



Republic of the Philippines
Tanggapan ng Sangguniang Panlungsod
City of Naga



ORDINANCE NO. 2004-003

**AN ORDINANCE IMPLEMENTING REPUBLIC ACT 9178, OTHERWISE KNOWN AS THE
"BARANGAY MICRO BUSINESS ENTERPRISES (BMBE'S) ACT OF 2002" IN THE CITY OF
NAGA AND FORMULATING SAFETY NET FOR LABOR SECTOR: -**

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Hon. Gabriel H. Bordado, Jr.
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Hon. Jose L. Grageda
Hon. William G. Del Rosario
Hon. William M. Kalaw

Be it ordained by the Sangguniang Panlungsod of the City of Naga, that:

SECTION 1. - TITLE. - This ordinance shall be known and may be cited as "The Naga City Barangay Micro Business Enterprises (BMBE's) and Its Safety Net for Labor Sector Ordinance".

SECTION 2. - DECLARATION OF POLICY. - As stated in Section 2 of R.A. 9178, it is the policy of the state to hasten the country's economic development by encouraging the formation and growth of barangay micro business enterprises which effectively serve as seedbeds of Filipino entrepreneurial talents, and integrating those in the informal sector with the mainstream economy, through the rationalization of bureaucratic restrictions, the active intervention of the government specially in the local level, and the granting of incentives and benefits to generate much-needed employment and alleviate poverty.

SECTION 3. - DEFINITION OF TERMS. - As used in this ordinance, the terms:

- a. ACT – shall refer to the "Barangay Micro Business Enterprises of 2002";
- b. BARANGAY MICRO BUSINESS ENTERPRISE (BMBE) – as defined in Section 3a of the Act, shall refer to any business entity or enterprise engaged in the production, processing or manufacturing of products or commodities, including agro-processing, trading and services, whose total assets including those arising from loans but exclusive of the land on which the particular business entity's office, plant and equipment are situated, shall not be more than three million pesos (P3,000,000.00) subject to review and upward adjustment by the SMED Council, as mandated under Republic Act 6977, as amended by Republic Act 8289. A BMBE shall include any individual owning such business entity/enterprise, partnership, cooperative, corporation, association or other entity incorporated and/or organized and existing under Philippine laws; and registered with the office of the treasurer of a city or municipality in accordance with this implementing rules and regulations;

- c. SERVICES – shall refer to the following community, social and personal services rendered by a business entity/enterprise: 1) repair & maintenance of business, personal and household goods (e.g. repair of motorcycles); 2) hotels and restaurants; 3) transport, storage and communication; 4) financial intermediation; 5) real state; 6) education; 7) health and social work; 8) and other similar business activities. It shall exclude those rendered by any one, who is duly licensed by the government after having passed a government licensure examination, in connection with the exercise of one's profession as stated in Paragraph 2, Section 3(a), R.A. 9178;
- d. CERTIFICATE OF AUTHORITY – shall refer to the certificate issued to an applicant authorizing the same to operate as a BMBE and to be entitled to the benefits and privileges accorded to a registered BMBE;
- e. EMPLOYEES - shall mean all person directly hired by the BMBE whether full time or part time;
- f. ASSETS - shall mean all kinds of properties, real or personal, owned by the BMBE and used in the conduct of its business, including those arising from loans but exclusive of the land on which the particular business entity's office plant and equipment are situated. However, for purposes of exemption from taxes and fees, it shall include all kinds of properties, real or personal, owned and/or used by the BMBE and its affiliates for the conduct of its/their business/es, but exclusive of the land on which the particular business entity's office plant and equipment are situated.: Provided, that, for these purposes, the value of the assets, shall be determined as follows:
 - i. Assets owned by existing entities/enterprises – book value appearing on the audited financial statements, or in the absence thereof whichever is the higher of the fair market value as determined by the City Treasurer or by the Commissioner of the Bureau of Internal Revenue (BIR);
 - ii. Assets owned by the new entities/enterprise – acquisition cost, or in the absence thereof the replacement cost.
- g. AFFILIATE – shall refer to any person, natural or juridical, that, directly or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, the specific person;
- h. REGISTRATION – shall mean the inclusion of a BMBE in the BMBE Registry of a city;
- i. SPECIAL CREDIT WINDOW – shall refer to a credit facility, specially set up to cater to the needs of BMBEs;
- j. FINANCING – shall refer to all borrowings of the BMBE from all sources after registration as defined in Section 3(e) of the Act;
- k. ACCREDITED PRIVATE FINANCIAL INSTITUTIONS – shall refer to private institutions with lending operations. This includes banks, NGOs, cooperatives, and other organizations considered eligible to be accredited by the fund wholesalers;

- i. NGOs – shall refer to non-stock, non-profit corporations, foundations, business associations and civic groups organized purposely for the benefit of their respective members or to enhance the development of a community through socio-economic development projects like community organization and/or lending to income generating projects;
- m. COOPERATIVES – shall refer to duly registered associations of persons, with a common bond of interest, who have voluntarily joined together to achieve a lawful common, social or economic end and who contribute equitably to the capital required and accept a fair share of the risks and benefits of the undertaking in accordance with universally accepted cooperative principles.

SECTION 4. - REGISTRATION AND OPERATION OF BMBE's. - The Office of the Treasurer of the city shall register qualified BMBEs and issue a Certificate of Authority to enable the BMBE to avail of incentives under the Act; *Provided*, that only one Certificate of Authority shall be issued for each BMBE and only by the Office of the Treasurer of the city. Any such application shall be processed within fifteen (15) working days upon submission of complete documents. Otherwise the BMBEs shall be deemed registered. The City Mayor may appoint a BMBE Registration Officer who shall be under the Office of the City Treasurer.

Under the Act, Local Government Units (LGUs) are encouraged to establish a One-Stop Business Registration Center to handle the efficient registration and processing of permits/licenses of BMBEs. Likewise, LGUs shall make a periodic evaluation of the BMBEs' financial status for monitoring and reporting purposes.

The Certificate of Authority shall be effective for a period of two (2) years, renewable for a period of two (2) years for every renewal.

SECTION 5. - FUNCTIONS OF THE BMBE REGISTRATION OFFICER. - The Office of the Treasurer or the BMBE Registration Officer who may be appointed by the City Mayor under the Office of the Treasurer shall have the following functions:

- a. receive all applications and process the same within fifteen (15) working days upon submission of complete documents and issue a Certificate of Authority. In relation to this, they are encouraged to establish a One-Stop Business Registration Center to handle the efficient registration and processing of permits/licenses;
- b. issue notice of cancellation to BMBE with cancelled Certificate of Authority (CA) as provided for in Section 12 of the Implementing Rules and Regulations (IRR) of the Act;
- c. enter all relevant information regarding approved/disapproved applications and cancelled CAs in the BMBE Registry, for consolidation into a report for submission to the DILG;
- d. submit to the DILG for consolidation the BMBE Registry in his/her area of jurisdiction; and
- e. make a periodic evaluation of the BMBE's financial status for monitoring and reporting purposes. The city shall submit necessary reports to the DILG for the latter to submit to the DTI. Such reports shall be made available to the BIR District Office having jurisdiction over the city.

SECTION 6. - BMBE's REGISTRATION ELIGIBILITY. - Any person, natural or juridical, cooperative or association, existing or start-up, having the qualifications herein below enumerated, may apply for registration as BMBE if:

- a. it has an asset size of not more than three million pesos (P3,000,000.00) excluding land, before applying for BMBE registration; and
- b. it engages solely in business activities as defined in Section 3(b) of this ordinance.

SECTION 7. - REQUIREMENTS FOR REGISTRATION. - The applicant for BMBE shall submit the following:

- a. Application Form, signed by the owner or manager of the entity applying for registration (BMBE Form 01);
- b. One (1) picture of the owner in case of single proprietorship and of the manager, in case of other types of business entity;
- c. Sworn statement of Assets owned and/or to be used for the conduct of its business, in triplicate (BMBE Form 01);
- d. Tax Identification Number (TIN) of the applicant; and
- e. In the case of a juridical person, a copy of its Articles of Incorporation/Cooperation or Partnership.

SECTION 8. - FEES AND CHARGES. - The City Treasurer shall charge a fee of One Thousand Pesos (P1,000.00) to defray the administrative costs of registering and monitoring the BMBEs by the City Treasurer's Office and the Naga City Labor Management Council as may be determined by the former.

All fees and charges derived from the registration of BMBEs shall accrue exclusively to the city and shall be used for the administration of the Act and for the development projects approved by the Sangguniang Panlungsod.

SECTION 9. - APPROVAL OF APPLICATION FOR REGISTRATION AND ISSUANCE OF CERTIFICATE OF AUTHORITY (CA). - Upon receipt of complete requirements for registration, the Office of the City Treasurer shall note the date of receipt in the application form (BMBE Form 01). The BMBE Registration shall be acted upon by the Registration Officer whose office shall issue a Certificate of Authority (BMBE Form 02) within fifteen (15) working days from receipt of complete registration requirements.

Application not acted upon within the required fifteen (15) working days shall be deemed registered, provided that the BMBE has completely complied with all the requirements/documents necessary to process the registration. The CA shall be issued within five (5) working days after the lapse of the required fifteen (15) working days.

The CA does not grant exclusivity of business name. Thus, BMBEs wishing to ensure exclusivity of its business name must register the same with the DTI (for single proprietorship), SEC (for partnerships and corporations) and CDA (for cooperatives).

SECTION 10. - DURATION OF BMBE AUTHORITY. - The BMBE Authority shall be valid for a period of two (2) years from date of registration, renewable for a period of two (2) years for every renewal as provided for in Sec. 4 of this ordinance, unless cancelled as provided

for in Section 13 of the Implementing Rules and Regulations (IRR) of RA 9178 and Section 12 of this Ordinance.

SECTION 11. - DENIAL OF APPLICATION FOR REGISTRATION. - The denial of any BMBE application shall be conveyed to the applicant within fifteen (15) working days from receipt of the same, stating the grounds for denial. (BMBE Form 03).

SECTION 12. - CANCELLATION OF BMBE CERTIFICATE OF AUTHORITY. The BMBE Certificate of Authority may be duly cancelled by the City Treasurer's Office, based on any of the following grounds:

- a. voluntary surrender of the BMBE Certificate of Authority by the registered BMBE;
- b. death of the registered owner, in case of single proprietorship, unless there is a transfer of ownership in accordance with Section 15 of the IRR of R.A. 9178;
- c. violation of or non-compliance with the provisions of R.A. 9178, of its implementing rules and regulations or this ordinance;
- d. merger or consolidation with an entity which is not eligible to be a BMBE.

The City Treasurer's Office shall give written notification of the cancellation to the BMBE who must surrender his/her Certificate of Authority (CA) to the former.

SECTION 13. - NOTIFICATION OF CHANGE OF ADDRESS. - For purposes of monitoring, BMBEs transferring their business location shall notify within five (5) working days the city of such change address using Form 04. In case they locate to another city or municipality, they shall likewise notify the BMBE Registration Officer in their new city or municipality of their presence therein and present their BMBE certificate of Authority (CA) for entry in the new Registry. The Registration Officer in the new location shall notify the Registration Officer in the previous locality of said transfer and request cancellation of the old CA.

SECTION 14. - TRANSFER OF OWNERSHIP. - The BMBE shall report within five (5) working days to the BMBE Registration Officer any change in the status of its ownership structure; Provided, that, in the case of an individual, he/she shall surrender the original copy of the BMBE Certificate of Authority (CA) for proper notation of the transfer.

SECTION 15. - ESTABLISHMENT OF BRANCHES. - For purposes of monitoring, registered BMBEs which have opened branch/es in the city after the issuance of BMBE Certificate of Authority shall notify the BMBE Registration Officer of such opening within five (5) working days from the establishment of such branch/es. The assets of such branch/es shall be considered as part of the assets of the registered BMBE.

SECTION 16. - EXEMPTION FROM TAXES AND FEES. - A registered BMBE shall be exempt from income tax on income arising purely from its registered operations; *provided*, that it shall be subject to other pertinent taxes imposed by the national Internal Revenue Code of 1997, and to such other minimal requirements imposed by the Bureau of Internal Revenue (BIR) pursuant to the revenue regulations issued for these purposes.

Interests, commissions and discounts from loans granted by the LBP, DBP, PCFC, SSS and GSIS to a duly registered BMBE whose total assets owned and used for the conduct of business at the time the loan was granted does not exceed three million pesos (P3,000,000.00), for use in its registered operations shall be exempt from the gross receipts tax (GRT).

SECTION 17. - TECHNOLOGY TRANSFER, PRODUCTION AND MANAGEMENT TRAINING AND MARKETING. - BMBEs can avail themselves of technology transfer, production, management training programs and marketing assistance of the DTI, DOST, UP-ISSI, CDA, TESDA, TLRC and other concerned agencies.

SECTION 18. - ADOPTION OF AN ACCEPTABLE “WAGE FLOOR”. - A registered BMBE shall be exempt from compliance with the Minimum Wage Law, provided that it shall comply with the wage floor herein adopted which should not be less than 75% of the mandated minimum wage or apprenticeship wage set by RTWPB in Region V under R.A. 6727, otherwise known as Wage Rationalization Act, as follows:

SECTOR	NAGA CITY (Php)
A. NON-AGRICULTURE	P 136.50
Except the following:	
A.1 ESTABLISHMENTS	
• Employing 11-15 workers	125.25
• Employing not more than 10 workers	110.25
A.2 COTTAGE/HANDICRAFT	
• Employing 20 or more workers	117.75
• Employing less than 20 workers	110.25
B. AGRICULTURE	
• Plantation	120.00
• Non-Plantation	105.00

SECTION 19. - PROVISION OF MECHANISMS FOR LABOR SECTOR PARTICIPATION IN THE MONITORING OF QUALIFIED BMBEs. - To ensure that only qualified business avail of the benefits provided for under the law, the Naga City Labor Management Council created under Ordinance No. 2002-025 shall enter into a Memorandum of Agreement with the City Treasurer’s Office to allow the former access to documents submitted by qualified establishments for monitoring purposes.

The MOA shall also provide for the posting of the qualified applicants in a bulletin board, preferably near the City Treasurer’s Office that shall be assigned primarily for the purpose.

The Naga City Labor Management Council is tasked to monitor compliance and implementation of this provision.

SECTION 20. - PENALTY. - Any person who shall willfully violate any provision of this Ordinance or who shall in any manner commit any act to defeat any provision of this Ordinance shall, upon conviction, be punished by a fine of not less than four thousand (P4,000.00) pesos but not more than five thousand (P5,000.00) pesos and/or suffer imprisonment of not less than six (6) months but not more than one (1) year, subject to the discretion of the court.

SECTION 21. - SEPARABILITY CLAUSE. - Any provision or portion of this ordinance found to be violative of the constitution or invalid shall not impair the other provisions or parts thereof which shall continue to be in force and in effect.

SECTION 22. - REPEALING CLAUSE. - Ordinances, rules and regulations or parts thereof, which are inconsistent or in conflict with the provisions of this ordinance, are hereby repealed or modified accordingly.

SECTION 23. - EFFECTIVITY. - This ordinance shall take effect immediately upon its approval and publication in a newspaper of general circulation.

ENACTED: January 14, 2004.

WE HEREBY CERTIFY to the correctness of the foregoing ordinance.

ESTEBAN R. ABONAL
City Vice Mayor & Presiding Officer

FIEL L. ROSALES
Secretary to the
Sangguniang Panlungsod

APPROVED:

JESSE M. ROBREDO
City Mayor