

BEFORE THE '4TH CITY COUNCIL'

EXCERPT FROM THE MINUTES OF THE 22ND REGULAR SESSION OF THE SANGGUNIANG PANLUNGSOD OF THE CITY OF TAGUM, PROVINCE OF DAVAO DEL NORTE HELD ON NOVEMBER 26, 2007 AT THE SP SESSION HALL.

PRESENT:

Hon. ALLAN L. RELLON, MPA,	City Vice Mayor (Presiding Officer)
Hon. RAYMOND JOEY D. MILLAN,	Member
Hon. VICENTE C. ELIOT, SR.,	Member
Hon. JOEDEL T. CAASI,	Member
Hon. ALAN D. ZULUETA,	Member
Hon. NICANDRO T. SUAYBAGUIO, JR.,	Member
Hon. REYNALDO T. SALVE,	Member
Hon. FRANCISCO C. REMITAR,	Member
Hon. MANUEL V. SUAYBAGUIO, III, E.E.	Member (ABC Representative)

ON OFFICIAL BUSINESS:

Hon. MARIA LINA F. BAURA,	Member
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ON LEAVE:

Hon. ROBERT L. SO,	Member
Hon. BRYAN KIM SAMUEL L. ANGOY,	Member (SKF Representative)

ABSENT:

Hon. DE CARLO L. UY,	Member
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CITY ORDINANCE NO. 249, s-2007

“AN ORDINANCE PROVIDING FOR THE DEVELOPMENT, CONSERVATION, AND MANAGEMENT OF THE FISHERIES AND AQUATIC RESOURCES IN THE CITY OF TAGUM, PROVINCE OF DAVAO DEL NORTE, AND FOR OTHER PURPOSES”

BE IT ENACTED by the 4th City Council of Tagum in session assembled, that:

Article I

Section 1. Title- This ordinance shall be known as the Tagum City Fisheries Code of 2007.

Article II

DECLARATION OF POLICY AND DEFINITION OF TERMS

Section 2. Declaration of Policy- It is hereby declared the policy of the City of Tagum:

- A. To ensure the full and effective implementation of the Fisheries Code, with the end in view of realizing the policy objectives thereof within jurisdiction of Tagum City;
- B. To promote the proper management, conservation, protection, and utilization of fisheries and aquatic resources within municipal waters, as the means for encouraging the sustained social and economic development of Tagum City;
- C. To limit and control access to the fisheries and aquatic resources of the municipality, in order to maintain the ecological balance, and enhance the quality of the coastal environment;
- D. To protect and promote the rights of the small fisherfolks within Tagum City, who are most directly affected by the utilization of fisheries and aquatic resources, to the preferential use of fisheries and aquatic resources;
- E. To promote responsibility and accountability in the use of fisheries and aquatic resources;
- F. To provide consistent and substantial support to the fishery sector within the municipality, primarily the small fisherfolks who rely on the fisheries and aquatic resources for their livelihood;
- G. To manage the fisheries and aquatic resources in a manner consistent with integrated coastal management;
- H. To promote social equity, alleviate poverty, and ensure food security in the coastal areas of Tagum City;

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- I. To enhance the role of Tagum City as a guardian of the fisheries and aquatic resources on behalf of present and future generations.

Section 3. Definition of Terms- The following definition of terms shall apply:

Baby Trawl – a net towed by one or two vessels, consisting of two wings extending from the bag or bunt of the net, held open by a device such as otter boards, doors or wooden or iron beams to form a funnel to lead fish into the bag or bunt

Municipal Fishing boat- a vessel of less than 3 GRT that is used in any kind of fishing activity or operation within municipal waters

Fishing Activity or Operation – any activity intended for the capture, carrying, searching, or culturing of fish, including all ancillary activities required for such purposes

BFARMC – Barangay Fisheries and Aquatic Resources Management Councils

Closed season – a period of time during which fishing is prohibited

Commercial Fishing Vessels – any vessel over 3 GRT that is used in fishing activities

Deleterious Substance – any substance which when added to the water renders the water toxic or unsuitable for fish or any living organism which forms the natural food or habitat of the fish; this includes but is not limited to toxic chemicals, petroleum products, human or animal waste, silt or other substances which increase the turbidity of the water, reduce available oxygen for living organism in water, or otherwise interfere with the health of any living being therein.

Exclusive Fishery Privilege – a lease or grant conferred by the City to any person, but no other, to operate fish corral, pens and cages, oyster and other mollusk culture operations, seaweeds farms, pearl culture farms, and the catching of bangus fry, prawn fry, or fry of other species

FARMC – Fisheries and Aquatic Resources Management Council

Fish – includes all fish, shellfish, crustaceans, marine animals, mollusks, sea turtle, cetaceans, and other marine wildlife, or any parts thereof, regardless of their stage of development, including eggs, sperms, spawn, larvae, fry and fingerling, of juveniles

Fishery – include the areas, locality, place or station in or on which any fishing gear is used, set, placed, or located, and the area, tract or stretch of water in or from which fish may be taken by the said gear

Fishery/Aquatic products – includes all forms of products derived from fish or other aquatic resources, including seaweeds, grass, corals, or other living organisms.

Fish cage or pen – any enclosure made out of netting or screen sewn or fastened together to form an enclosure, stationary or floating, for the purpose of containing fish in any form for culturing or other purpose

Fish coral – a stationary trap or weir, fastened to the bottom of the sea or floating, used to capture wild fish, consisting of an enclosure or trap with one or more wings or leaders radiating out for the purpose of directing the fish into the trap, catching chamber, or purse

Fishing License – a document evidencing the grant of permission by the City for the holder/ bearer to engage in fishing activities within Municipal waters

Fish refuge/ Sanctuary – any area designated by the City or the national government where fishing is strictly prohibited

Fishery/ Reserve - any area designated by the City or the national government which is restricted to specific purpose

Fish fry – a juvenile state of fish development following hatching during which time the fish is usually about 10-25 mm in length, or smaller depending on the natural mature size of the species

Fishing vessel – any vessel used for the capture, pursuit, or carrying of fish

Fishing gear – any device or implement used in the pursuit, capture, or taking of fish

GRT – gross registered tonnage, refers to the total weight capacity of the vessel including engine, equipment, and cargo

Home port – the port where the vessel is normally based

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Port of landing – the port designated in the fishing license where landing of fish permitted

Sport/ Recreational fishing – fishing for pleasure by means of hook and line or similar device, hand spear or spear gun, etc., in which the quantity of fish caught is only for personal pleasure and/ or consumption and not for the purpose of sale or barter

FMU – Fishery Management Units

CFARMC – City Fisheries and Aquatic Resource Management Council

Sanggunian – the Sangguniang Bayan / Panlungsod

**Article III
AREA OF APPLICATION**

Section 4. Municipal Waters – (a) Municipal Water of Tagum City shall be comprised of all the lakes, rivers, streams, and inland bodies of water enclosed within the territorial jurisdiction thereof, including marine waters enclosed within two (2) lines drawn perpendicular to the general coastline from points where the boundary lines of the city touch the sea at low tide and a third line parallel to the general coastline including offshore island. For the purposes of this Ordinance, they shall be divided into Inland Municipal Waters and Marine Municipal Waters.

(b) The Inland Municipal Waters include the following:

A. Lakes:

- 1. Lauan

B. Rivers, or portions thereof within the territorial jurisdiction of Tagum City:

- 1. Bincungan river
- 2. Liboganon river
- 3. Hijo river
- 4. Madaum river

C. Streams:

None

D. Creeks

- 1. Buhatan creek
- 2. Busaon creek

(c) The Marine Municipal Waters shall be comprised of the waters enclosed within the following geographic coordinates, as determined pursuant to DENR Department Administrative Order NO. 97:

Pt1	7°21'50"N	125°49'50"E
Pt2	7°20'10"N	125°49'40"E
Pt3	7°19'40"N	125°49'00"E
Pt4	7°16'50"N	125°47'10"E
Pt5	7°16'50"N	125°45'60"E
Pt6	7°18'50"N	125°44'10"E

For clarity, the Municipal Waters of Tagum City are set forth in the Map/ chart attached to this Ordinance as Annex "A".

Section 5. Classification of Municipal Water – the Municipal Water of Tagum City are hereby divided and classified into the following major zones:

- A. Municipal Fishing Zones,
- B. Aquaculture / Mariculture Zone,
- C. Fishing Reserves / Fish Sanctuaries, and
- D. Demarcated Fishing Areas.

Section 6. Municipal Fishing Zone – the Municipal Fishing Zone shall comprise all waters within the Inland Municipal Waters and Marine Municipal Waters. No person shall be licensed to fish within the Municipal Fishing Zone unless he or she is duly registered with the Registry of Municipal Fisherfolk. The Municipal Fishing Zone may be further subdivided into sub-zones for species fishing activities by the City Mayor, through the FMU.

A map/ chart of the Municipal Fishing Zone is hereto attached as Annex "A".

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Section 7. *Aquaculture/ Mariculture Zone* – the Aquaculture/ Mariculture Zone shall be comprised of the waters of lakes, rivers, and water near the shoreline that are contained within the following bodies or water geographic coordinates.

(list the lakes and rivers, and/ or the geographic coordinates near the shoreline, of areas to be devoted for aquaculture/ mariculture. In the case of lakes and rivers, not more than 15% of their surface area should be closed within aquaculture/ mariculture zones)

Provided, that not more than fifteen percent (15%) of the surface area of the lakes and rivers of the Tagum City may be devoted to aquaculture and mariculture purpose;² *Provided further*, that no fish pens shall be permitted within lakes;³ and provided finally, that nothing in this section shall be interpreted to justify the construction of structures that pose obstruction to navigation,⁴ the flow and ebb of tides,⁵ or the migration paths of fish and other aquatic species.⁶

A map of the Aquaculture/ Mariculture Zone is hereto attached as Annex “A-1”.

Section 8. *Fishery Refuges/ Sanctuaries* – the Fishery Refuges/ Sanctuaries of Tagum City shall be comprised of the area included within the following geographic coordinates:

Core Zone (UTM)			Buffer Zone (UTM)		
	Northing	Easting		Northing	Easting
Pt1	806650	810863	Pt1	806139	811253
Pt2	806638	811182	Pt2	806709	811253
Pt3	806203	811176	Pt3	806721	810792
Pt4	806203	810853	Pt4	806139	810776

Provided, that the Sanggunian may, by appropriate ordinances and upon recommendation of and consultation with the FARMC, establish additional Fish Refuges/ Sanctuaries as may be necessary in accordance with Article V hereof.

All fishing activities are prohibited within the Fish Refuges/ Sanctuaries. No license shall be interpreted to justify any form of fishing activity within designated Fish Refuges/ Sanctuaries.

A chart of the fish Refuges/ Sanctuaries of the Tagum City is hereto attached as Annex “A-2”.

Section 9. *Demarcated Areas* – the areas enclosed by the following geographic coordinates are hereby designated as Demarcated Areas:

(list geographic coordinates of demarcated fishery areas)

Within such areas, the cooperatives or associations of resident municipal fisherfolk shall have priority and preference in the grant of license, concessions, or other exclusive rights for fish capture, mariculture, or fish farming.⁸ They shall likewise be entitled to exercise such as exclusive privileges as may be identified pursuant to the provisions of the Fisheries Development Plan of the Tagum City.

A chart of the Demarcated Areas is hereto attached as Annex “A”.

Sec.10. *Subdivision of Major Zones into Sun-zones* – the major zones provided herein may be further subdivided into sub-zones for specific fishing gear or activities by the City Mayor, acting through the Fisheries Management Unit provided for in Article VI, in accordance with the Fishery Development Plan of the City, or the management plan of the special agencies in the case of waters falling under the jurisdiction of other offices or agencies.

Section 11. *Marking of Zones* – the Office of the City Engineer shall mark the boundaries of the foregoing zones using appropriate , easily- available and cost- effective materials and methods such as color-coded flags, coastal markers, and buoys. Such markings shall be publicized and disseminated to the concerned members of the population of the Tagum City, and shall also be posted in prominent places in the Fishery Management Unit.

Article IV FISHING BANS AND CLOSED SEASONS

Section 12. *Total Ban on Fishing of Certain Species* – it is hereby prohibited to fish for the species enumerated in Section 13 hereof, ¹⁰ *Provided*, that subsequent to the effectivity of this Ordinance, the Sanggunian may impose a ban on the fishing of any other particular and additional species,

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- d. Bobo for Cephalopods (squids, octopus) minimum mesh size of net # 22
3. All fish corals within the marine municipal fishing zone provided that fish coral called pahubas must not be within or fronting beach areas used for swimming or recreational purposes.
4. All fish cages within the Mariculture/ Aquaculture and municipal fishing zones.
5. All hook & line (single & multiple)
6. Motorized and manual push net in the marine municipal waters during open season of acetes sp.
7. Sport Fishing or recreational fishing.

Article V
FISHERY RESERVES, REFUGES, AND SANCTUARIES

Section 18. Establishment of Fishery Reserve- The Sanggunian may, through an appropriate ordinance, research, establish a Fishery Reserve for special or limited use, or for educational, research, and/ or special management purposes. The boundaries of such Fishery Reserve, and the corresponding limitations on activities within the Reserve, shall be clearly defined and publicized. All licenses issued prior to the establishment of a Fishery Reserve shall be deemed to have been accordingly amended, while the terms and conditions. The City Mayor, through the Fishery Management Unit, shall be responsible for determining the appropriate terms and conditions of the licenses in order to achieve the purposes of the Fishery Reservation.

Section 19. Fish Refuges/ Sanctuaries- The Sanggunian may, through an appropriate ordinance, establish a Fishery Refuges/ Sanctuaries for the purposes of strengthening the habitat and spawning ground of fish and other aquatic resources, ensuring sustainability of fish stocks, maintaining or rehabilitating fish stocks, and similar purpose. The boundaries of such Fish Refuges/ Sanctuaries shall be clearly defined and publicized. No fishing in any form shall be allowed within such Fish Refuges/ Sanctuaries, and no license shall be interpreted as authorizing fishing activities within such areas.

Article VI
FISHERY MANAGEMENT UNIT

Section 20. Responsible Office- The Fishery Section (FMU), under the Office of the City Agriculturist, tasked with the issuance of license and concessions for all FISHERY activities within the Municipal Waters of Tagum City, and regulating fishing within Municipal Waters.

Section 21. Powers and Functions- The FMU shall have the following powers and functions:

- a. Establish and maintain the Registry of Municipal Fisherfolk and Registry of Municipal Fishing Vessels;
- b. Determine and issue the appropriate kinds of fishing licenses to be issued by the City, and valid only within its jurisdiction;
- c. Evaluate bids for FISHERY concessions and similar contracts for fishery activities with the City, and make recommendations thereon to the City Agriculturist;
- d. Determine and impose, upon consultation with the FARMCs and approval of the committee on Fisheries of the Sanggunian, appropriate license fees and charges for the grant of fishery rights and privileges within the Municipal Waters;
- e. Coordinate with the Committee on Fisheries of the Sanggunian and the various BFARMCs in the implementation of the Fisheries Development Plan, as well as facilities o initiate the monitoring of its implementation;
- f. Divided the major zones of the Municipal Waters further into sub-zones for specific fishery activities;
- g. Determine and impose administrative fines, penalties, charges, indemnities for violation of the terms of the fishing licenses issued by the Office, or for fishing without such license;
- h. Determine and impose administrative sanctions and indemnities for all other violations of fishery laws, rules, and regulations;
- i. Determine catch ceilings on the taking of fish and aquatic resources, upon consultation with the CFARMC;
- j. Coordinate, maintain, and ensure the continuous training of the fisheries law enforcement teams authorized hereunder;
- k. Coordinate with other local national government agencies in order to establish a "one-stop shop" for all necessary local and national license and/or permits, lease, concessions, and other similar instruments for fisheries management
- l. Formulate and issue the pertinent rules and regulations to carry out the functions and duties of the office;

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Section 22. Special Authority to Represent the City- The City Agriculture Office thru the FMU is hereby authorized to represent the Tagum City in any case or action before any national government agency or tribunal involved in the enforcement of fishery and environmental laws, rules, and regulations issued by the national government, including the investigation and prosecution of offenses on behalf of the City.

Article VII FISHERY LICENSE AND CONCESSION SYSTEM

Section 23. License Essential- (a) No person, whether natural or juridical, shall be permitted to fish within the Municipal Waters of Tagum City without a fishing license issued by the City; provided, that license fees shall not be required of marginal fisherfolk duly registered in the Registry of Municipal Fisherfolks as herein provided, for the purpose of fishing for their personal or families consumption and upon certification from BFARMC.

(b) All persons duly license to fish within Municipal Waters shall also secure the corresponding gear license for any fishing gear that shall use, in accordance with the schedule of fees hereto attached.

Section 24. Registry of Municipal Fisherfolk- All persons desiring to be license to fish within the Municipal Waters of Tagum City must be registered in the Registry of Municipal Fisherfolk. Only bona-fide residents of Tagum City for the previous six(6) months are eligible for inclusion in such Registry. The listing of registered persons shall be updated annually and posted in barangay halls or other strategic locations for public inspection and validation. The form the Registry is hereto attached as Annex "B".

Section 25. Procedure for Registration of Municipal Fisherfolk- Within three (3) months from the effectivity of this of this Ordinance, the BFARMC shall create an initial list of people who are members of the barangay and eligible for registration as municipal fisherfolk. The chairman of the BFARMC shall endorse the list to the FMU, which shall enter the names in the list into the central registry. Thereafter, any amendment to the list shall likewise require the endorsement of the chairman of the BFARMC. No fee shall be charged for registration.

Section 26. Registry of Municipal Fishing Vessels- All municipal fishing vessels operating within the Municipal Waters of Tagum City must be registered in the Registry of Municipal Fishing Vessels. Only vessels owned by bona-fide resident s of Tagum City shall be permitted to be registered in Tagum City. The listing of registered vessels shall be annually updated and made available for public inspection by the FMU at its office premises. The form for the Registry is hereto attached as Annex "C".

Section 27. Condition for Registration of Municipal Fishing Vessels- the following conditions shall be imposed for the registration of a municipal fishing vessel in the Registry:

- a. Submission of all information required in the Registration Form, particularly those pertaining to the actual ownership of the vessel;
- b. The vessels is not, at the time of registration, the subject of, or evidence, in a pending case for violation of any fishery ordinance, law, rules, or regulations within the Municipal Waters;
- c. Inspection report showing that the vessel complies with the color-coding and vessel-identification requirements of the City.

Section 28. Color-coding and Vessel Identification Scheme- For purposes of easy identification of registered vessels, all duly-registered municipal fishing vessels shall be painted in the following manner so as to make the vessel highly visible from a distance: the Color-coding & Vessel Identification Scheme is hereto attached as Annex "D"

Section 29. Minimum Conditions for all Fishing License- The following conditions must be complied with for issuance and validity of all fishing license:

- a. The license or vessel must be registered in the appropriate Registry of Municipal Fisherfolk or Registry of Municipal Fishing Vessel;
- b. The license shall be carried at all times on the person of the license or on board the licensed vessel;
- c. The license shall be valid only within the zone or sub-zones specified therein for its operation;
- d. The license or vessel- owner undertakes to submit himself or herself to the administrative processes of the FMU in case of violation of the terms and conditions of the license;

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- e. In case of violation of the terms and conditions of the license, the license or vessel-owner undertakes to pay the administrative fines, penalties, charges, and indemnity accruing therefore, without prejudice to prosecution in a criminal case for any other violation of the law arising out of the same acts.

Section 30. Municipal Fishing License- A Municipal Fishing License may be issued to any person intending to fish within Municipal Water without the use of a fishing vessel of up to three gross tons (3GRT) in weight. Only those duly registered in the Registry of Municipal Fisherfolk may be issued Municipal Fishing Licenses. The types of license issued by the City, and description thereof, are hereto attached as Annex "E".

Section 31. Recreation/ Sport Fishing License- Non- resident who are not Municipal Fishing License, and who intended to fish pleasure or recreation, may be issued short terms, recreational and/ or sport fishing license, subject to such terms and conditions as may be determined by the FMU. The term of such license shall in no case be longer than thirty (30) days.

Section 32. Mariculture Operator's License- A Mariculture Operator's License may be issued to any person intending to operate any cages, corrals, or traps, or to engage in the culture of oysters, seaweeds, or other aquatic species, within the Mariculture Zone of the Municipal Waters. Such a license may be issued by the City to a person duly registered in the Registry of Municipal Fisherfolk, or a duly- accredited fisherfolk cooperative or association, subject to the following terms and conditions: The list and description of Mariculture Operations Licenses are hereto attached as Annex "E".

- a. The license undertakes not to construct any structure or facilities in such a manner as would obstruct navigation, the flow and ebb of tides, or the migration path of any fish or other aquatic species.
- b. The license undertakes to comply with all environmental rules and regulation that may be promulgated by the City for such operations;
- c. The license undertakes to remove all structures and facilities that may have been in the area upon the expiration of the license.

Section 33. Term of Validity- Except in the case of Recreational/ Sport Fishing License, all license issued shall have a term of one (1) year from issuance, upon payment of the corresponding license fees, unless otherwise provided by the FMU

Article VIII DETERMINATION OF FEES, CHARGES AND OTHER RENTALS

Section 34. License Fees and Charges- The FMU shall, from time to time , recommend the appropriate license fees and charges that should be imposed, type of license that should be issued, concession fees and rentals that should be charged, and all other fees, rentals, and charges that should be collected subsequent to the effectivity of this Ordinance for the benefit of the City. Such as recommendations shall be submitted to the Committee on Fisheries, and approved or disapproved through the produce provided in Section 4 hereof.

Section 35. Initial Schedule of Fees, Rentals, and Charges- The initial Schedule of Fees, Rentals, and Charges, containing the list of license fees, concession fees and rentals, and all other related charges, imposable during the first year of effectivity of this Ordinance, is hereto attached as Annex "G" and considered as an integral part of this ordinance.

Section 36. Procedure for Annual Review Amendment of Schedules- One year after the effectivity of this Ordinance, and at the beginning of the Fiscal Year, the FMU shall evaluate the Schedule of Fees, Rentals, and Charges and make recommendations whether the same should be maintained or amended. Such recommendations shall be made to the Committee on Fisheries of the Sanggunian, who shall thereafter consult with the FARMCs on the recommendations. Should the recommendations be accepted, the Committee on Fisheries shall request the Sanggunian to pass a Resolution approving the new Schedule of Fees. The new fees may be collected by the FMU only at the beginning of next fiscal year subsequent the approval of the Ordinance.

Article IX FISHERIES AND AQUATIC RESOURCES MANAGEMENT COUNCILS

Section 37. Creation of City FARMC- The City Fisheries and Aquatic Resources Management Council is hereby created, composed of the following:

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(Excerpt from the Minutes of the 22nd Regular Session/November 26, 2007)

CITY ORDINANCE NO. 249, s-2007, cont'd:

- a. The City Planning and Development Officer;
- b. The Chairperson of the Committee on Agriculture and Food of the Sanggunian
- c. One (1) representative of the City Development Council;
- d. One (1) representative from the Agriculture Office;
- e. One (1) representative of an Accredited non- government organization;
- f. One (1) representative from the private sector;
- g. Eleven (11) representatives of fisherfolk in the City, of whom seven (7) are from the municipal fisherfolk, three(3) are from the Aquaculture or Mariculture sector, and one (1) is from the fishworkers sector; provided that such representatives shall also included those from the youth and women sectors.

Section 38. Appointment of CFARMC Members- The members of the CFARMC shall be appointed by the City Mayor, upon nomination by their respective offices or organizations. Their terms of office shall be one (1) year, subject to renewal. Member shall be entitled to reasonable honoraria for participation in the activities of the FARMC, subject to the usual rules and regulations.

Section 39. Appointment of FARMC Members not in Government- In this case of members described in paragraphs "e" to "g" of Section 1 hereof, the City Mayor shall appoint persons nominated by civic, non-government, business, or other organizations and associations based in the City and accredited therewith. Such nominees must be bona-fide actual and permanent resident of the City, involved with or familiar with the fishing activities of the area, and be respected citizens of the community. The nominees shall be selected by the concerned organizations by and from among themselves.

The list of nominees shall be disseminated and posted in the barangay halls and strategic locations within the City at least thirty (30) days prior to the selection of members. Absent any objections, persons meeting the qualifications shall be appointed by the Mayor to the CFARMC. Vacancies shall be filled in the same manner.

Section 40. Functions- The CFARMC shall exercise the following functions:

- a. Assist in the preparation of the Municipal Fishery Development Plan and submit such plan to the Municipal Development Council;
- b. Recommended the enactment of municipal fishery ordinance to the Sanggunian through its Committee on Fisheries;
- c. Assist in the enforcement of fishery laws, rules and regulations in Municipal Waters, subject to the provisions of Article X hereof;
- d. Advise the Sanggunian on fishery matters, through its Committee on Fisheries;
- e. Perform such other functions as may be assigned by the Sanggunian.

Section 41. Operational Expenses- The office of the city Mayor shall be responsible for including budgetary allocations for the operational expenses of the FARMC in the proposed annual appropriation of the City.

Section 42. Suppletory Application- The provision of Executive Order No. 240, series of 1996, and Fisheries Administrative Order No. 196, series of 2000, prescribing rules and regulations on the creation and maintenance of FARMCs down to the barangay level, shall apply to this Article in a suppletory manner.

Article X FISHERIES DEVELOPMENT PLANNING

Section 43. Mandate- The Sanggunian, with the assistance of the City FARMC, shall formulate a City Fisheries Development Plan which shall be basis for the long-term development and management of the fishery and aquatic resources of the Tagum City.

Section 44. Initial Consultations- Within sixty (60) days from the organization of the City FARMC, the latter shall engage in public consultations with the Barangay FARMC in order to determine the needs, goals, objectives, and programs for development and management of the fishery and aquatic resources of the Tagum City. The results of such consultation shall be documented and submitted to the Sanggunian, through its Committee on Fisheries.

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Section 45. Formulation of Fisheries Development Plan- Using the result of the consultations as a guide, the Committee of Fisheries of the Sanggunian and the City FARMC shall, within sixty (60) days from the date of last consultation, formulate a Fisheries Development Plan for the City, with the objective of making the same an integral part of the Local Development Plan of the City.

Section 46. Integration into Local Development Plan- The Fisheries Development Plan shall be formally submitted to the local Development council at its regular meeting. Subject to appropriate adjustments in consideration of the other plans and programs of the Municipality/ City, the same shall be integrated into and form part of the Local Development Plan for the following year.

Article XI
MUNICIPAL FISHERFOLK COOPERATIVES AND ASSOCIATIONS

Section 47. Accreditation Necessary- In order to avail of any of the privileges granted to fisherfolk cooperatives and associations under the law and this Ordinance, such organizations must be recognized and accredited with the FMU.

Section 48. Cooperatives/ Associations Eligible for Accreditation- The following conditions must be complied with in order for a municipal fisherfolk cooperative or association to be eligible for accreditation with the City:

- a. Majority of the members of the cooperative or association must be fisherfolk who are resident of the City.
- b. The home office of the cooperative or association must be located within the City:

Section 49. Privileges- Upon accreditation, a cooperative or association of municipal fisherfolk may be granted the following privileges:

Preference in the grant of fishery right and privileges as may be determined by the FMU;

- a. Exclusive use of defined portions of the Municipal Waters, such as demarcated fishery areas and/ or demarcated fishery rights for purposes of fish capture, mariculture, or fish farming;
- b. Issuance of Commercial Fishing Vessel License for vessels owned or operated by the cooperative/ association;
- c. Access to credit and guarantee programs that the City may establish;
- d. Operation of post-harvest facilities;
- e. Participation in the selection of representatives to the CFARMC;
- f. Such other privileges as may be subsequently granted by law or ordinance.

Article XII
ADMINISTRATIVE SANCTIONS AND INDEMNITY

Section 50. Innate Value of Fishery and Aquatic Resources of the City- The fishery and aquatic resources of the City are natural resources which directly sustain the constituents of the City by providing subsistence, livelihood, and the foundation for many local business. As such, they are a valuable resources of the City for which compensation is required in case of damages, as well as cost of rehabilitation of the habitat or resources, arising from acts violative of this Ordinance. No person shall derive any benefit, whether directly or indirectly, from any illegal act, or the use of any illegal means, in the use of fishery and aquatic resources.

Section 51. Imposition of Fines and Penalties, Without Prejudice to Administrative Sanctions and Indemnity- The imposition of fines and penalties as punishment for violation of the provision of this Ordinance is without prejudice to administrative sanctions which may be imposed upon an offender for the purpose of fully or partially recovering the loss in revenue and/ or cost incurred by the City Government on account of the violation, and indemnity to compensate for the loss of, damage to, and/ or cost rehabilitation of, the fishery and aquatic resources of the City. Such sanctions and/ or indemnity shall be determined by the FMU on the basis of records, receipts, and/ or other documentary evidence, copies of which shall be furnished the offender.

Section 52. Administrative Investigation- The FMU is hereby authorized to conduct hearing for the purpose of investigating and imposing administrative sanction and indemnity against any person apprehended within the Municipal Waters and accused of violation and provision of this Ordinance. Such hearing shall be summary and non- litigious in nature, and shall be concluded within fifteen (15) days from the time the case is filed for investigation. Failure to appear at the administrative investigation shall result in the immediate filing of the appropriate criminal cases before the regular courts.

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Section 53. Form of Administrative Sanctions- Administrative sanction may be imposed in the form of:

- a. Surcharges on unpaid fees, charges or rentals;
- b. Reimbursement for expenses incurred in repairing or rehabilitating damaged habitat or resources
- c. Reimbursement of expenses for cost of storage and maintenance of vessels and/ or gear under impoundment;
- d. Revocation of license, permits, concessions, or lease contract;
- e. Services designed to offset losses in revenue or cost incurred by the City o account of the violation.

Section 54. Impoundment of Fishing Vessel and/ or Gear- The fishing vessel or gear used in committing a violation of this Ordinance shall be impounded by the City, through the FMU, pending resolution of the administrative investigation against the offender. The offender shall be issued a receipt for the items impounded, and shall bear the cost of storage and maintenance of the vessel and/ or gear while it is under impoundment. Prior to resolution of the administrative investigation, the same shall not be released unless the cost of storage and maintenance incurred during the period of impoundment, and a security bond in the amount of the fair market value of such vessel or gear, are paid or deposited with the FMU, to answers for any administrative sanctions, indemnity, or penalties that may be imposed; provided, that fishing gear which are inherently illegal, such as dynamite, noxious and poisonous substances, and electro fishing gear, among others, shall be automatically confiscated and shall not be released except upon lawful order of the court before which the criminal case is pending; Provided further, that should the offender by subsequently found guilty of the offense, the inherently illegal items shall be disposed of or destroyed.

Section 55. Unlicensed Fishery Activities- Any person who is found to have engage in unlicensed fishery activities, where such person is normally qualified to be issued the corresponding license for the fishing activity, vessel, or gear, shall be liable for the amount of the license fees or charges that should have been paid to the City, in addition to the fines and penalties that are imposed.

Section 56. Non- renewal of Fishery License- Any person who, after having procured the necessary license to conduct fishery activities, is found to have continued to undertake such fishery activities without renewing the same after their expiration, shall be required to pay a surcharge of two percent (2%) for every month beyond the deadline for renewal of the corresponding license.

Section 57. Revocation of License- Any person found to have violated the terms and conditions of a valid license in his favor shall be required to surrender the license to the FMU, which shall thereafter revoke the same for the remainder of the term of the license. Such license shall not be renewed unless the license has paid all administrative sanctions and indemnity that may be been imposed for the violation.

Section 58. Disposition and Distribution of Illegal Caught Fish- Where a person apprehended for violation of any provision of this Ordinance, any fish catch other aquatic species found in his possession at the time of his arrest shall be confiscate. The arresting officer shall make a detailed inventory of the catch seized ad issue an Official Receipt thereof in favor of the offender. Such catch, less any item or amount that may be necessary as evidence for purposes of prosecution of the offender, shall thereafter be sold to the highest bidder, or donated to any charitable institution in the City, in the discretion of the FMU. In case of a sale of the catch, the proceeds shall be held in trust by the FMU until final disposition of the case against the offender. In case of donation, the transaction shall be covered by a receipt issued by the institution to whom the catch was donated.

Section 59. Other sanction and/ or indemnity- The City Mayor may prescribe other administrative sanctions or indemnity by means of an executive order, provided, that the same shall have been subjected to consultations with the CFARMC.

Section 60. Failure to Comply with Administrative Sanction- Failure to comply with administrative sanctions will render the offender additionally liable for contempt under Sec. 12, rule 71 of the rule of court.

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**Article XIII
FISHERY LAW ENFORCEMENT**

Section 61. Responsible Office- The Office of the City Mayor, through the FMU, is hereby authorized to organize fishery law enforcement teams, or Brigades, in each of the coastal barangays of City. For this purpose, the FMU shall maintain a Bantay Dagat Coordinating Office, responsible for coordinating all activities relating the Bantay Baybay Community Brigades.

Section 62. Power and Functions- The Bantay Baybay Community Brigades are authorized to assist regular law enforcement officer such as the Philippine National Police Maritime Group, Philippine Coast Guard, or Philippine Navy, in the enforcement of the provisions of this Ordinance as well as other laws, rules, and regulations on fisheries and aquatic resources. The Bantay Baybay shall also assist the FMU in carrying out its duties and functions. For legal purposes, they are deemed to be persons rendering assistance to person in authority, and shall be subject to the direct control and supervision of a regular law enforcement officer.

Section 63. Accreditation Necessary- No person shall become a member of the Bantay Dagat/ Baybay Community Brigades unless he or she has SUCCESSFULLY COMPLETED the training course in fishery law enforcement as prescribed or administered by the Bureau of Fisheries and Aquatic Resources and has been duly deputized for that purpose.

**Article XIV
PROHIBITED ACTS AND PENALTIES**

Section 64. Unlawful sale or possession of illegally caught fish- It shall be unlawful for any person to possess or engage in trade in any fish that have been caught in any manner in violation of this Ordinance. Such person shall be liable for a fine in the amount of **P100.00** for every kilogram of illegally caught fish found in this possession and confiscation of the same.

Section 65. Construction of Fish Pens, Cages, and Traps in Prohibited Areas -

- a. It shall be unlawful for any person, whether or not in possession of a valid fishing license, to construct fish pens, cages, or traps in any of the lakes of the City, or in manner which obstructs safe and convenient navigation, the flow and ebb of tides, or the migration paths of fish and aquatic species. Violation of this provision shall render the offender liable for a fine in the amount of **P 100.00** for every day that the fish pen, cage, or trap remains in the Municipal Waters, after due notification from the FMU.
- b. A cage, or traps structure constructed or deployed in violation of this section may be removed or demolished by the City Mayor for being a public nuisance, after due notice and demand to the owner or operator thereof to voluntarily remove or demolish the same within fifteen (15) days from receipt of the notice and demand. This shall be without prejudice to subsequent prosecution, and reimbursement for expenses incurred in removing or demolishing the prohibited structure.

Section 66. Unlicensed Fishery Activities (Fishing Without a License)-

- a. It shall be unlawful for any person, whether natural or juridical, to engage in any fishing activity or operate any fishing vessel or used any fishing gear, within the Municipal Waters without the corresponding license issued by the FMU. The corresponding penalties shall be imposed for the following:
- b. Only fishing activities and gears that are specified in this ordinance may be issued licensed. All other activities or gears not specifically allowed to be license by virtue of this Ordinance shall be deemed prohibited unless and until expressly provided for in subsequent amendatory Ordinance.
- c. Violation of this provision shall render the person liable for a fine of **P500.00**

Section 67. Violation of the Terms and Conditions of a License- Any person, whether natural or juridical, to whom a valid fishing license has been issued shall comply strictly with the terms and/ or conditions thereof. Violation of any of such terms and/ or conditions shall render the licensee liable for a fine of **P500.00**.

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Section 68. Failure to Carry License- The failure of licensee to carry a copy of his fishing license on his/ her person and/ or on board the fishing vessel, shall render the offender liable for a fine of **P500.00** and impoundment of fishing vessel until fine had been paid. In case of a fishing vessel with a crew of more than one, the penalty shall be imposed upon the vessel owner and the captain or master of the vessel.

Section 69. Non- compliance with Color Coding- It shall be unlawful for a fishing vessel, duly licensed with the City, not to comply with the prescribed color- coding scheme of the City. The vessel owner and the captain or master of the vessel shall be jointly and solidarily liable for a fine in the amount of **P500.00** and impoundment of the vessel until the fine has been paid and have fully complied with the color coding of the vessel.

Section 70. Fishing by a Person Not Registered with the Municipal Registry- It shall be unlawful for any person who is not registered with the Registry of Municipal Fisherfolk to engage in any kind of fishing activity within the Municipal Waters. However, persons who fish in the municipal water from other municipalities and cities with a valid fishing license issued in their locality shall be allowed to fish. A person who violates this provision shall be liable for a fine of **P 1000.00** and/ or imprisonment for seven (7) days upon discretion of the court and impoundment of gear until the fine is paid.

Section 71. Taking of Prohibited Species- it shall be unlawful for any person to take, attempt to take, or have in his possession any of the fish or aquatic species enumerated in Sec.13 of Article IV hereof. Anyone who violates this provision shall be liable for a fine of **P 1,000.00** for each and every fish or aquatic organism that has been taken and imprisonment for seven (7) days but not more than thirty (30) days.

Section 72. Use of Active gear Within Municipal Waters- Subject to the provisions of Fisheries Administrative Order No.198, it shall be unlawful for any person or vessel to use active gear within the Municipal Waters. Violation of this provision shall render an individual fisherman liable for a fine of **P 1,000.00** and impoundment of fishing gear and vessel until fine had been paid. The captain or master, owner, and/ or operator of a fishing vessel used in the commission of this offense shall be jointly and severally liable for the same penalty.

Section 73. Failure to Secure Auxiliary Invoice- The failure of any person to secure an auxiliary invoice for the transportation of fish and fishery products from the City shall render such person liable for a fine of **P1,000.00** and confiscation of the Fishery product.

Section 74. Obstruction of Fishery Law Enforcement Officer- It shall be unlawful for any person to obstruct, hinder, or prevent the performance of duty by any duly-accredited fishery law enforcement as provided in Article XIV hereof. Violation of this provision shall render the offender liable for a fine of **P1,000.00** per offense made.

Section 75. Abandonment of Fishing Gear- It shall be unlawful for any person to abandon his/ her fishing gear or mariculture facility in the Municipal Water for any reason. Violation of this provision shall render such person liable for a fine of **P2,000.00** if after fifteen (15) days the fishing gear has not been removed.

Section 76. Illegal Use of Super lights- Subject to the provisions of Fisheries Administrative Order No. 204 Series of 2000, the use of super lights shall be prohibited within the Municipal Waters. Violation of this provision shall render the offender liable for a fine of **P2,000.00** and confiscation of gear.

Section 77. Fishing Within Municipal Waters by a Vessel Not Registered with the Municipal Registry- It shall be unlawful for any municipal fishing vessel which is not registered with the Registry of Municipal Fishing Vessels to engage in any kind of fishing activity within the Municipal waters. However, fishing vessels who fish in the municipal waters from other municipalities and cities with a valid registry issued in their locality shall be allowed to fish. The captain or master of the vessel which violates this provision shall be liable for a fine in the amount of **P2500.00** and impoundment of the vessels until such fines had been paid.

Section 78. Commercial Fishing with Municipal Waters Outside the Commercial Fishing Zone-

a. It shall be unlawful for a commercial fishing vessel, even though in possession of a valid commercial fishing vessel, to engage in fishing activity within the municipal waters. A vessel found inside the Municipal Waters with its fishing gear deployed shall be conclusively presumed to have engaged in fishing outside of its designated zone.

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- b. Any commercial fishing vessels remaining outside of the Municipal Waters but using smaller support or auxiliary boats of three gross tons or less to attract to swim from the Municipal Waters and to the area outside thereof shall be deemed to be likewise engaged in fishing within Municipal Waters.
- c. The captain or master of the vessel shall be liable for a fine in the amount of **P5,000.00** and impoundment of fishing vessel until the fine had been paid.

Section 79. Fishing in a Prohibited Area or During Closed Seasons- It shall be unlawful for any person, whether or not possessing a valid fishing license, to engage in fishing in any fish refuge/ sanctuary within the Municipal Water, or during closed season. A person who violates this provision shall be liable for a fine of **P5,000.00** and impoundment of fishing gear and vessel until fine had been paid.

Section 80. Violation of Temporary Ban or Closure- It shall be unlawful any person, whether or not possessing a valid fishing license, to engage in any fishing activity in violation of a temporary ban or closure duly declared by the City Mayor in accordance with Section 13 of Article IV hereof. A person who violates this provision shall be liable for fine of **P5,000.00** and impoundment of fishing gear and vessel until fine had been paid.

Section 81. Use of Fine Mesh or Any Other Prohibited Net- Subject to the provisions of Fisheries Administrative Order No.190, it shall be unlawful for any person to use a net with a mesh size less than prescribed by the DA-BFAR for certain types of fishing, or as part of any net used in any of the prohibited fishing methods listed in Section 17 of Article IV. Violation of this provision shall render the offender liable for a fine of **P 5,000.00**, confiscation of the prohibited net used, and/or imprisonment for seven (7) days but not more than thirty (30) days.

Section 82. Destructive Practice Within Municipal Water- a. The use of fishing gears and methods, or any other practices which cause extensive damage to fish or marine habitat, or indiscriminately kill fish and aquatic species, are prohibited within the Municipal Waters. Such practices shall include, but not be limited to trawl fishing, beach seining, electro- fishing; fishing through the use of explosives, noxious, or poisonous substances; muro-ami and any of its variations; aquatic pollution, gathering of corals and cutting of mangroves. Violation of this provision shall render the offender liable for a fine of **P5,000.00** and/ or imprisonment for thirty (30) days but not exceeding ninety (90) days.

Article XV FINANCIAL SUPPORT

Section 83. Annual Appropriation- The FMU shall prepare an annual budget for the purpose of implementing this Ordinance, and submit the same to the Office of the City Agriculturist for inclusion as regular items in the annual budget of the City.

Section 84. Special Fisheries Trust Fund-

- a. The Special Fisheries Trust Fund is hereby created and established. The Fund shall be supported by collections amounting to 50% of all license fees, rentals, or other charges, as well as the administrative sanctions and indemnity collected by virtue of this Ordinance. All amounts disbursed from the Special Fisheries Trust Fund shall be devoted only for the purpose of funding the implementation of this Ordinance.
- b. Disbursement from the Special Fisheries Trust Fund shall be made only upon prior recommendation of the FMU and approval of the City Mayor, and subject to the usual accounting rules and regulations.
- c. At the end of each fiscal year, the FMU shall submit an accounting of the utilization of the Special Fisheries Trust Funds to the City Mayor and the Committee on Fisheries of the Sanggunian, and recommended how the Fund may be best used for fisheries management in the succeeding fiscal year.

Section 85. Authority to seek external funding- The officer of the City Mayor is hereby authorized to seek and negotiate for external funding for the purposes of funding this Ordinance and related activities.

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**Article XVI
TRANSITORY PROVISION**

Section 86. Grace Period for Registration- All person required under this Ordinance to be registered in the Registry of Municipal Fisherfolk of to register their fishing vessels with the Registry of Municipal Fishing Vessels, shall have a grace period of six (6) months from the effectively of this Ordinance within to comply with its provision.

Section 87. Interim Appropriations- The amount of **P500,000.00** authorized to be released from the Local Funds, for the purpose of implementation of this Ordinance in the interim until the regular appropriations thereof have been provided for in the fiscal year subsequent to its effectively.

**Article XVII
MISCELLANEOUS PROVISION**

Section 88. Separability Clause- If any portion or provision of this Ordinance is declared invalid, unlawful, or unconstitutional, the remaining portions or provisions thereof which are not affected shall remain in full force and effect.

Section 89. Repealing Clause- Municipal Ordinance No. 32, Series of 1993, Municipal Ordinance No. 14, Series of 1994, are hereby repealed. All ordinances and resolutions which are inconsistent herewith are likewise hereby and/ or modified accordingly.

Section 90. Effectively Clause- This Ordinance shall take effect immediately upon approval.

CARRIED AND APPROVED.

ENACTED AND PASSED this 26th day of November, 2007.

I HEREBY CERTIFY to the correctness of the foregoing.

(Sgd) REY A. BUHION
Secretary to the Sanggunian

ATTESTED:

(Sgd) ALLAN L. RELLON, MPA
City Vice Mayor
(Presiding Officer)

APPROVED:

(Sgd) REY T. UY
City Mayor