

# Ordinance for Enforcement of the Ecotourism Promotion Act

(Ordinance of the Ministry of Education, Culture, Sports, Science and Technology; Ministry of Agriculture, Forestry and Fisheries; Ministry of Land, Infrastructure, Transport and Tourism; Ministry of the Environment No. 1 of April 1, 2008)

Pursuant to the provisions of Article 6, paragraphs (1) and (5); Article 8, paragraph (1); and Article 10, paragraphs (1) and (2) of the Ecotourism Promotion Act (Act No. 105 of 2007), and for the purpose of enforcement of the same Act, the Ordinance for Enforcement of the Ecotourism Promotion Act is established as follows.

(Terms)

Article 1 The terms used in this Ministerial Ordinance have the same meanings as those used in the Ecotourism Promotion Act (hereinafter referred to as the "Act").

(Application for Certification of Overall Concept)

Article 2 The application for certification of the Overall Concept under Article 6, paragraph (1) of the Act is to be made by submitting to the competent minister an application form stating to that effect with the following documents attached thereto:

- (i) a document describing the Overall Concept;
- (ii) a map clarifying the area which is subject to the Overall Concept;
- (iii) a map indicating the location of the Natural Tourism Resources specified in the Overall Concept;
- (iv) if the regulations for Natural Tourism Resources specified in the Overall Concept have been prescribed by Municipal Ordinance, a document describing the content of said Municipal Ordinance; and
- (v) if the Mayor of said Municipality designates the Natural Tourism Resources specified in the Overall Concept as Specified Natural Tourism Resources, the following documents for each of the Specified Natural Tourism Resources as designated, respectively:
  - (a) a map indicating the border of said Specified Natural Tourism Resources (if the entry is restricted pursuant to the provisions of Article 10, paragraph (1) of the Act, including the map clarifying the area which is subject to the restriction);
  - (b) a document certifying that the consent of the Land Owners, etc.

- prescribed in Article 8, paragraph (2) of the Act (including the cases where applied mutatis mutandis pursuant to Article 10, paragraph (5) of the Act);
- (c) if the entry is restricted pursuant to the provisions of Article 10, paragraph (1) of the Act, a document describing the term thereof and the number determined by the Mayor of a Municipality prescribed in the same Article, paragraph (3);
- (vi) in addition to what is set forth in the preceding items, any document that the competent minister finds necessary.

(Application for Certification of Change to Certified Overall Concept)

Article 3 (1) The application for certification of a change to the Certified Overall Concept under Article 6, paragraph (5) of the Act is to be made by submitting to the competent minister a written application stating to that effect with the following documents attached thereto:

- (i) a document describing the Overall Concept after the change;
  - (ii) a document describing the content of and reason for the change;
  - (iii) if there is any change in the descriptions in any document prescribed in each item of the preceding Article, said document after the change, and a document describing the content of and reason for said change; and
  - (iv) in addition to what is set forth in the preceding three items, any document that the competent minister finds necessary.
- (2) A change of name of a person or corporation participating in the Council or an addition of a participant to the Council does not require the certification of change referred to in Article 6, paragraph (5) of the Act.

(Natural Tourism Resources Appropriately Protected by Other Laws and Regulations)

Article 4 The Natural Tourism Resources specified by Ordinance of the competent ministry referred to in the proviso of Article 8, paragraph (1) of the Act are as follows; provided, however, that those specified in the Certified Overall Concept as the Natural Tourism Resources which are required to be particularly protected by way of restriction of actions by Municipal Ordinance and the like are excluded:

- (i) places of scenic beauty or natural monuments prescribed in Article 109, paragraph (1) of the Act on the Protection of Cultural Properties (Act No. 214 of 1950);
- (ii) land within the area designated as a protected forest to promote the public health or the scenic preservation of a place of scenic or historic interest pursuant to the provisions of Article 25, paragraph (1) or Article 25-2, paragraph (2) of the Forest Act (Act No. 249 of 1951);
- (iii) aquatic animals or plants of which harvest is prohibited by Ordinance of

- the Ministry of Agriculture, Forestry and Fisheries or Rules pursuant to the provisions of Article 4, paragraph (1) of the Act on the Protection of Fishery Resources (Act No. 313 of 1951) or the provisions of the same paragraph with regard to the matters set forth in the same Article, paragraph (2), item (i), and the protected waters designated pursuant to the provisions of Article 15, paragraph (1) or (4) of the same Act;
- (iv) land within the urban park prescribed in Article 2, paragraph (1), item (ii) of the Urban Park Act (Act No. 79 of 1956);
  - (v) plants within the special area prescribed in Article 20, paragraph (1) of the Natural Parks Act (Act No. 161 of 1957) (limited to those designated by the Minister of the Environment pursuant to the provisions of the same Article, paragraph (3), item (xi)) and animals within said special area (limited to those designated by the Minister of the Environment pursuant to the provisions of the same Article, paragraph (3), item (xiii)), land, plants (including trees and bamboos), and animals within the special protection zone prescribed in Article 21, paragraph (1) of the same Act, and the sea bed, fauna and flora within the marine park zone prescribed in Article 22, paragraph (1) of the same Act (limited to those designated by the Minister of the Environment pursuant to the provisions of the same Article, paragraph (3), item (ii));
  - (vi) land, plants (including trees and bamboos) and animals within the primeval natural environment conservation area prescribed in Article 14, paragraph (1) of the Nature Conservation Act (Act No. 85 of 1972), land within the special zone prescribed in Article 25, paragraph (1) of the same Act, wild fauna and flora within the wild species protection zone prescribed in Article 26, paragraph (1) of the same Act which are related to said wild species protection zone, and the sea bed and fauna and flora within the marine special zone prescribed in Article 27, paragraph (1) of the same Act (limited to those designated by the Minister of the Environment pursuant to the provisions of the same Article, paragraph (3), item (v));
  - (vii) nationally endangered species of wild fauna and flora prescribed in Article 4, paragraph (3) of the Act on Conservation of Endangered Species of Wild Fauna and Flora (Act No. 75 of 1992), temporarily designated endangered species prescribed in Article 5, paragraph (1) of the same Act, and land (including the beds of bodies of water) and wild fauna and flora within the managed area prescribed in Article 37, paragraph (1) of the same Act (limited to those designated by the Minister of the Environment pursuant to the provisions of the same Article, paragraph (4), item (vii)); and
  - (viii) wildlife prescribed in Article 2, paragraph (1) of the Wildlife Protection and Proper Hunting Act (Act No. 88 of 2002) (excluding the hunted wildlife prescribed in Article 2, paragraph (3) of the same Act, and the wildlife and

eggs of birds prescribed in Article 13, paragraph (1) of the same Act), and plants (excluding trees and bamboos) and animals within the area of the State-designated special protection zone which is designated by the Minister of the Environment or the area of the prefecture-designated special protection zone which is designated by a prefectural governor, prescribed in Article 29, paragraph (7), item (iv) of the same Act.

(Restriction of Entry in Areas Where Specified Natural Tourism Resources Are Located)

Article 5 (1) If a Mayor of a Municipality makes a restriction under Article 10, paragraph (1) of the Act, the Mayor is to determine the term of such restriction.

(2) The application for approval under Article 10, paragraph (1) of the Act is to be made by submitting a written application stating the following information to the Mayor of a Municipality:

(i) the address and name of the representative of the persons who intend to enter (in case of a judicial person, the location of the principal office and name of such judicial person and the name of the representative thereof);

(ii) the name of the Specified Natural Tourism Resources;

(iii) the date and time at which the persons intend to enter;

(iv) the number of the persons who intend to enter;

(v) the purpose of the entry;

(vi) the route or range of the entry;

(vii) the method of the entry; and

(viii) in addition to what is set forth in the preceding items, information determined by the Mayor of a Municipality as necessary for the approval.

(3) If a Mayor of a Municipality has made an approval referred to in Article 10, paragraph (1) of the Act, the Mayor is to issue the certificate of approval stating the following information:

(i) the name of the representative of the persons who intend to enter;

(ii) the name of the Specified Natural Tourism Resources;

(iii) the date and time of the approved entry;

(iv) the number of the persons for the approved entry;

(v) the route or range of the approved entry; and

(vi) the method of the approved entry.

(Specified Natural Tourism Resources to Which the Entry in the Area Where They are Located is Restricted by Other Laws and Regulations)

Article 6 The Specified Natural Tourism Resources specified by Ordinance of the competent ministry referred to in the proviso of Article 10, paragraph (1) of the Act are as follows:

(i) lands within the area designated by the Minister of the Environment

- pursuant to the provisions of Article 20, paragraph (3), item (xvi) of the Natural Parks Act (including where it is cited in Article 21, paragraph (3), item (i) of the same Act) or the regulated utilization area prescribed in Article 23, paragraph (1) of the same Act;
- (ii) lands within the restricted area prescribed in Article 19, paragraph (1) of the Nature Conservation Act; and
- (iii) lands (including underwater) within the restricted area prescribed in Article 38, paragraph (1) of the Act on Conservation of Endangered Species of Wild Fauna and Flora.

(Acts Not Requiring Approval of Entry)

Article 7 The acts specified by Ordinance of the competent ministry referred to in the proviso of Article 10, paragraph (2) of the Act are as follows:

- (i) acts necessary for engaging in agriculture, forestry, or fisheries;
- (ii) acts conducted for promoting the maintenance and improvement of the living standard of the residents of farming, mountain, and fishing villages, the conservation and culture of forests, and the appropriate conservation and management of fishery resources;
- (iii) reconstruction or extension (including new construction in case of a signal) of a signal, protective fence, retaining wall, and other facilities necessary for ensuring traffic safety of railroads, tracks, expressways prescribed in Article 2, paragraph (8) of the Road Transportation Act (Act No. 183 of 1951), or roads prescribed in Article 2, paragraph (1) of the Road Act (Act No. 180 of 1952) (simply referred to as the "road" in the following item);
- (iv) laying water pipes, gas pipes, electric wires, and the like under the road;
- (v) installation of a survey marker prescribed in Article 10, paragraph (1) of the Survey Act (Act No. 188 of 1949) or a hydrographic survey marker prescribed in Article 5, paragraph (1) of the Act on Services Related to Waterways (Act No. 102 of 1950);
- (vi) felling dead or damaged trees and bamboos or dangerous trees and bamboos;
- (vii) weeding, removing vines and bines, or thinning the forests for maintaining electric lines;
- (viii) posting or installing advertisements or other similar items, or indicating the same on structures and the like pursuant to the provisions of the laws and regulations or for the purpose of securing safety;
- (ix) posting or installing signs for protection of reproduction of wildlife;
- (x) use of a motorboat within the area of the port prescribed in Article 2 of the Act on Port Regulations (Act No. 174 of 1948);
- (xi) maintenance and management of navigation marks and other acts conducted for securing marine traffic safety;

- (xii) mining of minerals or quarrying of soils and stones (including drilling and boring for the mining of minerals) by a person holding the mining right;
- (xiii) acts for the preservation of a monument prescribed in Article 2, item (iv) of the Act on Protection of Cultural Properties which is related to the designation or registration by the Minister of Education, Culture, Sports, Science and Technology or the designation by the local government;
- (xiv) surveying pursuant to Article 3 of the Survey Act;
- (xv) conducting activities for the conservation of the natural environment under the laws and regulations;
- (xvi) acts of the owner or manager of land or trees and bamboos or a person holding the right to use or make profits with regard to land or trees and bamboos conducted at the land to which such rights and obligations are related;
- (xvii) reconstruction or extension (including new construction in case of a temporary structure for construction work) of a temporary structure for construction work (excluding accommodation) necessary for conducting the acts set forth in each item of this Article, or the facilities or equipment prescribed in the laws and regulations or the facilities for the business conducted pursuant to the provisions of the laws and regulations;
- (xviii) in addition to what is set forth in the preceding items, acts necessary for maintaining, managing, or operating the land within the area where the Specified Natural Tourism Resources are located, or the facilities or equipment located in the area;
- (xix) passing, unavoidably, through the area where the Specified Natural Tourism Resources are located for conducting the acts set forth in items of this Article in an area outside said area;
- (xx) performance by the national government or the local government of the operations to rescue disaster victims (including training for said operations and operations to deal with extraordinary disasters), prevention or investigation of crimes and other operations for maintaining public order, services for ensuring traffic safety, waterway services, and other services similar thereto, which are prescribed in laws and regulations as duties of the national government or local governments, respectively;
- (xxi) inspection, research, or other acts similar thereto under the provisions of laws and regulations;
- (xxii) in addition to what is set forth in the preceding items, acts that have received permission or other disposition pursuant to the provisions of laws and regulations;
- (xxiii) in addition to what is set forth in the preceding items, acts conducted by the national government or the local government pursuant to the provisions of laws and regulations;

- (xxiv) in addition to what is set forth in the preceding items, acts for which the entry in the area where the Specified Natural Tourism Resources are located is found by the Mayor of a Municipality to be inevitable in view of the public interest or social conventions; and
- (xxv) acts incidental to the acts set forth in the preceding items.

### **Supplementary Provisions**

This Ministerial Ordinance comes into effect as of the date on which the Act comes into effect (April 1, 2008).

### **Supplementary Provisions [Ordinance No. 1 of the Ministry of Education, Culture, Sports, Science and Technology; Ministry of Agriculture, Forestry and Fisheries; Ministry of Land, Infrastructure, Transport and Tourism; Ministry of the Environment of March 31, 2010]**

This Ministerial Ordinance comes into effect as of the date on which the Act to Partially Revise the Natural Parks Act and the Nature Conservation Act comes into effect (April 1, 2010).