

Regulation of the Law of the Maritime and Terrestrial Zone

No. 7841-P of December 16 of 1977, published in La Gaceta
No. 3 of January 4 of 1978.

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Chapter I General Dispositions

Article 1.-The present bylaw regulates the actions of the State, the institutions and other interested parties that, according to the law No.6403 of March 2 of 1977, have domain in the conservation, use and utilization of the maritime and terrestrial zone and its natural resources.

Article 2.-For effects of the present regulation, will be understood as:

- a) Tourist Board: Costa Rican Tourist Board
- b) INVU: National Housing and Urbanism Institute
- c) ITCO: National Lands and Colonization Institute¹³⁴
- ch) Ordinary high tide: ordinary high tide is, for the Pacific littoral, the boundary of contour line marked at the height of 115 centimeters over average sea level, and for the Atlantic littoral, is the contour line marked at the height of 20 centimeters over average sea level.
- d) Island: portion of land permanently surrounded by water
- e) Estuary: land immediately at the shore of a river mouth, through which flow the waters of tidal waters
- f) River mouth: part of the river next to its entrance to the sea, and up to where the tides reach
- g) Tide: regular, alternating movement of ascension and descent of the ocean's waters due to the combined attractions of the sun and the moon
- h) Littoral: shore or ocean's coast, extending through the river mouth and permanent estuaries up to where they are sensibly affected by the tides and present well defined marine characteristics
- i) Area of Tourist aptitude: those areas of the maritime and terrestrial zone that have been declared by the Costa Rican Tourist Board as such, for presenting favorable conditions for tourist development and exploitation.
- j) Concession: granting by a competent authority for the enjoyment or utilization of the maritime and terrestrial zone.
- k) Contract: agreement or convention between the municipality of the respective jurisdiction and the grantee, by which the concession is formalized and of which compliance may be compelling for both parties.

¹³⁴ Currently know as IDA, for its acronym in Spanish of Institute for Agrarian Development

l) Public use: the right every person has to use and enjoy the public zone in all its extension, without another limitation than the one imposed by the law and its regulations

ll) Usufruct: usufruct corresponding to municipalities refers to civil fruits, understanding by it, the right they have, disposed by Law, to receive the respective fee produced by concessions or leasing of lands and of the improvements, if there were;

m)The law: The Law of the Maritime and Terrestrial Zone No. 6043 of March 2 of 1977, and

n)The regulation: The present regulation.

Article 3.-To exploit the flora or fauna existent within the maritime and terrestrial zone, including the felling of trees or extraction of forest products, requires a prior authorization from the Ministry of Agriculture and Livestock Farming, through the General Forestry Department or the General Department of Fishing Resources and Wildlife, as corresponds.

For the demarcation of boundaries with fences, furrows or any other way, a permit must be obtained from the respective municipality. For construction of houses, the approval of plans at the local offices of the Ministry of Health and the construction permit of the corresponding municipality are required.¹³⁵

For exploitation of mines and quarries, an authorization, from the Ministry of Economy, Industry and Commerce and of the Ministry of Agriculture and Livestock Farming, must be obtained. To extract stones, gravel or sand, and other materials deposited on the maritime and terrestrial zone, the interested must also have a permit from the National Power Service, in accordance to what's disposed in article 70 of the Waters' Law, No. 276 of August 27 of 1942 and its amends. When extraction activities involve the construction of works or facilities, what is indicated in article 18 of the Law and 7 of the Regulation will be followed. In no case may mining or extraction activities be authorized in tourist areas. Whenever a flora, fauna or mining resources' exploitation may imply the risk of polluting the environment, it must also count with the Ministry of Public Health's authorization.¹³⁶

Article 4.-In accordance to decree No. 7210-A of July 19 of 1977, mangroves or salt water forests existent in continental or insular littorals and estuaries of the national territory, which constitute a part of the public zone of the maritime and terrestrial zone, are Forest Reserves, and are affected by the Forestry Law and by other dispositions of that decree. The restricted zone begins in the vegetation line formed at the estuary's

shore and limit of mangroves or salt water forests, when they extend for over 50 meters on ordinary high tide. ¹³⁷

Article 5.-It corresponds to the Attorney General of the Republic himself or any entity, institution, or interested party's petition, to exert the legal control, for due compliance of the Law's dispositions. Likewise, it will hear about denounces formulated on the subject, give the respective pronouncement and exert the corresponding legal actions against transgressors. It will also proceed, when it refers to annulment of concessions, permits, contracts, acts, agreements, or dispositions that contravene the Law. All without detriment to what concerns other organisms.

Article 6.- -The power of declaring tourist zones corresponds to the Costa Rican Tourist Board –ICT-. For that, it will take into account, among other factors, the access to the area, its natural attributes, the social and cultural characteristics of the settlers and any others that such institution deems convenient.

Article 7.-The State, to comply with the aims commissioned by Law, may rescue lands and improvements within the maritime and terrestrial zone (area), for the National Patrimony, by expropriation, in arrangement to the procedure foreseen in Title VI of the Municipal Code. The Executive Power may exert this faculty at the request of public or private entities, when to its judgment, the considerations on which it's based, duly founded, justify it. The same dispositions of the Municipal Code will apply in all other expropriation cases contemplated in the Law. If it refers to real estate having restrictions for public roads, on behalf of the State, the Executive Power, will declare which spaces are destined for free traffic, by decree.

Article 8.- In order to comply with article 18 of the law, an authorization from the respective municipality, the Costa Rican Tourist Board –ICT-, INVU, the Ministry of Public Works and Transport will be required. In the case of industrial, mining or crafts installations, an authorization from the Ministry of Economy, Industry and Commerce will be also required. For sport fishing or crafts and of sea culture programs or other related programs, it is also required to obtain the authorization from the Ministry of Agriculture and Livestock Farming. These institutions may also consult with specialized organizations such as, the Ministry of Health, the Costa Rican Aqueducts and Sewerage System Institute (A y A), the Costa Rican Electricity Institute (ICE) and the National

Electricity Service (SNE). The Costa Rican Tourist Board-ICT- will coordinate the respective proceedings with the indicated entities.

Article 9.-In the exercise of the right to public use, the general interest of the public must always be considered, guaranteeing access to the zone and free traffic of any person, practice of sports and activities, for recreation and cultural effects.

It is forbidden to use automotive vehicles in the public zone, except when in possession of the corresponding municipal permit which allows such use.

Article 10.-It is forbidden to fell trees, dump waste, modify the land's topography, or carry out any action that alters the ecological balance, without due authorization.

Those who might locate temporary facilities or mobile homes like tents or trailers, on the maritime and terrestrial zone, should do it on the areas destined for that, when there are. In any case, they must observe the norms dictated by health authorities, being subject to the sanctions contemplated by the General Health Law.

Article 11.-In accordance to what article 22 of the Law establishes, no development of infrastructure works or constructions are allowed on the public zone, other than those built for public use or tourist facilities of the State. In the latter case, plans and projects of said facilities should count with the approval of the Ministry of Public Works, the Costa Rican Tourist Board –ICT- and INVU. Once that requirement is satisfied, ICT will communicate with the respective municipality so that it can resolve about the project.

Institutions consulted will have 60 calendar days to pronounce on the subject, having it as approved if in that term they do not pronounce. When the kind of development refers to estuaries or mangroves, or these may be affected, also consult the point of view of the Ministry of Agriculture and Livestock Farming.

Article 12.-In exceptional cases, such as the ones mentioned in articles 18, 21 and 22 of the Law, when works occupy the public zone, it will be the obligation of those designing and executing, guarantee the free and safe traffic or people, and public use of the same. The responsible institutions of extending the authorization will enforce this requirement.

Article 13.-Concessions on the public zone that article 21 of the Law refers to, may not be granted when these cause damage against the grantees or owners of neighboring land, and to that respect the municipality must notify of any agreement of concession.

Article 14.-For those situations contemplated in article 24 of the Law, while the transfer or expropriation is resolved, no repair works, except those strictly necessary to conserve hygiene, safety and esthetic conditions of buildings or constructions, may be done.

Article 15.- Municipalities may not approve construction, reconstruction or remodeling works, until the declaratory of tourist aptitude zone or not tourist aptitude by the Costa Rican Tourist Board –ICT- has been approved and published in the coastal regulatory plan, and counts with the respective concession contract, duly registered on the General Registry of Concessions of the Maritime and Terrestrial Zone, at the National Registry.

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Article 16.- Annulled ¹³⁹

Article 17.-The formulation of the National Tourism Development Plan will correspond to the Costa Rican Tourist Board –ICT-, that will count with the collaboration of the National Planning Office, of INVU, and other competent official organisms. Such plan must harmonize with the National Development Plan and the National Plan for Urban Development.

Within the National Tourism Development Plan a General Plan for Land Use must be created for the maritime and terrestrial zone, with the concurrence of the mentioned entities; priorities of national development and an interest in conserving the area as national patrimony, must be taken into account.

Regulatory Plans that include the maritime and terrestrial zone must observe the guidelines and recommendations of the General Plan for Land Use that INVU must consider when elaborating or approving such plans, adjusting to what's disposed of in the Urban Planning Law. These regulatory plans shall also count with the Costa Rican Tourist Board's approval.

Excluded from this management category is the one corresponding to the maritime and terrestrial zone regulated by Law No. 6043, Law of the Maritime and Terrestrial Zone. Nevertheless, approval, revision or updating of the Regulatory Plans of the maritime and

terrestrial zones neighboring with Marine Areas of Multiple Use shall be consulted with the National Parks' Service, before celebrating the Open Municipal Council, which must pronounce within one month, and whose decision must be incorporated in the respective Regulatory Plans. Expired the indicated term without an administrative act, the normal proceeding will be followed, without later pretending to entail the opinion given.¹⁴⁰

Article 18.- Regulatory plans referred to in the preceding article will include the maritime and terrestrial zone and neighboring lands that may be considered as part of its area of influence.¹³⁵

Owners of real estate located on neighboring areas not included in the plan may request that their lands be included in the mentioned plans, and they will pay the proportional part of the respective cost.¹³⁶

Article 19.-Municipalities may not grant concessions in tourist areas without the Costa Rican Tourist Board –ICT- and INVU approving or elaborating the development plans of these areas. Those development plans may include all or part of the respective tourist area.

Article 20.- When lands located within the planning areas are urbanized, its design must entirely adjust to norms and recommendations contemplated on the Valid Regulatory Plan, as well as the legislation governing the matter. Urban dispositions will be ruled by specific planning and building criteria established on special laws.¹⁴¹

Article 21.- The Municipal Executive shall appoint the inspectors that correspond to his jurisdiction, in order to attend the custody and conservation of the maritime and terrestrial zone, as well as compliance to the Law of the present regulation. They will be subject to

140. Added this final paragraph by article 6 of Executive Decree No. 24282 of July 18 of 1995.

141. **As** amended by Decree No. 29059-MP-MEIC –TUR of November 3 of 2000. Published in Alcance No 77-A to la Gaceta No 219 of November 15 of 2000.

the system established by the Municipal Code and the Council of the respective corporation will determine their number.

Article 22.-Administrative authorities of the correspondent jurisdiction, as well as the respective municipalities, as soon as they know of any infraction to what's disposed in article 124 of the Law, shall proceed, prior gathering of information, if deemed convenient, to dislodge the transgressors, as well as destruction or demolition of the construction that have been done, without any liability for the authority or municipality. Expenses occasioned by cause of destruction or demolition will be covered by the respective owner of the construction or facility, without detriment of penalties that proceed against this or possible transgressors.

Article 23.-The dispositions of the Law do not apply to plots located on the maritime and terrestrial zone which were acquired before its validity, in conformity to the laws that expressly allowed it, without detriment to restrictions found in the article 25º of the Law related to the particular use of the public zone that includes those plots.

Chapter II Of the Concessions

A. Grantees

Article 24.-Municipalities may not grant any concession to benefit its governors, proprietary or assistant, of the municipal executive, or its relatives in first or second degree by consanguinity or kinship. Both for them as for who intervenes in the granting or authorization of concessions, and in general, will rule the dispositions established in article 107 of the Law of Financial Administration of the Republic, No. 5901 of April 20 of 1976. Exception is made to concessions granted before the respective functionary is selected or appointed.

Article 25.-Concessions may not be granted to:

- a. Foreigners residing in the country for less than five years, in a continuous way, verified with a certification extended to such effects by national Migration authorities.
- b. Corporations with shares to the holder.

- c. Societies or entities whose residence is abroad.
- ch. Entities whose shares or quotas or capital, correspond in more than fifty per cent to foreigners.
- d. Any other type of entity not included in the above clauses, in which more than half of the members is not Costa Rican.

B. Procedures

New Concessions

Article 26.-Concessions may be granted directly to applicants except in those cases when payment for the concept of expropriation or improvements has been done for an amount higher than the one fixed in clauses c) or articles 93^o, 94^o and 95^o of the Law of Financial Administration of the Republic, No. 5901 of April 20 of 1976, in which case the lot or plot with improvements and constructions that originated such payment, may only be object of a concession by private or public bid, in conformity to the norms of these articles.

Article 27.-Any request of concession may be presented before the municipality, in the form authorized by Costa Rican Tourist Board –ICT or in a request including the requirements established by law No. 6043 and its regulation.

Any proceeding done in matters of concessions be it before the municipality, Costa Rican Tourist Board –ICT or other organism contemplated in the law, should be authenticated by a lawyer and will have the respective stamp of the Bar Association.¹⁴²

Article 28.Any request or deed presented shall be enclosed with the copies indicated by the municipality. The municipality will record as received the original and each copy, consigning the essential data (hour, date and name of the employee receiving) and will hand back a copy to the holder.

Article 29.-When doing procedures before the municipality personally, every interested shall identify himself presenting the ID card or identity document, whose number will be recorded when opening the respective file.

Article 30.-Any request must consign at least the following information:

- a) Name of the interested, legal qualities, domicile, and number of ID card or identity document, nationality, and exact place for notifications. When it refers to legal persons, must indicate the name of the agent or attorney with his legal qualities, as well as enclosing the certification of registry of the respective register (Public Registry, Ministry of Government, INFOCOOP, Ministry of Work, DINADECO, etc.) and a certification of the same or sworn declaration of the Secretary of the interested entity, indicating, as proceeds, the percentage of foreign partners or capital belonging to foreigners.¹³⁷
- b) Rough draft or identification of the land¹³⁸
- c) Nature and boundaries of the same
- ch) Use that the plot will receive

In case any of these requirements is missing, the request shall not be accepted. If it has errors, or by mistake has been received with omissions, the respective municipality will notify the interested, to correct it, in a term of thirty calendar days, counting from the day the notification is done. That term expired, without correcting the errors or omissions, the request will be considered annulled, without prejudice to a new request presentation from the interested.

Article 31.-Notifications will be done to the address and fax number included in the request for concession, or in its absence, it will be done according to what's established in article 243 of the General Law of Public Administration. The notification is considered done with a positive report from the fax machine and the term will start counting from the day following the fax notification.¹⁴³

143. **As amended** by Decree No. 29059-MP-MEIC-TUR of November 3 of 2000. Alcance No77 La Gaceta No 219 of November 15 of 2000.

144. **As amended** by Decree No. 29059-MP-MEIC-TUR of November 3 of 2000. Alcance No77 La Gaceta No 219 of November 15 of 2000.

Article 32.-Any resolution of a simple proceeding dictated in matters of concessions, should be headed with the indication of the office that issues, place, time and date and must be signed by the head of the office in charge of the maritime and terrestrial zone or by the Mayor. ¹⁴⁴

Article 33.-When a request file remains with no movement for six or more months by causes imputable to the interested, it will be assumed the request has been given up and proceed to file it.

Article 34.-When the request is reviewed and if there is a fault, the municipality will charge the cost of the decree to the interested and if proceeds, the inspection expenses, which include traveling, expenses and transport. The interested may pay the sum indicated in the Municipal Treasury or at the bank indicated by it, to the municipality's name.

Article 35.-When it proceeds to do an inspection, it will be done after receiving the payment indicated in the article above, and will notify the applicant of the hour and date of the same with an anticipation of at least eight days.

Article 36.-The inspector shall present a report of the inspection carried out, indicating at least the following information: location of the plot, and the use it will receive, topographical description, boundaries, apparent rights of way, approximate measurements of the lot if there were no plan and crops or apparent improvements.

If there is some conflict, the inspector shall set down a record writing what the parties expressed.

Article 37.-If as a result of the inspector's report, or for any other reason contemplated in the Law or in the Regulation, the Municipal Council should deny the request, it shall issue a reasoned resolution indicating and notifying the interested.

Article 38.-To hear oppositions an edict will be published only once in the Official Journal, La Gaceta, indicating the name and legal qualities of the applicants, granting the interested a term of thirty workdays counting from its publication.

Article 39.- When it deals with areas not declared as tourist, a copy of the edict will be on exhibition at the municipal offices, another must be forwarded to Costa Rican Tourist Board –ICT-, and a third one to ITCO. It must enclose a copy of the inspection report, when it has been done, or indicate that it wasn't done.

Article 40.-Oppositions must be presented before the municipality thirty workdays after the publication of the edict, in sealed paper of one colon and with the corresponding stamps, duly identifying the opponent.

Article 41.-Once an opposition is received, the municipal executive or the concessions' bureau will communicate with the interested and the parties summoned to appear in court, where they must provide all the proofs they consider necessary. Those who appear in court, including the documents they have brought in, must sign the minutes drawn.

Article 42.-Once the appearance in court is done, or if there were no oppositions, the Mayor will have thirty workdays to prepare the resolution project, where he will pronounce if the concession is granted, in whole or in part, or if it is denied. If there were no oppositions, such term will count from the day following the oral and private appearance in court.

This project will be elaborated in a reasoned way, evacuating the criteria of the maritime and terrestrial zone's office, if there were. Then it will be taken to the Municipal Council for its decision, as it deems convenient.¹⁴⁵

Article 43.-In case of concession requests over parts or a whole island or maritime key, the original concession contract and copy of the file, with backgrounds of the case for its approval, will be forwarded to the Legislative Assembly.¹⁴⁶

Article 44.-Once the concession is approved by the Municipal Council, the interested will be informed, and a term of 30 workdays will be given to sign the contract and deposit the

amount corresponding to the first annuity of the fee to the benefit of the respective municipality.

Article 45.-The contract will include the information included in the formulated request for concession, as well as a certification of the municipal agreement that authorizes the concession, including the amount of the fee to be paid and the location of the plot.

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Article 46.-The Municipality will send a concession contract, duly signed, to the Costa Rican Tourist Board –ICT or IDA as corresponds, for its reasoned approval, enclosing a copy of all the documents that served as basis for the granting.

They will have a term of thirty calendar days to approve it counting from the date they received the request.

Once the concession is approved, the interested will proceed to register in the General Registry of Concessions of Maritime and Terrestrial Zones. Contracts won't have any legal effect until they are duly inscribed at the General Registry of Concessions of the National Registry.

The minimum elements that a concession contract must have to be forwarded to the Costa Rican Tourist Board –ICT or IDA, as corresponds, are:

a) Identification data of the grantee or his legal agent, mentioning the registration data that certify their representation

b) Identification data of the municipal representative and indication of the municipal agreement by which it's authorized to sign in this contract

145. **As amended** by Decree No. 29059-MP-MEIC-TUR of November 3 of 2000. Alcance No 77 La Gaceta No 219 of November 15 of 2000.

146. **As amended** by Decree No. 29059-MP-MEIC-TUR of November 3 of 2000. Alcance No 77 La Gaceta No 219 of November 15 of 2000.

c) Brief summary of the incidents occurred in the concession procedure, date of presentation of the concession, existence or not of oppositions to the procedure, date when the declaratory of tourist aptitude was granted or not by the Costa Rican Tourist Board –ICT, date when the regulatory plan was adopted and published, date of the appraisal.

d) Identification data of the plot requested in concession and description of the same.

e) Indication of the use for which the concession was approved

f) Term of the concession and grantee's obligations

g) Fixed fee for the concession

h) Literal transcription of the municipal agreement by which the concession is granted and the Mayor is authorized to sign the contract

i) Identification of the appraisal done over the property and applied fee ¹⁴⁷

Article 47.-Resources against resolutions or agreements dictated by municipal authorities in matters of concession may be proceeded with, according to the pertinent norms of the Municipal Code. Any other resource will follow the legal proceedings.

2. Fees

Article 48.-It will correspond to the respective municipality to receive fees for the concept of the concessions that it grants. Only those concessions destined to joint tourist development of the municipality and the Costa Rican Tourist Board –ICT- will be free from paying fees, according to article 28 of the Law.

Article 49.-Annual fees to be paid by grantees or holders of a permit of the maritime and terrestrial zone will be regulated according to the following chart, applied to the respective appraisals, so that hereupon will read as follows:

Agriculture and cattle	2%
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Residence	3%
Hotel	
Tourist or recreation	4%
Commercial, industrial, mining, or extractive	5%

The above without detriment to what's established in clause c) or article 6 of the Law No. 7509 of May nine of 1995, Law of Real Estate Tax, its amends and regulation. ¹⁴⁸

Article 50.- With regard to application of the fee referred to in article 49 above, the interested Municipality will request the General Department of Direct Taxation the appraisal of lands according to the following criteria:

a)to determine the right of use and exploitation of the area considered the expert will take as a basis the market value of the land, excluding the construction and fixed or permanent facilities existent in it, and for the effects of payment of the respective fee, in such appraisal will be established the taxable base, which will be estimated applying a coefficient of relation to the market of 0.60, to the market value, which will be expressly indicated in such appraisal. By market value will be understood the value of real estate by estimating the price that would be paid for the same in a hypothetical sale characterized by the following conditions:

- a-the buyer and the seller have a normal interest
- b-the sales contract is understood as happening in an open and existent market. If the good is not transferred to the buyer, the market will always provide another one, equally motivated. One as the other are considered well informed and advised.
- c-Neither buyer or seller have any time urgency to buy or sell, if not transferred now, it will be later
- d-The good is considered free of special charges
- e- The purchase is understood as done for its most complete and appropriate use

b)The mentioned appraisal will not include the lands located within the fifty meters area adjacent to the ordinary high tide line, destined for common use, nor the reserve

areas, such as marshlands, estuaries, cliffs, and others that by legal disposition or by its natural conditions, may not be used by the titleholders. Save for the case of authorized facilities, in conformity to what's disposed in Article 21 of Law No. 6043, Law of the Maritime and Terrestrial Zone. To that purpose, the grantee or permit holder will provide a land surveying plan to the Municipality, indicating the area over which the latter shall, request the corresponding appraisal, prior verification and studies. The mentioned appraisals shall be valid for five years, counting from the period following its firmness. Valid fees shall be adjusted in conformity with the new appraisal, for which the respective contracts must contain an express stipulation in that sense.¹⁴⁹

Article 51.- The Municipality will request the General Department of Direct Taxation the respective appraisal, which once done, will be forwarded to the Municipality, which, if accepting, will communicate it to the interested, also determining in a provisional way, the fee to be paid. This communication must be done according to article 147 of the Code of Tributary Norms and Procedures. In the same resolution, the Municipality will grant the interested, a term of 10 workdays, counting from the day following the communication to file a motion to revoke before the Municipal Council, in case of non-conformity, with the warning that if the interested lets the term go by without doing any opposition, the fee is in firm.

If non-conformity refers to aspects of the appraisal itself, the Municipal council shall transfer the file to the Technical Normalization Organ of the General Department of Direct Taxation, for reconsideration, within a maximum term of ten workdays, counting from the reception of the resource. Its assignation will proceed according to the procedures established by the Administrative and Tributary Appraisals Sub Direction. The file will include the pleas of the grantee or permit holder, presented before the municipality. The General Department of Direct Taxation will forward the appraisal report to the Municipality, confirming or modifying the original decision, as proceeds. Once received, the Municipality will proceed to resolve the resource of annulment proposed by the interested, and to fix a definitive way to pay the fee. Against this resolution may apply the remedy of appeal before a Court of Administrative Law, whose resolution implies exhaustion of executive proceedings, as prior step to the Common Administrative Law procedure.

When the remedy of appeal deals with aspects that don't relate to the appraisal, the interested counts with the same term to file a motion to revoke before the Municipal Council, and against what is resolved, he may take appeal before the Court of Administrative Law, whose resolution ends administrative proceedings as prior step to the Common Administrative Law 's procedure.

In case it was the Municipality who does not agree with aspects related to the appraisal, it will forward the file to the General Department of Direct Taxation within ten days, for reconsideration, presenting the pleas and justifications for the case. Against what it resolves there is no resource.

Until there is no definitive determination of the corresponding fee, the interested, in common agreement with the respective Municipality may make deposits to the account, to the order of the Municipality, without this implying that the fee or appraisal has been accepted by the interested. In no case will such deposit generate interests payable to the benefit of the Municipality.¹⁵⁰

Article 51 bis.-The fee will be calculated by annuities in advance, and may be paid each quarter or as the interested Municipality disposes. Each fee, when it is the first determination, will rule immediately, save if there is opposition from the grantee or holder of a permit. In that case it will rule starting the moment when it is definitively fixed. For later determinations, the fee will rule starting the period following the date when the definitive resolution approving it is firm. In case of delay, the right of the Municipality to cash the amounts that they owe it for the indicated concept, will prescribe in the term of five years, in conformity to what establishes article 73 of the Municipal Code.¹⁵¹

Article 52.-In the case of persons whose resources are limited, living permanently in the areas, and only when it refers to concessions destined exclusively for their own dwelling, the municipality shall reduce the fee up to one per cent (1%).¹⁴⁰

150. Reformed by Executive Decree No. 29818 of August 25 of 2001, published in La Gaceta No. 188 of October of 2001.

151. Reformed by Executive Decree No. 29818 of August 25 of 2001, published in La Gaceta No. 188 of October of 2001.

Article 53.-The extension of concessions authorized by article 50 of the Law, will be adjusted by the following procedures:

a)The Municipality must notify the interested before the municipality in a form supplied to those ends by the General Registry of Concessions, with an anticipation not less than six months nor greater than one year. Such certification may be done by publishing an edict in the Official Journal, directly with a process server, or preferably with a certified letter.

b)The interested may request an extension before the municipality, in a form supplied for that by the General Registry of Concessions, within the three months following the notification. Even if it were not practiced, the interested may request the extension within the six months before the term of the concession expires.

c)For a request of extension to proceed, the grantee must be up to date in the payment of the fee and have complied with the other obligations established in the Law, the Regulation and the contract. In any case, the request shall be taken as presented on the date when payment or compliance of his obligations has been done.

d)The municipality will send the request for extension to the Costa Rican Tourist Board –ICT-, or IDA, as corresponds. The corresponding institute shall pronounce in the term of thirty calendar days, notifying the interested what has been resolved and against it carries the right of appeal of administrative resources established by the law. Also must enclose a cadastral plan of the plot given in concession. In cases of total or partial cession of concessions, must enclose the cadastral plan of the area that has been partly ceded.

The Municipality has a term of thirty natural days, after receiving the definitive, firm resolution dictated by the respective Institute, to resolve about the request.¹⁵²¹⁴¹

152 **As** modified by Executive Decree No. 21756-MP-J-TUR of November 24 of 1992 and Executive Decree No. 21865-MP-J-TUR dated January 12 of 1993.

e) If the interested party does not agree with the conditions established in the extension of the concession, it may interpose the resources contemplated in the Municipal Code, within five days following the notification.

C-Urban and tourist developments

Article 54.- Certification of construction plans will hereupon be what establishes the Regulation for Construction Plans Certification Proceedings of the Buildings on the Maritime and Terrestrial Zone.¹⁵³

Article 55.- Annulled¹⁵⁴

Article 56.- Those wishing to perform tourist exploitations, shall submit a guarantee of execution of the project before the respective municipality, prior approval of ICT of the amount and kind of guarantee. Such guarantee may be submitted by mortgage, guarantee bonds or state bonds or of its institutions, or in any other way of satisfactory bail. The amount will be fixed between 1% and 5% of the project's value, and the guarantee submitted with a term whose validity exceeds in one third the fixed by the interested party for execution of the project.

Once the project is finished, the municipality will return the guarantee to the interested party, prior the Costa Rican Tourist Board's written authorization. This guarantee will be granted without detriment to the ones established by the laws to the benefit of other institutions. In case of non-compliance, the municipality will execute the guarantee and its product will be destined to the aims foreseen in article 59 of the Law. Municipalities, with the Costa Rican Tourist Board's approval, may extend the term of execution of the works, in which¹⁴²

153. **As** modified by Executive Decree No. 29307-MP-J-MIVAH-S-MEIC-TUR of January 26 of 2001; published in La Gaceta No. 36 of February 20 of 2001.

154. By Executive Decree no. 29307 –MPJ-MIVAH-S-MEIC-TUR of January 26 of 2001, published in La Gaceta No. 36 of February 20 of 2001

case the guarantee must be renewed, in conformity to what's indicated in the above paragraph.

CH. Priorities

Article 57.-Concessions will be granted attending the principle that the first one in time is first in right. Nevertheless, when for one same plot there are requests for different uses that adjust to the guidelines of the development plan of the area, the concession will be granted according to the following order of priorities:

On areas declared as tourist, the priority:

- 1.-Activities declared as tourist by the Costa Rican Tourist Board
- 2.-Recreation and sport activities
- 3.-Residential use
- 4.-Commercial and crafts activities
- 5.-Farming and cattle exploitations, non-sport fishing or industrial

On areas declared not tourist, the order of priorities:

- 1.- Farming and cattle exploitations, non-sport fishing or industrial
- 2.- Residential use
- 3.- Commercial and crafts activities
- 4.- Recreation and sport activities
- 5.-Tourist exploitations

In case of populated areas not counting with an urban regulating plan, residential use will have priority over the others.

D. Sessions, Charges and Change of use

Article 58.-No grantee may modify or change the use or destination of his plot, buildings or facilities, unless counting with an express authorization of the respective municipality,

ICT or ITCO, as corresponds. This authorization may only be given attending to the criteria of greatest public convenience.

When the change of use or destination is authorized, the fee will be modified if corresponds, but not so the original term of the concession.

Article 59.-For a concession or the rights deriving from it, to be able to be ceded, committed, transferred, taxed, totally or partly, a written authorization of the respective municipality, ICT or ITCO, as corresponds, is needed.

In case of a transfer, all the stipulations of the contract will be valid, including the fee or the proportion that corresponds to it, if the cession were partial.

Article 60.-For the effects of the above article, the interested shall present the respective documentation before the municipality, with a copy sent to ICT or IDA as corresponds, within the following eight calendar days, which must pronounce within a term of thirty calendar days. Such resolution must be notified by the Tourist Board to the interested, and against it may apply all the administrative resources indicated by the law.¹⁵⁵

Article 61.-In case of death or declared absence of the grantee, his heirs will be the successors as to all rights and obligations. If there were no heirs, or heir apparent, the concession will terminate, and improvements and existent constructions will be incorporated to municipal ownership. Likewise terminated is the concession if for the cause of general convenience, the municipality wants the plot to destine it to public use, having to pay to the heirs, in this case, the value of existent improvements.

The municipality may not pay improvements for a higher value than the one determined by the General Department of Direct Taxation.

E. Limitations and special cases

Article 62.-No concessions of lots may be granted where the public zone is not marked. To that end, each municipality will mark the public zone along the littoral under its jurisdiction, and especially in those of the maritime and terrestrial zone where construction of works or buildings is contemplated, having to hire the necessary studies

for this purpose, with the National Geographic Institute, which will set limits, according to what's established in article 2 of this regulation, save in littorals that present very dynamic coast formation processes, which will be marked as public zone according to the demarcations fixed by the National Geographic Institute in conformity with the studies done for each case.

To cover demarcation costs, municipalities may charge the grantees of those lots neighboring the public zone, a rate per linear meter of front, to be calculated dividing the cost of demarcation between the number of linear meters covered by the same

Those who are interested in hiring demarcation of the public zone shall request authorization from the respective municipality. Once obtained, they may contract the mentioned Institute and the cost will be covered by the interested.¹⁵⁶

Article 63.- The National Geographic Institute will publish in the Official Journal those portions of the maritime and terrestrial zone whose public zone has received demarcation.

The Real Estate Registry will not register any plan that has not been supervised by The National Geographic Institute as to demarcation of the public zone.

Article 64.-Municipalities may charge grantees the cost of topographic works carried out to prepare plans for the distribution of lots. To calculate the amount that corresponds to each grantee, allocation of the total cost of the works will be done, according to the total area of lots destined to concessions.

Article 65.-Lots or plots of areas declared as tourist, destined to residential use of one family, will have a minimum area of 500 square meters and a maximum of 4000 square meters. Similar limitations will apply to plots given in concession for recreation, relaxation or leisure, according to what article 57, clause c) of this Law disposes.

The dimensions of the lots for any other use will be established by the regulatory plan of the area.

All constructions on the maritime and terrestrial zone will have lateral and frontal empty areas not smaller than three meters.¹⁵⁷

Article 66.-For the ends contemplated in clause c) of article 57 of the Law, each municipality will reserve a maximum of one fourth of the maritime and terrestrial zone under its jurisdiction, to offer it as concessions to the entities mentioned in that disposition.

The indicated area must have been demarcated in the regulatory plan of the area, estimated over the net surface, that is, excluding spaces destined for public use, and its quality shall correspond at least to the average quality of the area.

Municipalities will offer the areas available for such ends with a publication on the Official Journal. This will be done regularly until receiving requests for concessions of the corresponding entities.¹⁵⁸

Article 67.-Granting of concessions contemplated in the above article will give preference to entities whose number of members of active members, as certified in the corresponding record, and in equality of conditions, to the one first presenting the request. These entities may only use the preference granted by this disposition, once, without detriment they could request concessions on the rest of the maritime and terrestrial zone, on equal conditions to the other interested.

The Costa Rican Tourist Board, in collaboration with the General Registry of Concessions, shall enforce compliance of the above dispositions.

Article 68.-In accordance to article 57, clause d) of the Law, in tourist areas no concessions may be given for industries, save the ones related with tourism exploitation. Considered industries related with tourism exploitation are those facilities with the nature of crafts or small industry, manufacturing products or lending services that interest tourists, such as:

- 1.Crafts' factories like carpenters' shops, cabinetmakers' shops, tapestry shops, pipe layers' shops, and repair shops for domestic appliances, bicycles, boats and for their motors.

2.Manufacturing of articles based on seashells, snails and other materials of marine origin.

3.Manufacturing of articles based on the following ready-made materials: rubber, cellophane, felt, bone, wood, rattan, palm straw, paper, hide, leather, feathers, and glass.

4.Manufacturing of articles like ceramics and pottery, who require electric or gas oven baking.

5.Assembly of toys, manufacture of sport articles or musical instruments.

6.Manufacturing of ice, ice cream and elaboration and packing of vegetable derivatives like juices or preserves.

7.Bakery or pastry shops, with electric or gas ovens, manufacturing of cocoa or chocolate, sweets, candy, confections, cookies, tortillas or bottling of honey.

8.Activities of the types mentioned, that exceed the level of crafts or small industry, or others not contemplated, provided they have authorization from ICT.

In any case, the installment of crafts or industries will only be permitted when they don't put at risk the health or safety of neighbors, and they are declared by the Ministry of Health as harmless, or with reliable disturbance to the plot they are located on.

In no case will installments or operations of extractive character be allowed on tourist areas.

Article 69.-Concession of land for agriculture and cattle purposes must adjust to the maximum dimensions established next:

1)On tourist areas:

a) When the exploitation is located entirely within the restricted zone, the plot can't be longer than one kilometer in the parallel line to the littoral and the area less than 15 hectares.

b) When the applicant is owner of a neighboring plot on the restricted zone, the maximum length of the land given in concession will be the one resulting less, of: I) longitude of the contiguous area between the farm and the maritime and terrestrial zone ii) one kilometer.

2) In non tourist areas or pending declaratory by ICT:

a) When the exploitation is located entirely within the restricted zone, the plot may not exceed 100 hectares

b) When the applicant is owner of a neighboring plot on the restricted zone, the maximum length will be the smallest of: I) the longitude of the contiguous area between the farm and the maritime zone and ii) five kilometers.

Article 70.-For concessions of agriculture and cattle use, the applicant shall present a raw draft of the land, indicating the location, boundaries, and linear measurement, in meters of all their sides.

Article 71. - To guarantee free access to the public zone, the State or its institutions may open the roads considered necessary on lands granted in concession for agriculture and cattle. The grantee will not have the right to indemnification, save the one that corresponds to authorized improvements that have to be destroyed, according to an appraisal of the General Department of Direct Taxation.

Article 72.- For effects of article 58 of the Law in what refers to access to the public zone, the streets that are opened will have a right of way of 14 meters, save if the Ministry of Public Works and Transport, INVU or ICT indicate a larger one.

Article 73.-Contracts of concession or rental granted legally over lots located totally or partly on public zone, that were valid as to March 16 of 1977 will be submitted to the following norms:

a. At the expiration of the rental contract or concession of the plot and if no improvements exist on the portion corresponding to the public zone, the municipality is forced to leave such portion under its custody and management. If there are improvements done legally in that portion, the municipality has the power to recover it, by paying those improvements, or granting a new concession over the entire plot.

b. In the case of constructions, buildings, or existent facilities, are destroyed; they may not be reconstructed on the portion of plot corresponding to the public zone.

c. When a plot comes to belong to the respective municipality and there are improvements on the portion corresponding to the public zone, the municipality will destine them to public use or destroy them

d. New constructions, reconstruction or remodeling will not be allowed on the public zone. Neither are repair works, except those strictly necessary to keep them in the same conditions of hygiene, safety and esthetics of the existent buildings and constructions.

e. When there are constructions, buildings or facilities illegally built on the public area, the municipality shall destroy, demolish or remove them, following the procedure established in article 22 of this regulation.

Article 74.-According to article 69 of the Law, buildings and constructions which have been erected without the respective authorization in plots of the restricted zone, given legally in rental or concession, in conformity to preceding laws, shall be object of planning according to urban norms to be dictated, which will be gradually applied in the cases of remodeling or reconstruction.

Article 75.-Settlers of the maritime and terrestrial zone, Costa Rican by birth or with over ten years of continuous residence in it, according to the authority of the local Rural

Assistance Police or a certification of the Electoral Registry about the applicant's domicile, may continue in possession of the respective lots provided it's their only property. They may be relocated according to the area's planning, prior indemnification of the improvements. In all cases the public zone must be respected.

When the period of residence is lower than ten years, settlers may request concession over the plot, provided no part of a public zone is included. If there are improvements on the public zone, what's disposed in clause e), article 73 of the regulation, applies, and dispositions of article 74 of the regulation if improvements are located on the restricted zone.

Those who not being settlers, have constructed or built on the restricted zone on plots illegally obtained, will not have the right of payment of the improvements.

Nevertheless they may request concession over the plot and, if it is granted, they won't be charged for use and enjoyment of the improvements.

Request of concessions made by occupants of the maritime and terrestrial zone will have priority over the rest.

Article 76.-Improvements done to a plot, when under the control of the municipality, which have not been paid for may be given in concession, following the procedure established by article 60 of the Law, when it applies.

F. Utilization of Income:

Article 77.-In relation to utilization of twenty per cent of the income perceived by the municipalities, under the concept of concessions, the municipalities will give priority to payment of those improvements which are found within the public zone and to those requiring to be eliminated to build access roads to the area.

Article 78.-Improvement works on tourist areas to which reference is made on clause b) of article 59 of the Law, include the purchase or expropriation of private property lands,

located on the maritime and terrestrial zone, and the infrastructure works and any other determined by ICT and INVU. The municipalities will give priority to purchase or expropriation of lands submitted to private ownership located in the public zone under its jurisdiction.

Article 79.--The Controller General of the Republic will enforce the due utilization of income perceived by municipalities under the concept of concessions granted in the maritime and terrestrial zone.

G- Cancellations and sanctions

Article 80.--All cancellation of concessions decided by a municipality shall be previously consulted to ICT or IDA, as corresponds, as well as to the Municipal Promotion and Advisory Institute (IFAM). Likewise, those institutions shall inform the respective municipality of any concession they consider should be cancelled.

The cancellation procedure of a concession must be carried out, also attending the principle of due process. The final act that the corresponding Municipality issues must adjust to what is disposed in article 128, following and in conformity to the General Law of Public Administration. The Municipality will send a copy of the administrative resolution issued by the corresponding Institute and to the interested, and will formally communicate to the General Registry of Concessions, with a considered Resolution, extended by the Municipal Secretariat, so that it proceeds to cancel the corresponding inscription.¹⁵⁹

Article 81.--Infractions to the Law will be sanctioned according to dispositions of its articles 61 to 65, inclusive.

Chapter III. Of the General Registry of Concessions

Article 82.--ICT will establish the General Registry of Concessions of Maritime and Terrestrial Zone as a dependency of the National Registry.¹⁶⁰

Article 83.- The concessions granted, extensions or cession of the respective contracts, the encumbrances that could be constituted, as well as any other act or contract affecting, limiting, modifying or terminating private rights of the concessions will be inscribed on the General Registry of Concessions, applying to this effect the following dispositions and the procedures established on the Civil Code, regulation of the Public Registry, Executive decree No. 9885-J of April 16 of 1979 and its amends, Law No. 6145 of November 18 of 1977 (Law about the Inscription of Documents on the Public Registry) and its amends and other related laws. ¹⁶¹

Article 84.-For the effects of practicing the indicated inscriptions, ICT or IDA, as corresponds, or the interested, shall forward to the General Registry of Concessions of the Maritime and Terrestrial Zone of the National Registry, the respective testimony of recording in the protocol of the pieces, done before a Public Notary, whose

cost will be charged to the grantee. Such recording in the protocol must include at least the municipal agreement granting the concession, the act of approval and the literal transcript of the contract. ICT or IDA will notify the respective municipality, of the contract sent for registry. ¹⁶²

Article 85.- In case of extensions or cessions of duly registered concessions, the protocol record of the pieces will include at least the resolution of the corresponding Institute and the firm municipal decision that authorizes them; information that the Notary will certify. ¹⁶³

Article 86.-The Public Registry Department will regulate the system by which the internal normative will be organized and adapted, the reception proceedings, qualification, inscription and functioning of this Registry. ¹⁶⁴

Article 87.-To the qualification and inscription procedures of concessions, cessions, and extensions of any act related to the Maritime and Terrestrial Zone, will apply the procedures established on the Civil Code, Regulation of the Public Registry, Executive Decree No. 9885-J of April 16 of 1979 and its amends, Law No 6145 of November 18 of

1977 and its amends, Law 6043 of March 2 of 1977 and its Regulation, Executive Decree No. 7841P of December 16 of 1977 and other related laws.

Article 88.-Inscription of new concessions will pay in conformity to what establishes numeral 4. Extensions, taxes and any other operation will pay in conformity to what's established in numerals 1 and 26, all of Table III of the Law of Customs Duties of the Public Registry, Law No. 4564 of April 29 of 1970 and its amends.¹⁶⁵¹⁴³

Article 89.-Annulled

Article 90.-Annulled

Article 91.-Annulled

Article 92.-Annulled¹⁶⁶

Chapter IV Special Dispositions

Article 93.-According to article 74 of the Law, the maritime and terrestrial zone of the Project of Integral Development Plan of Bahia Culebra, from Punta Cabuyal to Punta Cacique, will be under direct management of ICT. Concessions in the area will be granted by said institute. Requests will be presented before it and will be managed according to the procedure contemplated in this regulation, as applicable. ICT will grant these concessions only when they adjust to the Integral Development Plan, or do not interfere. Once a concession is granted, the Institute will communicate it to the respective municipality, so that it charges the corresponding fee.

For all the rest, the dispositions of the Law and this Regulation will rule for this area, without detriment to special norms that could be dictated.

¹⁶⁵As amended by Executive Decree No. 21756 MP-J-TUR of November 24 of 1992

¹⁶⁶ As amended by Executive Decree No. 21756 MP-J-TUR of November 24 of 1992

Article 94.-The Board of Port Administration and Economic Development of the Atlantic Watershed, will continue to rule over the lands that were transferred to it, in virtue of article 41.-, clause b) of the Law No 5337 of August 27 of 1973, except for the maritime and terrestrial zone corresponding to both sides of the main canal system that unite the ports of Moin and Barra del Colorado. This area will include two hundred meters on each coast of the main canals.

To the public zone included along the littoral will apply what article 25 of the Laws disposes.

Article 95.-To comply with article 76° of the Law, the Municipality of the central canton of Puntarenas shall elaborate a topographic plan clearly indicating a fifty-meters strip of land, starting on the ordinary high tide line and the excesses of the lands, that is, the areas included on the area reserved for construction of a boulevard, and the land sold by ICT to private persons. The Municipality and ICT shall, likewise and before the excesses of lands are offered in sale, elaborate the plan of the coastal boulevard.

Once the above requirements are complied with and with a prior assessment of the General Department of Direct Taxation, the municipality shall publish in the Official Journal, and in two of the most important circulating journals, an advertisement directed to current occupants of the lands in excess sold by ICT, offering them the sale of such excesses, and fixing a term of six months from the publication, to celebrate the respective sales contract.

Expired this term; the Municipality may offer the respective plot in sale to whoever is interested.

Article 96.-For effects of what is disposed in article 77 of the Law, the National Geographic Institute will do the demarcation, in a term not greater than six months after publication of this decree, the limits of lands bordering by the north with the estuary of Puntarenas.

The lands formed by natural or artificial accession on the south littoral of the estuary of Puntarenas, are of public domain and property of the State, in conformity with the Law of

Waters No. 176 of August 27 of 1942. Its administration will be under the charge of the Municipality of the central county of Puntarenas, which may grant such lands in concession to owners of bordering lands. The proceeding to be followed in these cases is the same as the established in this regulation for the granting of concessions.

Article 97.-Any landfill or artificial accession of the estuary of Puntarenas shall be done according to the norms established by the Ministry of Public Works and Transport to that effect, and request of permits for these works must be presented before the Municipality of Puntarenas, who will forward them to the Ministry of Public Works and Transport, and of Agriculture and Livestock Farming, for prior approval. Once the pronouncement is done, the Municipality of Puntarenas shall resolve on the presented request, taking into consideration the Regulatory Plan of the city.

Article 98.-For construction of works on lands coming from accessions, natural or artificial, or in the part of the sea referred to in article 77 of the Law, authorization is required of the institutions indicated in articles 18 of the Law and 8 of the Regulation.

Article 99.- In effect from its publication.

Transitory I.-On the granting of concessions, preference will be given to requests presented before this regulation is in force, provided requirements are adequate to the ones established here, and without detriment to priorities established in article 57 of this regulation.

Transitory II.-The Ministry of Public Works and Transport shall determine, in a term no longer than one year, the spaces of free traffic destined for public roads on real estate of the maritime and terrestrial zone, or neighboring ones, that have restrictions for it.

Given at the Presidential House.-San José, at day sixteen of the month of December of nineteen seventy-seven.

DANIEL ODUBER

FERNANDO VOLIO JIMENEZ