



**General Ordinance No. 35
Series of 2009**

**AN ORDINANCE PROMULGATING THE RULES AND REGULATIONS GOVERNING THE
USE, DEVELOPMENT AND MANAGEMENT OF TUNGAWAN MANGROVE CO-
MANAGEMENT AREA**

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Co-Authored by : Hon. Sarabon S. Bawa

WHEREAS, the Co-Management Agreement dated January 29, 2007 entered into by the Local Government of Tungawan and the Department of Environment and Natural Resources which provides for the co-management of the 1,700 hectares more or less mangrove areas located in Barangays Baluran, Masao, Libertad, Tigbanuang, Taglibas, Looc Labuan, Linguisan, Tigbucay, San Vicente, Santo. Nino, Tigpalay and San Pedro. Sec 3 (I) of Republic Act No. 7160, otherwise known as the Local Government Code of 1991, and in line with the policy of the Government to ensure the development and management of forest land resources on a sustainable basis, promote equitable distribution of natural resources, provide a healthy environment and promote economic upliftment of the people, the following rules and regulations for the use, development and management of aquaculture within the Tungawan Co-Management Area are hereby promulgated.

NOW THEREFORE, the Sanguniang Bayan, during its 71st Regular Session duly assembled, do hereby ordained that:

Section 1. Basic Policy - It is the policy of the Local Government Unit of Tungawan to conserve biological diversity, promote ecological balance, enhance economic and social well being of the communities through active partnership with the private sector and stakeholders for sustainable development. In line with this policy the Local Government Unit of Tungawan shall provide security of tenure to the participants in the sustainable development of the Mangrove Co-Management Area through issuance of the Tungawan Co-Management Use Agreement (TCMUA), herein referred to as "aquaculture agreement". Henceforth, no person may utilize, exploit, occupy, possess or conduct any activity within the Mangrove Co-Management Area or establish, install, add and operate fishpond or any structure, unless authorized to do so by the local Government Unit of Tungawan under appropriate agreement issued for the purpose.

Section 2. Objectives - the following are the objectives of this ordinance;

- 2.1 To improve management of Tungawan Co-Management Area;
- 2.2 To increase supply of fish and other fish/marine products to generate additional sources of income and livelihood and help in the economic upliftment of the people of Tungawan;
- 2.3 To generate additional sources of funds that can be used by the Local Government Unit of Tungawan for improving environmental management and conservation activities in the municipality;



(P.2 of Ord. Governing the
Mangrove Co-Mgt. of 2009)

2.4 To establish an enduring partnership between the Local Government Unit of Tungawan, the DENR and participating small-scale mangrove area users in promoting the sustainable use of the co-management area.

Section 3. Definition of terms – for the purpose of this ordinance, the following terms shall mean:

3.1 Aquaculture – fishery operations involving all forms of raising and culturing fish and other fishery species in fresh, brackish and marine water areas

3.2 Aqua-silviculture - management strategy which combines harmonizes fishery production and vegetation enhancement or reforestation

3.3 Bio-diversity – is a short for biological diversity, the variability among living organism from all sources including inter alia, terrestrial, marine and other aquatic ecosystem and the ecological complexes of which they are part; this includes diversity within species, between species and ecosystem

3.4 Resource use plan – a plan prepared by the Local Government unit of Tungawan for aquaculture agreement that describes how assets within the area, subject of application, will be developed and managed

3.5 Sustainable development – meeting the needs of today without compromising the ability of future generations to meet theirs

3.6 Sustainable resource use – utilization of resources in a way and at a rate that would maintain their potential to meet the needs and aspirations of the present and future generations

3.7 Fishpond – an area devoted for aquaculture production

3.8 Co-Management Agreement – the Co-Management Agreement signed on January 29, 2007 by and between the Local Government Unit of Tungawan and DENR to jointly manage and develop natural resources within 1,700 hectares more or less of mangrove areas

3.9 Project Management Unit (PMU) – the office that is responsible for the implantation of this ordinance and executes the policies and decisions of the steering committee

Steering Committee – the multi-sectorial body that serve as the policy governing body of the mangrove co-management area in accordance with the provisions of the Co-Management Agreement. Tungawan Co-Management Resource Use Agreement or Aquaculture Agreement – a management agreement entered into



(P.3 of Ord. Governing the
Mangrove Co-Mgt. of 2009)

by and between the Local Government Unit of Tungawan and a qualified applicant, which grants to the latter the right to develop, utilize and manage a specified aquaculture area, consistent with the principle of sustainable development and in accordance with Resource Use Plan approved in writing by the steering committee

3.10 Person - includes natural as well as juridical persons

Section 4. Available Areas - The available area for co-management is 1,700 hectares found in the 12 coastal barangays and zoned according to its appropriate utilization purposes as per zone and claims maps attached herein, agreed upon by the stakeholders and in consonance to existing forestry laws. Existing fishponds with Fishpond Lease Agreement issued by the Bureau of Fisheries and Aquatic Resources are not covered by this co-management agreement, however, are still classified within the production area until otherwise zonified under the criteria, guidelines and management of classification prescribed by the steering committee; provided, that the administration, management and disposition of zonified aquaculture areas shall remain under the jurisdiction of Management Agreement. Provided further that any application for aquaculture development shall be rejected when public interest so requires.

Meanwhile, those areas that were abandoned as determined under the criteria, guidelines and methods of classification prescribed by the steering committee or turned over to the Local Government Unit of Tungawan for management are hereby zonified according to the uses applied by the barangay concerned such as production, protection and settlement;

No land within the co-management area containing stand of mangrove species, regardless of area, shall be eligible for aquaculture or aqua-development, except aqua-silviculture.

Section 5. Size of the area - There is no minimum area that may be covered by an aquaculture agreement; provided, that the maximum area for an individual/single family shall not exceed five (5) hectares nor shall any individual/single family hold more than one aquaculture agreement; further that an association/cooperative/corporation may hold more than one aquaculture agreement simultaneously but the aggregate total size of the areas held shall not exceed 10 hectares.

Section 6. Qualified Applicants- The following are qualified to apply:

6.1. Individuals/Single family units who are Filipino citizens, of legal age and preferably residents of Tungawan. Claimants as stated in the above-mentioned claims map, before the effective date of Co-Management Agreement on January 29, 2007 will be given priority; provided, that the area applied does not exceed five (5) hectares.



(P.4 of Ord. Governing the
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6.2. Cooperatives, peoples organizations (Pos) and or corporations whose members are Filipino citizens, duly accredited by LGU-Tungawan and preferably residents of Tungawan and duly registered with the Cooperative Development Authority (CDA) or Securities and Exchange Commission (SEC) or the Department of Labor and Employment (DOLE), as the case may be; provided, that the area applied does not exceed ten (10) hectares; provided further, that cooperatives, associations and/or corporations applying for more than one (1) agreement must show proof of financial and technical capacity to develop the areas applied for.

Section 7. Disqualified Applicants - The following are disqualified to participate:

7.1. Individuals, cooperatives and associations who have been previously issued permits/licenses that were cancelled;

7.2. Individuals, cooperatives and associations whose officers have derogatory records such as but not limited to: (a) violations of anti dummy laws; (b) tax evasion; (c) illegal logging, cutting or smuggling; (d) violation of General Ordinance No. 30-04; (e) unauthorized transfer or subcontracting of forestry permits/licenses; and (e) members of cooperatives or associations holding permits, licenses or contracts but not able to comply with the terms and conditions thereof;

7.3. Holders of any existing permit, license lease or management agreement involving forest and forestlands.

Section 8. Application Requirements - Interested individuals, cooperatives, associations, peoples organizations duly accredited by LGU-Tungawan and/or corporations may file their applications with the MENRO through the assistance of the barangay assistance group;

8.1. An Application/filing fee of Php 100.00 per hectare or fraction thereof shall be paid to the Local Government Unit of Tungawan.

8.2. A Business license fee, paid to the Local Government Unit of Tungawan, in the amount Php 300.00 per year; and

8.3. A Resource Use fee, paid to the Local Government Unit of Tungawan, in the amount Php 500.00 per hectare per year.

8.4. Resource Use Plan, in format prescribed by the Steering Committee, including sketch map of the area applied for.

8.5. For individual/single family unit:

8.5.1 Community Tax Certificate

8.5.2 Certification from the Barangay Captain where the area subject of application is located



(P.5 of Ord. Governing the
Mangrove Co-Mgt. of 2009)

8.5.3 Certification from the Barangay Captain where the resident of the applicant is located.

8.6 For cooperatives/associations/corporations

8.6.1 Certificate true copy of the Certificate of registration with the Cooperative Development Authority (CDA) or Securities and Exchange Commission (SEC) or Department of Labor and Employment (DOLE).

8.6.2 List of elected officers and members and their addresses, duly certified by the board secretary.

8.6.3 A resolution authorizing the officers to file the application in behalf of the corporation, association or cooperative, duly certified by the Board Secretary

8.6.4 Receipt of income Tax payments for the proceedings (2) years

Section 9. Time and Manner of Payment

- a. The annual license or fees levied shall be paid to the Municipal Treasurer or his/her duly authorized representative upon filing of the application and upon renewal of the same every year thereafter within the first twenty (20) days of January or maybe paid quarterly installment within the first twenty (20) days of January, July and October of each year;
- b. Surcharges for late payment - Failure to pay the fees within the prescribed time shall subject the Mangrove Land Steward to a surcharge of twenty five percent (25%) of the amount due.

Section 10. **Procedure for Processing of Applications** - together with proofs of payment of the prescribed fees and other application requirements stated in section 8 hereof, applications in due form shall filed with the Municipal Environment and Natural Resources Office (MENRO) mentioned in section 14 of this ordinance.

10.1 The MENRO - Upon receipt of the application and all pertinent documents, the MENRO shall review and evaluate the same. If all are found in order, the MENRO shall, within fifteen (15) days from receipt thereof, schedule and conduct consultative meetings with the affected community residents for the purpose of ascertaining the acceptability of the proposed Resource Use Plan. The consultative meeting shall be documented and the documentation shall within (5) calendar days after the final consultative meeting, the MENRO shall prepare the Agreement and forward the Agreement and all other pertinent documents to the Steering Committee with corresponding recommendation.



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(P.6 of Ord. Governing the
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10.2 The Steering Committee - The steering committee shall approve or deny the application within thirty (30) calendar days from receipt of the application and other documents. Such approval or denial shall be final, without prejudice to the right of the applicant to file to the steering committee an appeal or motion for reconsideration of the decision within fifteen (15) calendar days from receipt of the decision. Copies of the agreement or copies of the Notice of Denial, as the case may be, shall be furnished to the concerned applicant and MENRO.

Section 11. **Secretariat Responsibility of the MENRO** - The MENRO shall be responsible for providing Secretariat to the Steering Committee and, as much, be primarily responsible and accountable for the proper receipt, recording and safekeeping of all documents and official transactions of the Steering Committee.

Section 12. **Mangrove Co-Management Special Account** - A Mangrove Co-Management Special Account, hereinafter referred to as the "Co-Management Fund", is hereby created. All fees collected in accordance with section 8 of this ordinance shall be credited to this account, including all other fees and charges that may hereafter be authorized by ordinance to be imposed and collected from any undertaking associated with the mangrove co-management area.

Subject to existing government accounting and auditing rules and regulations, the co-management fund is hereby placed under the jurisdiction, management and disposition of the Steering Committee for the sole purpose of ensuring continuous management, supervision and implementation of approved plans and activities within the Mangrove Co-Management Area in particular and other related environmental management and conservation activities within the municipality of Tungawan in general; provided, that, any and all expenditures from the co-management fund shall be authorized only on the basis of a work and financial plan duly approved by the Steering Committee;

The Municipal Accountant shall prepare, issue and publish a duly audited annual financial statement not later than February 14 of every year, provided, finally, that, in the minimum, the financial statements shall be published and posted in conspicuous places at each of the five (5) barangays within the co-management area and at the Municipal Hall.

Section 13. **Integration of Aquaculture Agreement Holders into Larger Organization** - Holders of aquaculture agreements shall be encourage to confederate into cooperatives, association, and or federations to enable them to avail of the benefits of economics of scale.

The Steering Committee and MENRO in collaboration with other departments of the Local Government Unit of Tungawan, National Government Agencies and other organizations shall provide the necessary technical assistance, capability building through skills training and organizational management, as well as linkages for access to markets and social services, livelihood and financing.



(P.7 of Ord. Governing the
Mangrove Co-Mgt. of 2009)

The Steering Committee and MENRO shall explore and ways and means to develop incentives in ways that enable aquaculture agreement holders to develop and manage.

Section 14. **Grounds for Cancellation** – The Local Government Unit of Tungawan reserves the right to cancel any aquaculture agreement for cause or when public interest so requires, as determined by the Co-Management Steering Committee. The Agreement may be cancelled by the steering Committee for violation or non compliance with any of the terms and conditions stipulated in this ordinance. The aquaculture agreement may be revoked or cancelled on any of the following grounds:

- 14.1. Failure of the holder to develop the area within one (1) year from issuance of tenurial instrument and after having been notified in writing by the MENRO;
- 14.2. The holder has been found dummy;
- 14.3. The holder transferred the rights over the area to another person without prior written approval of the steering committee;
- 14.4. Conversion by the holder of the area or any part of thereof to any land use other than that of the aquaculture production;
- 14.5. The holder has allowed the entry of other persons into the area for the purpose of the building residential houses;
- 14.6. The holder cuts or allows cutting of planted and naturally grown trees adjacent to the awarded area;
- 14.7. The holder extracts filling materials (binareta) outside of his designated area;
- 14.8. The holder refuses any duly authorized forest officer or duly authorized government official entry into the premises of the awarded area or into any other improvement introduced and used in the awarded area;
- 14.9. The aquaculture agreement was obtained through fraud or misrepresentation or by false or misleading statements;
- 14.10. Violation by the holder of any of the terms and conditions of this aquaculture agreement or any of the pertinent provisions of local and national forestry laws, rules and regulations;
- 14.11. Abandonment of the area for productive purposes for the period of one year;
- 14.12. Failure to pay rentals or other required fees;
- 14.13. Unauthorized development such as unauthorized construction or deviation from the approved Resource Use Plan;



(P.8 of Ord. Governing the
Mangrove Co-Mgt. of 2009)

14.14. Voluntary surrender of the aquaculture agreement;

14.15. When public interest so requires.

Section 15. Management Tungawan Co-Management Area - For the purpose of this ordinance and in accordance with the provisions of Tungawan Co-Management Agreement, the steering committee is hereby affirmed as the policy governing body responsible for the overall management of the mangrove co-management area with such powers and responsibilities as stipulated in the Co-Management Agreement. To ensure its operation, the Steering Committee may, from time to time, agree in a meeting called for the purpose to reconstitute its membership and authorize the Municipal Mayor to issue the appropriate order therefore; provided, that its multi-sector character shall at all times be maintained and enhanced.

Further, in accordance with the Co-Management Agreement the MENRO shall be directly responsible and accountable to the Steering Committee for carrying out its policies and decisions, including the day to day implementation of approved work and financial plans and activities. The MENRO shall spearhead and assisted by the (12) coastal barangays within the Co-Management Area.

Section 16. Registry of Aquaculture Areas - The MENRO shall maintain a Registry containing the location and description of all areas that have been determined to be suitable and available for aquaculture agreements, including the general prescription for the management and development of the areas as well as restrictions as may be necessary. The registry shall be accessible to local communities, government agencies and other stakeholders to ask for and receive information on the mangrove Co-Management Area.

Section 17. Management of the Aquaculture Zone - Responsibility and accountability for proper management of the aquaculture zone shall be achieved through the issuance of aquaculture agreement that will have a term of twenty five (25) years renewable for a similar period at the option of both parties.

The aquaculture agreement shall be issued in the name of the applicant, provided, that in case of married individuals, it shall be issued in the names of both spouses.

The aquaculture agreement may be transferred, conveyed or sold, in whole or in part, to any qualified person, cooperative or association in accordance with section 6 and 7 of this Ordinance, subject to prior approval of the Steering Committee; provided, that the five (5) hectare limit for individuals and single family units and ten (10) hectare limit for cooperatives, associations and/or corporations. The transferee shall assume the rights and obligations stipulated under the original aquaculture agreement and shall commit to its continuance into the remaining years of the aquaculture agreement. The document of transfer, conveyance or sale shall be notarized and copies forwarded to the Steering Committee.

Section 18. Sharing of Income - All income collected derived from the



(P.9 of Ord. Governing the
Mangrove Co-Mgt. of 2009)

implementation of this program shall be shared according to the following scheme:

- 70% - Co-Management Fund
- 30% - Barangay where the mangrove co-management area is located

Section 19. Prohibited Acts – The following acts shall be strictly prohibited by this ordinance and any violation thereof shall be penalized according to section 21 of the same.

19.1. Illegal cutting and Uprooting of mangroves– it shall be unlawful for any person, association or cooperative, etc. to cut mangroves without the appropriate permit from the concerned office.

19.2. Debarking/Girdling of mangroves- It shall be unlawful for any person, association or cooperative to debark/girdle mangroves for any purpose(s) whatsoever;

19.3 Possession of illegally cut mangroves – It shall be unlawful for any person, association and cooperative to possess illegally cut mangrove species including its product such as but not limited to charcoal and firewood.

19.4. Hauling and Transporting of illegally cut mangroves – It shall be unlawful for any person, association and cooperative to haul and transport illegally cut mangrove species to any point within the jurisdiction of the municipality without necessary permits and licenses.

19.5. Buying and selling of illegally cut mangroves to include charcoal, timber and firewood – It shall be unlawful for any person, association and cooperative to buy and sell illegally cut mangrove species such as but not limited to charcoal, timber and firewood.

19.6. Operation of fishpond and aquasilviculture without permit and licenses – It shall be unlawful for any person, association and cooperative to operate fishpond and aquasilviculture without the necessary permits and licenses.

19.7. Conversion or clearing of mangroves species – It shall be unlawful for any person, association and cooperative to convert or clear mangrove areas for fishpond and for whatever other purposes without the necessary permit. Any violation to this effect will be properly charged in court subject to the provisions of the existing forestry laws.

Section 20. Fines and Penalties – violation of section 19.1 up to section 19.7 shall be penalized as follows:

First offense : P 1,500 and/or imprisonment for a period of Two (2)days and confiscation of illegally cut mangroves.



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(P.10 of Ord. Governing the
Mangrove Co-Mgt. of 2009)

Second offense : P 2,000 and/or imprisonment for a period of two
(2) days and confiscation of illegally cut
mangroves.

Third offense - P 2,500 and/or filling of case

Section 21. **Administrative authority of the Steering Committee** - For the effective implementation of this ordinance, the Municipal Mayor, acting as chairman and on the basis of decisions made by the steering Committee is hereby authorized to issue the necessary memoranda, guidelines, orders and/or circulars that are not inconsistent with the provisions of this ordinance.

Section 22. **Separability Clause** - if for any reason, any provision, section or part of this ordinance is declared not valid by a court of competent jurisdiction or suspended or revoked by the authorities concerned, such judgment shall not effect or impair the remaining provisions, sections or parts hereof which shall continue to be in force and effect.

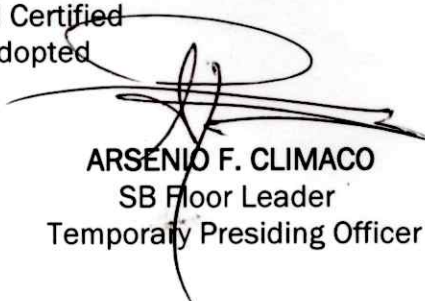
Section 23. **Repealing Clause** - All ordinances, rules and regulations or parts thereof which are in conflict with or inconsistent with any provisions of this ordinance are hereby repealed and modified accordingly.

Section 24. **Effectivity** - This ordinance, which is the Draft Ordinance No. 15-05-09, shall take effect 15 days after a copy hereof is posted in the bulletin board at the entrance of or in at least two (2) other conspicuous places of the municipal hall and this ordinance shall have been published three (3) times consecutively in a local newspaper of general circulation in the locality.

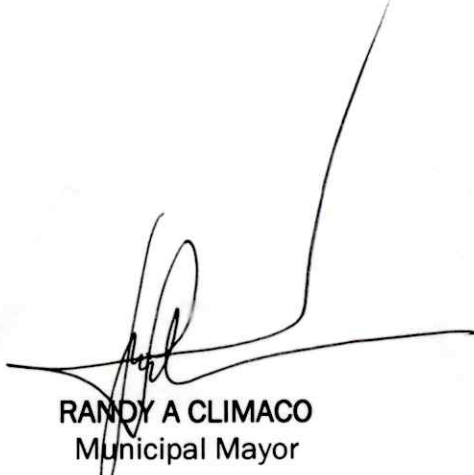
ORDAINED AND APPROVED this 10th day of March 2009 at Tungawan,
Zamboanga Sibugay, Mindanao, Philippines.


DANTE D. IBARRA
Secretary to the SB

Attested and Certified
To be Duly Adopted


ARSENIO F. CLIMACO
SB Floor Leader
Temporary Presiding Officer

Approved:


RANDY A CLIMACO
Municipal Mayor