



THE LAWS OF THE INDIES

“El Orden que se ha de Thener en Descubrir y Poblar”, transcripción de las Ordenanzas de descubrimiento, nuevo población y pacificación de las Indias dadas por Felipe II, el 13 de julio de 1573, en el Bosque de Segovia, según el original que se conserva en el Archivo General de Indias de Sevilla.

Ministerio de la Vivienda, Madrid, 1973.

ORDINANCES FOR THE DISCOVERY, THE POPULATION AND THE PACIFICATION OF THE INDIES

Don Felipe etc.- To the Viceroys, presidents, audiencias and governors of our new Indies and to all those others concerned let it be known: That in order that the discoveries and new settlements and pacification of the land and provinces that are to be discovered, settled, and pacified in the Indies be done with greater facility and in accordance with the service to God Our Lord, and for the welfare of the natives, among other things, we have prepared the following ordinances.

1. No person, regardless of state or condition, should, on his own authority make a new discovery by sea or land, or enter a new settlement or hamlet in areas already discovered. If he were found without our license and approval or by those who had our power to give it, he would face a death penalty and loss of all his possessions to our coffers. And, we order to all our viceroys, audiencias, and governors and other justices of the Indies, that they give no license to make new discoveries without previous consultation with us and only after having obtained our permission; but we do consent that in areas already discovered, they can give license to build towns as necessary, adhering to the order that in so doing they must keep to the laws of February regarding settlements in discovered lands, [and] then they should send us a description.

2. Those who are in charge of governing the Indies, whether spiritually or temporally, should inform themselves diligently whether within their districts, including lands and

provinces bordering them, there is something to be discovered and pacified, of the wealth and quality, [and] of the peoples and nations who inhabit there; but do this without sending to them war personnel nor persons who can cause scandal. They [the governors] should inform themselves by the best means available; and likewise, they should obtain information on the persons who are best suited to carry out discoveries - and with those who are best fit for this purpose, they [the governors] should inform themselves by the best means available; and likewise, they should obtain information on the persons who are best suited to carry out discoveries -and with those who are best fit for this purpose, they [the governors] should confer and make arrangements, offering them the honors and advantages that justly, without injury to the natives, can be given them -and- before carrying out what has been arranged or has been learned, give narratives to the viceroy and the audiencias and also send them to the Council, which, after looking at the case, will issue a license to proceed with the discovery, which should be carried out in the following order:

3. Having made, within the confines of the province, a discovery by land, pacified it, [and] subjected it to our obedience, find an appropriate site to be settled by Spaniards- and if not, [arrange] for the vassal Indians so they be secure.

4. If the boundaries of the settlement are populated, utilizing commerce and ransom, go with vassal Indians and interpreters to discover those lands, and with churchmen and Spaniards, carrying offerings and ransoms and peace, try to learn about the place, the contents and quality of the land, the nation(s) to which the people there belong, who governs them, and carefully take note of all you can learn and understand, and always send these narratives to the Governor so that they reach the Council [Consejo de Indias].

5. Look carefully at the places and ports where it might be possible to build Spanish settlements without damage to the Indian population.

6-12. (These ordinances provide guidelines for discoveries that are made by sea.)

13. Persons who participate in discoveries, whether by land or by sea, should take possession, in our name, of all lands and provinces they might reach and, upon setting foot on to land, perform the necessary ceremonies and writs, thus providing public evidence and faithful testimony.

14. Once the discoverers arrive at newly discovered provinces or lands, together with the officials, they should name each land, each province, and the mountains and principal rivers they might encounter as well as the settlements and towns they might find or that they may begin.

15-31. (These ordinances instruct the Spaniards on the formal issues of encountering, greeting, teaching, and punishing the native Indian population.)

City Planning Ordinances

32. Before discoveries are duly recognized, no new population settlements are permitted, whether in the discovered areas or in those still to be discovered, but in those parts which are already discovered, pacified, and subjected to our mandate, population settlements, both of Spaniards and of Indians, should be ordered having permanence and giving perpetuity to both groups as specified in the fourth and fifth books [of the Laws of the Indies], especially in those parts dealing with population settlements and with land allotments.

33. Having populated and settled the newly discovered area, pacified it, and subjected it to our mandate, efforts should be made to discover and populate adjacent areas that are being discovered for the first time.

34. In order to populate those areas that are already discovered, pacified, and under our mandate, as well as areas that might be discovered and pacified in the course of time, the following sequence should be adhered to: choose the province, county, and place that will be settled, taking into consideration the health of the area, which will be known from the abundance of old men or of young men of good complexion, natural fitness and color, and without illness; and in the abundance of healthy animals of sufficient size, and of healthy fruits and fields where no toxic and noxious things are grown, but that it be good climate, the sky clear and benign, the air pure and soft, without impediment or alterations and of good temperature, without excessive heat or cold, and having to decide, it is better that it be cold.

35. And they should be in fertile areas with an abundance of fruits and fields, of good land to plant and harvest, of grasslands to grow livestock, of mountains and forests for wood and building materials for homes and edifices, and of good and plentiful water supply for drinking and irrigation.

36. And that they should be populated by Indians and natives to whom we can preach the gospels since this is the principal objective for which we mandate that these discoveries and settlements be made.

37. And they should have good access and outlet by sea and by land, and also good roads and passage by water, in order that they may be entered and departed easily with commerce, while bringing relief and establishing defenses.

38. Once the region, province, county, and land are decided upon by the expert discoverers, select the site to build a town and capital of the province and its subjects, without harm to the Indians for having occupied the area or because they agree to it of good will.

39. The site and position of the towns should be selected in places where water is nearby and where it would be possible to demolish neighboring towns and properties in order to take advantage of the materials that are essential for building; and, [these sites and positions should be suitable] also for farming, cultivation, and pasturation, so as to avoid excessive work and cost, since any of the above would be costly if they were far.

40. Do not select sites that are too high up because these are affected by winds, and access and service to these are difficult, nor in lowlands, which tend to be unhealthy; choose places of medium elevation that enjoy good winds, especially from the north and south, and if there were mountains or hills, these should be in the west or in the east, and if there should be a need to build in high places, do it in areas not subjected to fogs; take note of the terrain and its accidental features and in case that there should be a need to build on the banks of a river, it should be on the eastern bank, so when the sun rises it strikes the town first, then the water.

41. Do not select sites for towns in maritime locations because of the danger that exists of pirates and because they are not very healthy, and because in these [locations] there are less people able to work and cultivate the land, nor is it possible to instill in them these habits. Unless the site is in an area where there are good and principal harbors, among these, select for settlement only those that are necessary for the entry of commerce and for the defense of the land.

42. Having selected the site for capital towns in each county, determine the areas that could be subjected and incorporated within the jurisdiction of the head town [English approximation: county seat] as farms, granges, and gardens, without detriment to Indians and natives.

43. Having selected the area, province, and site where the new settlement is to be built, and having established the existing opportunities for development, the governor in whose district [the site] is or borders upon should decide whether the site that is to be populated should become a city, town, or village settlement. In compliance with his decision, it should form a Council [and] commonwealth [república] and name corresponding officials and members in accordance with stipulations in the "Book of the Republic of Spaniards" {Libro de la República de Españoles}. Thus in case it were to become a metropolitan city, it should have a judge with title and name of adelantado [title often given to the governor of a province, probably interim governor], or governor, or principal mayor; a corregidor, or ordinary mayor, who would have insolidum jurisdiction and who jointly with the regiment would carry on the administration of the commonwealth [with the help also of] three officers of the Royal Exchequer [Hacienda Real], twelve magistrates [regidores], two executors, two jurors for each parish, one general procurer, one scribe of the Council, two public scribes [one for mines, another for registers], one main town crier, one broker for commercial transactions, two ushers to diocesan or suffragan bishops, eight [lower] magistrates, and other such essential officials. For the towns and villages, [there should be] an ordinary mayor, four magistrates, one constable, one scribe for the Council and a public scribe, and a majordomo.

44-88. (These ordinances dictate the legislative, legal and fiduciary regulations.)

89. The persons who were placed in charge of populating a town with Spaniards should see to it that, within a specified term, assigned for its establishment, it should have at least thirty neighbors, each one with his own house, ten cows, four oxen or two oxen and two young bulls and a mare, and it should have [also] a clergyman who can administer

sacraments and provide the ornaments to the church as well as the necessary implements for the divine service; if this is not accomplished, he should lose everything already built or formed and he will incur a fine of a thousand gold pesos.

90. The aforesaid stipulations and territory should be divided as follows:

Separate first the land that is needed for the house plots [solares] of the town, then allocate sufficient public land and grounds for pasture where the cattle that the neighbors are expected to bring with them can obtain abundant feed, plus another portion for the natives of the area.

The rest of the grounds and territory should be divided into four parts: one is for the person in charge of building the town, the other three should be subdivided into thirty lots for the thirty neighbors of the town.

91. Land and boundaries for the new settlement cannot be given nor taken at a seaport nor anywhere where it can ever be redundant and detrimental to the Crown nor to the country because such sites will be reserved for us.

92. We define a neighbor as the son, daughter or children of a new settler or his relatives to and beyond the fourth degree that have different households and families and, if they are married, each of them has his own household.

93-98. (These ordinances deals with various topics ranging from town officials, nearby mines, to taxes on items carried along to start a new town.)

99. Those who have made a commitment to build the said town, who after having succeeded in carrying out its settlement, as an honor to them and to their descendants [and in] their laudable memory as founders, we pronounce them *hijosdalgo* [illustrious men of known ancestry]. To them and to their legitimate heirs, in whatever place they might reside or in any other part of the Indies, they will be *hijosdalgo*, that is, persons of noble ascendancy and known ancestry.

100. Those who should want to make a commitment to building a new settlement in the form and manner already prescribed, be it of more or less than 30 neighbors, (know that) it should be of no less than twelve persons and be awarded the authorization and territory in accordance with the prescribed conditions.

101. If there is no person with the duty to select a site for a new settlement and there are enough married men who agree to create a new settlement wherever they are directed to locate it, as long as they are no less than ten married men they can do it and will be given land and boundaries accordingly and they will have the right to choose among themselves mayors and yearly councilmen.

102. Having chosen a site for a new settlement, as a colony, a frontier town, a town proper, a district seat, or a village, the Council and the Indies governor will not be

satisfied by the mere fact of possession and continuity of rule and order from the start and will make them responsible for its development.

103. After the governor sites a new settlement of the proper hierarchy, the city or people who settle it will also settle with each of the persons that had registered or comes to register for the new settlement, and the person responsible for the town must select urban lots, farm, and pasture lands for the person willing to populate the town, who shall receive the amount of peonias and caballerias on which he is willing and able to build as long as no one is awarded more than five peonias nor three caballerias if given the latter.

104. A peonia is an urban lot 46 feet wide and 92 feet deep, land that will yield 156 bushels of either wheat or barley, 15.6 bushels of corn, land sized for two days of plowing for a vegetable garden, land sized for eight days of plowing to plant unirrigated trees, and pasture land for ten fertile sows, twenty cows, five mares, one hundred sheep, and twenty goats.

105. A caballeria is an urban lot 92 feet wide and 184 feet deep, and the rest is equivalent to five peonias which is land that will yield 780 bushels of wheat or barley for bread, 78 bushels of corn, land sized for ten days of plowing for a vegetable garden, land sizes for forty days of plowing to plant unirrigated trees, pasture land for fifty fertile sows, one hundred cows, twenty mares, five hundred sheep, and one hundred goats.

106. The caballeria, both the urban lots and the pasture and farm lands should be clearly marked and surveyed in a defined area and the peonias, both the urban lots and farm lands shall be marked and divided, and the pasture land will be common to all.

107. Those who accept settlement in the caballerias and peonias must build in their urban lots and live in their homestead and select the planting cycle of their farmlands and plant them and populate the pastures with cattle within the assigned time period and shall declare what will be accomplished within each period or they will lose their lots, lands and a monetary fine for the state, and must publicly accept these terms by way of a performance bond.

108. (This ordinance continues to elaborate upon requirements for maintaining caballerias and peonias.)

109. The governor who authorizes the settlement of a new town or concedes rights for an existing town to be populated anew, by means of his own authority or by making a request, should ascertain that those who have made a commitment to settle in a new town comply with the taking of seat in a proper manner. This should be done with great diligence and care. Also, the magistrates and Council procurer should initiate due process against the settlers who are bound up by a specified term and who have not complied with it to make them meet the terms, and those who might have left should be prosecuted, seized, and brought back to the town in order that they comply with the terms of settlement, and if they were in another jurisdiction, a requisitioning order should be issued in order that justice be done under penalty of Our Lord.

110. Having made the discovery, selected the province, county, and area that is to be settled, and the site in the location where the new town is to be built, and having taken possession of it, those placed in charge of its execution are to do it in the following manner. On arriving at the place where the new settlement is to be founded - which according to our will and disposition shall be one that is vacant and that can be occupied without doing harm to the Indians and natives or with their free consent - a plan for the site is to be made, dividing it into squares, streets, and building lots, using cord and ruler, beginning with the main square from which streets are to run to the gates and principal roads and leaving sufficient open space so that even if the town grows, it can always spread in the same manner. Having thus agreed upon the site and place selected to be populated, a layout should be made in the following way:

111. Having made the selection of the site where the town is to be built, it must, as already stated, be in an elevated and healthy location; [be] with means of fortification; [have] fertile soil and with plenty of land for farming and pasturage; have fuel, timber, and resources; [have] fresh water, a native population, ease of transport, access and exit; [and be] open to the north wind; and, if on the coast, due consideration should be paid to the quality of the harbor and that the sea does not lie to the south or west; and if possible not near lagoons or marshes in which poisonous animals and polluted air and water breed.

112. The main plaza is to be the starting point for the town; if the town is situated on the sea coast, it should be placed at the landing place of the port, but inland it should be at the center of the town. The plaza should be square or rectangular, in which case it should have at least one and a half its width for length inasmuch as this shape is best for fiestas in which horses are used and for any other fiestas that should be held.

113. The size of the plaza shall be proportioned to the number of inhabitants, taking into consideration the fact that in Indian towns, inasmuch as they are new, the intention is that they will increase, and thus the plaza should be decided upon taking into consideration the growth the town may experience. [The Plaza] shall be not less than two hundred feet wide and three hundred feet long, nor larger than eight hundred feet long and five hundred and thirty feet wide. A good proportion is six hundred feet long and four hundred wide.

114. From the plaza shall begin four principal street: One [shall be] from the middle of each side, and two streets from each corner of the plaza; the four corners of the plaza shall face the four principal winds, because in this manner, the streets running from the plaza will not be exposed to the four principal winds, which would cause much inconvenience.

115. Around the plaza as well as along the four principal streets which begin there, there shall be portals, for these are of considerable convenience to the merchants who generally gather there; the eight streets running from the plaza at the four corners shall open on the plaza without encountering these porticoes, which shall be kept back in order that there may be sidewalks even with the streets and plaza.

116. In cold places, the streets shall be wide and in hot places narrow; but for purposes of defense in areas where there are horses, it would be better if they are wide.

117. The streets shall run from the main plaza in such manner that even if the town increases considerably in size, it shall not result in some inconvenience that will make ugly what needed to be rebuilt, or endanger its defense or comfort.

118. Here and there in the town, smaller plazas of good proportion shall be laid out, where the temples associated with the principal church, the parish churches, and the monasteries can be built, [in] such [manner] that everything may be distributed in a good proportion for the instruction of religion.

119. For the temple of the principal church, parish, or monastery, there shall be assigned specific lots; the first after the streets and plazas have been laid out, and these shall be a complete block so as to avoid having other buildings nearby, unless it were for practical or ornamental reasons.

120. The temple of the cathedral [principal church] where the town is situated on the coast shall be built in part so that it may be seen on going out to sea and in a place where its buildings may serve as a means of defense for the port itself.

121. Next, a site and lot shall be assigned for the royal council and cabildo house and for the custom house and arsenal, near the temple, located in such a manner that in times of need the one may aid the other; the hospital for the poor and those sick of noncontagious diseases shall be built near the temple and its cloister; and the hospital for the sick with contagious diseases shall be built in such a way that no harmful wind blowing through it may cause harm to the rest of the town. If the latter be built in an elevated place, so much the better.

122. The site and building lots for slaughter houses, fisheries, tanneries, and other business which produce filth shall be so placed that the filth can easily be disposed of.

123. It shall be of considerable convenience if those towns that are laid out away from seaports, inland, be built if possible on the shore of a navigable river, and attempts should be made to place the town on the side from which the cold north wind blows and that buildings that cause filth be placed on the side of the river or sea below the town.

124. The temple in inland places shall not be placed on the square but at a distance and shall be separated from any other nearby building, or from adjoining buildings, and ought to be seen from all sides so that it can be decorated better, thus acquiring more authority; efforts should be made that it be somewhat raised from ground level in order that it be approached by steps, and near it, next to the main plaza, the royal council and cabildo and customs houses shall be built. [These shall be built] in a manner that would not embarrass the temple but add to its prestige. The hospital for the poor who are not affected by contagious diseases shall be built near the temple and near its cloister, and the [hospital]

for contagious diseases shall be built in an area where the cold north wind blows, but arranged in such a way that it may enjoy the south wind.

125. The same plan shall be observed in any inland place without shore, taking considerable care to ascertain the availability of those conveniences that are required.

126. In the plaza, no lots shall be assigned to private individuals; instead, they shall be used for the buildings of the church and royal houses and for city use, but shops and houses for the merchants should be built first, to which all the settlers of the town shall contribute, and a moderate tax shall be imposed on goods so that these buildings may be built.

127. The other building lots shall be distributed by lottery to the settlers, continuing with the lots closer to the main plaza, and the lots that are left shall be held by us for assignment to those who shall later become settlers, or for the use that we may wish to make of them, and so that this may be ascertained better, the town shall maintain a plan of what is being built.

128. Having made the plan of the town and having distributed building lots, each of the settlers shall set up his tent on his plot if he should have one. For this purpose the captains should persuade settlers to carry them, and those who did not bring one should make their huts of easily available local materials, so that they may have shelter, and everyone as soon as possible shall make a palisade or ditch encircling the plaza so that they may not be harmed by Indians or natives.

129. Within the town, a commons shall be delimited, large enough that although the population may experience a rapid expansion, there will always be sufficient space where the people may go to for recreation and take their cattle to pasture without them making any damage.

130. Adjoining the commons there shall be assigned pasture ground for the work oxen and for the horses as well as for the cattle for slaughter and for the usual number of cattle that the settlers must have according to these Ordinances, and in a good number so they can be admitted to pasture in the public lands of the Council; and the rest [of the adjoining land] shall be assigned as farm lands, which will be distributed by lottery in such a number that the [farm lots] would be as many in number as the lots in the town; and if there should be irrigated lands, lots shall be cast for them and they shall be distributed in the same proportion to the first settlers according to their lots; the rest shall remain for ourselves so that we may assign it to those who may become settlers.

131. In the farmlands that may be distributed, the settlers should immediately plant the seeds they brought with them and those they might have obtained at the site; to this effect it is convenient that they go well provided; and in the pasture lands, all the cattle they brought with them or gathered should be branded so that they may soon begin to breed and multiply.

132. Having planted their seeds and made arrangements for the cattle in such number and with good diligence in order to obtain abundant food, the settlers shall begin with great care and efficiency to establish their houses and to build them with good foundations and walls; to this effect they shall go provided with molds or planks for building them, and all the other tools needed for building quickly and at small cost.

133. They shall arrange the building lots and edifices placed thereon in such a manner that when living in them they may enjoy the winds of the south and north as these are the best; throughout the town arrange the structures of the houses generally in such a way that they may serve as defense or barrier against those who may try to disturb or invade the town, and each house in particular shall be so built that they may keep therein their horses and work animals and shall have yards and corrals as large as possible for health and cleanliness.

134. They shall try as far as possible to have the buildings all of one type for the sake of the beauty of the town.

135. The faithful executors and architects as well as persons who may be deputed for this purpose by the governor shall be most careful in overseeing that the above [ordinances] be executed; and they shall hurry in their labor and building so that the town may be completed in a short time.

136. If the natives should resolve to take a defensive position toward the [new] settlement, they should be made aware of how we intend to settle, not to do damage to them nor take away their lands, but instead to gain their friendship and teach them how to live civilly, and also to teach them to know our God so they learn His law through which they will be saved. This will be done by religious, clerics, and other persons designated for this purpose by the governor and through good interpreters, taking care by the best means available that the town settlement is carried out peacefully and with their consent, but if they [the natives] still do not want to concur after having been summoned repeatedly by various means, the settlers should build their own town without taking what belongs to the Indians and without doing them more harm than it were necessary for the protection of the town in order that the settlers are not disturbed.

137. While the town is being completed, the settlers should try, inasmuch as this is possible, to avoid communication and traffic with the Indians, or going to their towns, or amusing themselves or spilling themselves on the ground [sensual pleasures?]; nor [should the settlers] allow the Indians to enter within the confines of the town until it is built and its defenses ready and houses built so that when the Indians see them they will be struck with admiration and will understand that the Spaniards are there to settle permanently and not temporarily. They [the Spaniards] should be so feared that they [the Indians] will not dare offend them, but they will respect them and desire their friendship. At the beginning of the building of a town, the governor shall name one person who will occupy himself with the sowing and cultivation of the land, planting wheat and vegetables so that the settlers can be assisted in their maintenance. The cattle that they brought shall be put out to pasture in a safe area where they will not damage cultivated

land nor Indian property, and so that the aforesaid cattle and its offspring may be of service, help, and sustenance to the town.

138. Having completed the erection of the town and the buildings within it, and not before this is done, the governor and settlers, with great care and holy zeal, should try to bring peace into the fraternity of the Holy Church and bring on to our obedience all the natives of the province and its counties, by the best means they know or can understand, and in the following manner:

139. Obtain information of the diversity of nations, languages, sects, and prejudices of the natives within the province, and about the lords they may pledge allegiance to, and by means of commerce and exchange, [the Spaniards] should try to establish friendship with them [the Indians], showing great love and caressing them and also giving them things in barter that will attract their interest, and not showing greediness for their things. [The Spaniards] should establish friendship and alliances with the principal lords and other influential persons who would be most useful in the pacification of the land.

140. Having made peace and alliance with [the Indians lords] and with their republics, make careful efforts so that they get together, and then [our] preachers, with utmost solemnity, should communicate and begin to persuade them that they should desire to understand matters pertaining to the holy Catholic faith. Then shall begin our teaching [efforts] with great providence and discretion, and in the order stipulated in the first book of the holy Catholic faith, utilizing the mildest approach so as to entice the Indians to want to learn about it. Thus you will not start by reprimanding their vices or their idolatry, nor taking away their women nor their idols, because they should not be scandalized or develop an enmity against the Christian doctrine. Instead, they should be taught first, and after they have been instructed, they should be persuaded that on their own will they should abandon all that runs contrary to our holy Catholic faith and evangelical doctrine.

141-147 (These ordinances further deal with the conversion of the native Indian population).

148. The Spaniards to whom the Indians are entrusted [encomendados], should seek with great care that these Indians be settled into towns, and that, within these, churches be built so that the Indians can be instructed into Christian doctrine and live in good order. Because we order you see to it that these Ordinances, as presented above, be incorporated, complied with, and executed, and that you make what in them is contained be complied with and executed, and never take action or move against them, nor consent that others take action or move against either their content or form, under penalty of our Lord.

Dated in the Woods of Segovia, the thirteenth of July, in the year fifteen hundred and seventy-three, I the King; the Licenciado Otalaza; the Licenciado Diego Gasca de Alazar; the Licenciado Gamboa, the Doctor Gomez de Santillán.

[English translation by Axel Mundigo and Dora Crouch reprinted by *The New City* with permission from "The City Planning Ordinances of the Laws of the Indies Revisited, I", *Town Planning Review*, vol. 48, July 1977, pp 247-268. Translation of ordinances 92, 102-7 by Ramon Trias. Image: Plan of San Antonio, Tx]