious reconstruction and future development of urban areas which will in accordance with present and future needs, best promote health, safety, morals, order, convenience, prosperity, and general welfare, as well as efficiency and economy in the process of development; including among other things, adequate provisions for traffic, the promotion of safety from fire and other dangers, adequate provision for light and air, the promotion of healthful and convenient distribution of populations; the promotion of good civic design and arrangement, economic, wise, efficient and equitable expenditure of public funds, and the adequate provision of public utilities and other public requirements.

Section 1. Definitions. - "Building" means any structure for the shelter, housing, or enclosure of any person, animal or chattel.

"Commission" means the National Urban Planning Commission of the Philippines created by this Order.

"Land" includes both land and water, the air above them or the land beneath them.

"Legislative body" includes any Provincial, Chartered City, or Municipal Council or Board and the Congress of the Philippines.

"Plat" includes plat, plan, plot or replot.

"Street" means, relates to and includes roads, streets, highways, avenues, boulevards, freeways, parkways, lanes, alleys or other ways or any part or parts thereof.

"Subdivision" means the division of a tract or parcel of land into two or more lots, sites or other divisions for the purpose, whether immediate or future, of sale or building development, and includes resubdivision, and, when appropriate to the context, relates to the process of subdividing or to the land or area subdivided.

"Three-fourths vote" means three-fourths of the total number of votes which all the members of any legislative body is entitled to cast except that in the case of the Congress of the Philippines three-fourths of any quorum shall constitute a three-fourths vote.

"Urban area" means such areas as, from time to time, may be so designated by the Commission and includes each political entity thereof.

Sec. 2. Composition of the Commission. - The National Urban Planning Commission shall have a permanent head to be known as Director of Planning with the rank and salary of an Undersecretary of Department, who shall be appointed by the President with the consent of the Commission on Appointments.

The Commission shall be composed of a chairman and five members to be appointed by the President with the consent of the Commission on Appointments, for a term of six years, and shall receive a per diem not exceeding twenty pesos for each meeting actually attended. In making the first appointment of the members of the Commission, two shall be appointed for a period of two years, two members for a period of four years, and two members for a period of six years. The members of the Commission shall be subject to removal at the will of the President, and in case of any vacancy in the membership of the Commission, a successor shall be appointed to serve only for the unexpired portion of the term of the respective member. In the absence of the chairman, the Commission may designate one of its members as temporary chairman.

The National Urban Planning Commission shall be under the direct control and supervision of the President of the Philippines. The President may designate any of his technical advisers, or officials of any Executive Department to act as advisers to the Commission.

Sec. 3. Powers and duties of the Commission. - (a) The Commission shall designate land areas as urban areas and may, from time to time, amend such designation so as to enlarge or decrease the land area included in an urban area. Each urban area may include one or more barrios, "Centro de Poblacion," municipalities, and chartered cities, their environs, and such other areas as the Commission may determine to be a present or future functional part thereof. Any urban area which is composed of more than one political unit may be designated by its principal unit preceded by the word "metropolitan." Such designation by the Commission shall in no way affect existing political boundaries or jurisdictions.

(b) The Commission shall make and adopt or cause to be made or adopted:

(1) General Plans, either as a whole or in sections, from time to time, which it may from time to time amend, extend or add to, for the physical development of urban areas or any part thereof, accompanied with maps, plats, charts, and descriptive explanatory matter, showing the Commission's recommendations for the said physical development of urban areas including among other things, the general location, character, and extent of streets, parking spaces, viaducts, bridges, waterways, water fronts, boulevards, parkways, playgrounds, squares, parks, aviation fields, and other public ways, ground and open spaces; the general location and extent of areas suitable for residential development subsidized in whole or in part by public funds or assistance; the general location of public buildings and properties; the general location and extent of public utilities, terminals, and markets, whether publicly or privately owned or operated, for water supply, power, sanitation, transportation, communication, distribution and other purposes; the acceptance, widening, removal, extension, relocation, narrowing, vacating, abandonment, or change of use of any of the foregoing public ways, grounds, places, open spaces, buildings, properties, utilities, terminals, or markets;

(2) Regulations establishing in urban areas or any part thereof by district or zones the use and development of public and private lands and buildings for such purposes as industry, trade, transportation, residence, public or semi-public and civic activities, parks and recreation; and for buildings including the height of, and area covered by buildings; the density of population and of occupancy; business and advertising signs, in connection with which, restrictions regarding such factors as size and projection over street lines may be adopted; proportion of the lot on which buildings may be constructed; and sizes of lots, courts, and other open spaces and the minimum distance of buildings from streets and adjoining properties; and

(3) Regulations which shall govern the subdivision of land in any urban area or part thereof. Such regulations referring to the form of development proposed may include provisions for streets; for light, air, and density of population and of occupancy; for water, drainage, and sanitary facilities; for lot sizes and shapes; for obligatory reservations of a reasonable minimum area for schools, parks, and other public purposes, and for the extent and manner in which these facilities shall be installed as a condition precedent to the approval of a plat, all of which provisions shall promote a sound relationship between any such proposed development and the uses of the surrounding land. The Commission shall appoint the City or District Engineer, as the case may be, having jurisdiction of the area affected by any subdivision regulations to act as the Administrative Agency to administer the same in accordance with this Order.

(c) The Commission may require all public officials to furnish to it, within a reasonable time, such available information as may be necessary and proper for its work and may arrange with such officials for such joint or special studies as may be of mutual concern. The Commission may call upon public officials for the purpose of coordinating specific plans which have been prepared by them and which affect the development of urban areas. The Commission, its members and employees, in the performance of its work, may enter any land after due notice to the owner or administrator thereof and make examinations and surveys and place and maintain necessary monuments and markers thereon. The Commission may accept and expend gifts for making special studies under this Order and may utilize such assistance as may be made available to it by other public and private agencies.

(d) The Commission shall have power to cooperate with the National Housing Commission in the location of housing projects and the elimination of substandard housing conditions, the alleviation of blighted residential areas, and the conservation of existing high standard residential areas for the promotion of the general plan and in connection therewith to conduct such surveys and studies as are necessary.

(e) In general, the Commission shall have such powers as may be necessary to enable it to perform its purposes and promote urban planning.

(f) The Commission shall adopt rules for its transactions, findings and determinations, which shall be of public record.

Sec. 4. Planning Director and Staff. - The Director of Planning shall be at the same time the Executive Officer of the Commission. He shall:

(a) Have full charge and control of all technical work of the Commission as well as the proper administration of its affairs.

(b) Appoint, subject to the approval of the Commission and the Bureau of Civil Service, prescribe their duties and fix their salary or compensation, such planners, engineers, architects, landscape architects, economists, sociologists, attorneys and other technical and clerical employees as may be required and within the appropriation available therefor and may, subject to the approval by the Commission, contract for, temporarily, without regard to the Civil Service Act, the necessary services of any Consultants.

(c) Prepare for official action by the Commission (1) General Plans as described in this Order, for the physical development of urban areas, amendments to such general plans, including all resolutions, maps, diagrams, charts and reports which may be necessary or advisable in making the same; (2) all proposed zoning regulations and requirements and amendments thereto for urban areas establishing the necessary districts or zones in connection therewith including all resolutions, maps, charts and diagrams which may be necessary or advisable in the making of such zoning regulations; (3) all proposed subdivision regulations and requirements relative to the design and improvement of subdivisions of land in urban areas including all resolutions, maps charts and diagrams which may be necessary or advisable in the making of such subdivision regulations.

(d) Undertake such other duties as may be necessary and proper in carrying out the policies of the Commission.

Sec. 5. Public Hearing. - Before adopting or amending any resolution, regulation or general plan, the Commission shall hold a public hearing after giving public notice of the time, place and nature thereof in the manner that the Commission shall deem adequate.

Sec. 6. Legal Status of General Plans. - Wherever the Commission shall have adopted a General Plan, amendment, extension or addition thereto of any urban area or any part thereof, then and thenceforth no street, park or other public way, ground, place, or space; no public building or structure, including residential buildings subsidized in whole or part by public funds or assistance; or no public utility whether publicly or privately owned, shall be constructed or authorized in such urban area until and unless the location and extent thereof conform to said general plan or have been submitted and approved by the Commission, except that the Commission may delegate its authority to approve to the District Engineer of

the Engineering District in which said urban area or any part thereof is located: Provided, That in case of disapproval, the Commission or the District Engineer, as the case may be, shall communicate the reasons for such disapproval to the legislative body authorizing the construction of or constructing any such improvement: And provided, further, That such legislative body may overrule such disapproval by three-fourths vote and upon such overruling shall have the power to proceed. The widening, narrowing, relocation, vacating, change in the use, acceptance, acquisition, sale or lease of any street or other public way, ground, place, property or structure shall be subject to similar submission and approval, and the failure to approve may be similarly overruled. The failure of the Commission or such District Engineer as the case may be, to act within thirty (30) days from and after the date of such official submission shall be deemed approval.

Sec. 7. Legal Status of Zoning Regulations. - (a) Any resolution of the Commission adopting zoning regulations for any urban area or any part thereof, or amending or repealing any zoning regulation, shall be filed with the President of the legislative body having jurisdiction over the area affected by said resolution. Unless said legislative body shall disapprove such resolution by a three-fourths vote within thirty (30) days from the date of filing it shall thereupon take effect and shall supersede any similar regulations of said urban area or any part thereof effective at the date such regulation takes effect. Disapproval of any such resolution shall not be effective unless it is filed with the Chairman of the Commission together with a statement in writing giving the reasons for such disapproval.

Such regulations, once they become effective as adopted by resolution of the Commission may be amended, repealed or added to only in the following manner: The Commission may upon its own initiative at any time or upon application as provided in the following paragraph (b), adopt a resolution for any such purpose. Any such resolution shall be filed with the President of the legislative body having jurisdiction over the area affected by said resolution. Unless said legislative body shall disapprove said resolution by a three-fourths vote within thirty (30) days from the date of filing it shall thereupon take effect. Disapproval of any such resolution shall not be effective unless it is filed with the Chairman of the Commission together with a statement in writing giving the reasons for such disapproval.

(b) Applications for change in any resolution or regulation referred to in the preceding paragraph (a), may be filed at any time by any taxpayer of the urban area or part thereof affected by such resolution or regulation with the legislative body having jurisdiction over such urban area or part thereof. The legislative body concerned shall refer the matter to the Commission for appropriate recommendation.

(c) In case any building or structure is or is proposed to be erected, constructed, reconstructed, altered, converted and maintain or any building, structure or land is or is proposed to be used in violation of any resolution or regulation which is in effect in accordance with this Order, the Zoning Administrator, the Legislative Body or other appropriate authority of the province, city or municipality, as the case may be, or any adjacent or neighboring property owner who would be specially damaged by such violation, may, in addition to other remedies, institute injunction, mandamus or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use, or to correct or abate such violation or to prevent the occupancy of said building, structure or land.

Sec. 8. Legal Status of Subdivision Regulations. - (a) Any resolution of the Commission adopting or amending subdivision regulations for any urban area or any part thereof shall be filed with the President of the legislative body having jurisdiction over the area affected by said resolution. Unless said legislative body shall modify or disapprove such resolution by a three-fourths vote within thirty (30) days from the date of filing, it shall thereupon take effect and shall supersede any similar regulations of said urban area or any part thereof effective at the date such regulations take effect.

(b) From and after the time when any such subdivision regulations are in effect, then no plat or subdivision shall be filed for record or recorded, no buildings shall be erected, no land sold, leased or contracted to be sold or leased, and no permit issued until such plat or subdivision shall have been approved by the Administrative Agency designated by the Commission to administer the same and such approval endorsed in writing on the plat or subdivision.

(c) Each such Administrative Agency shall approve or disapprove the plat within sixty (60) days after the submission thereof; otherwise such plat shall be deemed to have been approved and a certificate to that effect shall be issued by said Administrative Agency on demand: Provided, however, That the applicant may waive this requirement and consent to the extension of such period. The grounds of disapproval of any plat shall be stated upon the records of said Administrative Agency.

(d) From and after the time when any such subdivision regulations are in effect no building permit shall be issued for or no building shall be erected on any lot within the land area affected by such subdivision regulations unless the street giving access to the lot upon which said building is proposed to be placed (1) shall have been accepted or

opened as, or shall have otherwise received the legal status of, a public street prior to that time or (2) corresponds in its location and lines with a street shown on a subdivision plat approved by the said Administrative Agency or (3) corresponds with a street duly located or accepted by the legislative body having jurisdiction over the area affected by such division regulations. Any building erected or to be erected in violation of this Section shall be deemed an unlawful structure, and an ejection, removal or injunction proceeding may be brought by the said Administrative Agency to enjoin such erection or cause it to be vacated or removed.

(e) In considering subdivisions of land the said Administrative Agency shall be guided by the desirability of avoiding land subdivision in areas which are unready for such development because of lack of facilities, distance from other built-up areas, or other similar social, economic and physical deficiencies.

Sec. 9. Zoning Administrator. - There is hereby created the office of Zoning Administrator for each urban area or part thereof affected by zoning regulations adopted pursuant to this Order. For urban areas of over one hundred thousand population said Zoning Administrator shall be appointed by the Director of Planning, subject to the approval of the Commission and the Director of Civil Service. For other urban areas the Zoning Administrator shall be the district engineer of the Engineering District in which such urban area is situated. Each Zoning Administrator shall have the power:

(a) To administer and enforce all zoning resolutions and regulations.

(b) To investigate all applications of property owners, including leases, for changes to zoning ordinances and make report thereon and recommendation in respect thereto to the Director of Planning and the Commission.

(c) To investigate, hear and determine all applications for variances from the rules, regulations, restrictions and requirements of any zoning resolutions and to grant such variances as may be in harmony with the general and specific rules therein contained and subject to such conditions and safeguards as he may impose. He shall have authority to grant variances only when practical difficulties, unnecessary hardships or losses inconsistent with the general purposes of the zoning regulations may result from the strict and literal interpretation and enforcement of the provisions thereof, and before any variance may be granted, it shall appear and the Zoning Administrator shall specify in his findings the facts in each case which shall establish beyond a reasonable doubt:

(1) That there are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property that do not apply generally to the property or class or uses in the same district or zone; and

(2) That such variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner; possessed by other property in the same zone and vicinity; and

(3) That the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in such zone or district in which the property is located; and

(4) That the granting of such variance will not adversely affect any general plan.

The decision of the Zoning Administrator shall be final except that appeal therefrom may be taken to the appropriate Court of First Instance having jurisdiction over the area affected by any person aggrieved, by the Director of Planning or by any officer, board, department or bureau of the appropriate political unit of the urban area. Upon making a ruling or decision upon any matter under his jurisdiction, the Zoning Administrator shall forthwith furnish a copy thereof to the applicant, to the Director of Planning, and to the Commission. No variance granted by the Zoning Administrator shall become effective until after a period of thirty (30) days has elapsed during which time an appeal may be filed with the above mentioned Court. An appeal stays all proceedings in furtherance of the action appealed from.

Sec. 10. Local Planning. - The Commission may delegate in writing to a local Planning Commission that may be established in one or more provinces, chartered cities or municipalities such of its powers and duties for such period of time and under such conditions as the Commission may deem proper. The Commission may also determine the organization of any local Planning Commission and specifically limit the area or scope within which a particular power or duty may be exercised by a local Planning Commission, and may require that any General Plans, resolutions, regulations, plans, or plats recommended or adopted by a local Planning Commission be submitted to it for approval. The local Planning Commission shall observe the same procedural restrictions that this Order provides for actions of the Commission and a local Planning Commission shall have the same relationship to the appropriate legislative body as the Commission.

Sec. 11. Appropriation. - To carry out the purposes of this Order there is hereby appropriated the sum of ₱50,000.00. This sum is to be taken from any savings in the Office of the President and other departments and agencies, as may be available from appropriations under Commonwealth Act Nos. 674 and 723, as certified by the Commissioner of the Budget.

Sec. 12. Reports. - The Commission shall render to the President an annual report and such other reports as, from time to time, it may deem advisable or as may be requested.

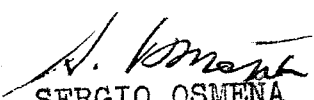
For the purpose of effectuating any General Plan or any part thereof, the Commission may recommend to the President in such detail it may deem advisable projects and, if appropriate, legislation for the rehabilitation, clearance, or rehabilitation and reconstruction of slum districts; for housing developments and neighborhood units; for land and utility projects; for the development of destroyed, blighted, decaying, or obsolete urban areas; for the development of industrial towns, sanitary districts, drainage districts, reclamation districts, soil conservation districts, water supply districts, water power districts, irrigation districts, or other special purpose types or classes of districts.

Sec. 13. Penalty. - Any willful violation of any resolution, regulation or General Plan which is in effect in accordance with this Order shall be punished by imprisonment not exceeding six (6) months or a fine of not exceeding five hundred (₱500.00) pesos, or both such imprisonment and fine in the discretion of the court. Without prejudice to the filing of any criminal action, the prosecuting officer of the appropriate Province, Chartered City or Municipality, as the case may be shall, at the request of the Commission, prevent any such violation by an action for injunction in any court of competent jurisdiction.


Sec. 14. Repeals. - That part of paragraph (f) of section nineteen hundred and one and Sections Nineteen Hundred and three, Nineteen hundred and four and Nineteen Hundred and five, of Act Numbered Twenty-seven hundred and eleven, known as the Revised Administrative Code, and all laws, acts, or parts thereof, and all regulations, rules, and instructions or parts of the same, inconsistent with any provisions of this Order, are hereby repealed.

Sec. 15. Effectivity. - This Order shall take effect immediately.

Done at the City of Manila, this 11th day of March, in the year of Our Lord, nineteen hundred and forty-six, and of the Commonwealth of the Philippines, the eleventh.


SERGIO OSMENA
President of the Philippines

By the President:


JOSE S. REYES
Secretary to the President