



Republic of the Philippines
Province of Davao del Sur
MUNICIPALITY OF HAGONoy

OFFICE OF THE MUNICIPAL MAYOR

EXECUTIVE ORDER NO. 26

Series of 2021

CONSTITUTING THE LOCAL ZONING BOARD OF ADJUSTMENT AND APPEALS (LZBAA) OF THE MUNICIPALITY OF HAGONoy, DAVAO DEL SUR

WHEREAS, the Municipality of Hagonoy, Davao del Sur contemplate in becoming a “Axis of Distinctive Varied Operations and Progressive Industrial and Tourism Destinations in Southern Mindanao”;

WHEREAS, said economic development direction has a corresponding support mechanism in the form of Comprehensive Land Use Plan (CLUP) in which industrial and Agri-Industrial zones engage a very evocative role in our municipality.;

WHEREAS, the Local Government Unit of Hagonoy facilitates the location of investors where there are instances that the choice of area location is not conforming to the approved land use zoning of the municipality;

WHEREAS, Section 9, General Provision of Article V, Regulation of Approved Municipal Comprehensive Land Use Plan and Zoning Ordinance CY 2003-2012 mentions that “the Local Zoning Board of Adjustment and Appeals (LZBAA) shall, subject to the requirements of this Article, allow other uses not enumerated hereunder provided that they are compatible with the uses expressly allowed. Allowance of further uses shall be based on the intrinsic qualities of the land and socio-economic potential of the locality with due regard to the maintenance of the essential qualities of the zone;

WHEREAS, upon the accession of the invigorated administration of the Local Government Unit, there is a need of constituting the Local Zoning Board of Adjustment and Appeals (LZBAA), a quasi-judicial body, responsible in reviewing and adjudicating applications for deviations in either forms, like variances, exceptions, non-conforming use, and other complaints and oppositions on land uses;

NOW THEREFORE, I , FRANCO MAGNO CALIDA , Municipal Mayor of Hagonoy, Davao del Sur, by virtue of the power vested in me by law, do hereby order:

SECTION 1. RECONSTITUTION. There shall be a reconstitution of the Local Zoning Board of adjustment and Appeals (LZBAA)

SECTION 2. Composition. Section 46, Article X – Administration and Enforcement of the Approved Municipal Comprehensive Land Use Plan/Zoning Ordinance CY 2003-2012, stipulates “*the composition of the Local Zoning Board of adjustment and Appeals (LZBAA) Shall be consisted of the following members, to wit:*

Municipal Mayor as Chairman	-	FRANCO MAGNO CALIDA
Municipal Legal Officer	-	Atty. GENEVIEVE BASILIO
Municipal Assessor	-	MELCHORA A. YAMOMO
Municipal Engineer	-	Engr. NOEL D. ALEGRE

Two (2) representatives from the
Private Sectors

-

FERMIN CUDERA
Philippine Chamber of
Commerce Inc.
Davao del Sur Chapter

AMELITA C. AGSAULIO
Municipal Agrarian Reform
Officer

Two (2) representatives from the Non-
Non-Government Organizations

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MICHAEL BALINDOA
KABALIKAT

DANTE AMBANTA
GUARDIANS

SECTION 3. FUNCTIONS. As provided in Section 45 of Article X of the Approved Municipal Comprehensive Land Use Plan (CLUP) and Zoning Ordinance CY 2003-2012, " *the Local Zoning Board of adjustment and Appeals (LZBAA) shall perform the following functions and responsibilities, to wit:*

A. ACT ON APPLICATIONS OF THE FOLLOWING NATURE:

1. Variances
2. Exceptions
3. Non-Conforming Use
4. Complaints and Oppositions to Applications

B. ACT ON APPEALS ON GRANT OR DENIAL OF LOCATIONAL CLEARANCE BY THE ZONING ADMINISTRATOR/ZONING OFFICER

- a) Decisions of the Local Zoning Board of Adjustments and Appeals shall be appealable to the HLURB.
- b) Also, it shall be noted that the LZBAA shall adopt its own rules of procedure to govern the conduct of appeals arising from the administration and enforcement of the Municipal Ordinance on the MCDP-CLUP CY 2003-2012.

SECTION 4. IMPORTANT CONCEPTS RELEVANT TO LZBAA'S FUNCTIONS. The following concepts are deemed important in the proper functionalization of the LZBAA, to wit:

Based on Article IX of the Approved Municipal Comprehensive Land Use Plan Zoning Ordinance CY 2003-2012, Mitigation Devices:

Section 35. Deviation, Exceptions, Variances or Deviations from the provisions of this Ordinance may be allowed by the Local Zoning Board Of adjustments and Appeals (LZBAA) only when the following terms and conditions are existing:

1. Variance

a. The property is unique and different from other properties in the adjacent locality and because of its uniqueness, the owner/s cannot obtain a reasonable return on the property.

This condition shall include at least (3) of the following provisions.

- *Conforming to the provisions of the Ordinance will cause undue hardship on the part or occupant of the property due to physical conditions of the property (topography, shape, etc.) which is not self-created;*
- *The proposed variance is the minimum deviation necessary to permit reasonable use of the property;*
- *The variance will not alter the physical character of the district or zone where the property for which the variance sought is located, and will not substantially or permanently injure the use of the other properties in the same district or zone;*
- *That the variance will not weaken the general purpose of the Ordinance and will not adversely affect the public health, safety, & welfare;*
- *The Variance will be in harmony with the spirit of this Ordinance.*

2. Exceptions

a. The exceptions will not adversely affect the public health, safety and welfare and is in keeping with the general pattern of development in community.

b. The proposed project shall support economic-based activities/provide livelihood vital community services and facilities while at the same time posing no adverse effect on the zone/community.

c. The exception will not adversely affect the appropriate use of adjoining property in the same district.

d. The exception will not alter the essential character and general purpose of the district where the exception sought is located.

Section 36. Procedure for Granting Exception and Variances. The procedure for granting of exception and/or variances is as follows:

1. A written application for an exception and/or variance shall be filed with the Local Zoning Board of Adjustment and Appeals (LZBAA) citing the section of the Ordinance under which the same is sought and stating the ground/s thereof;

2. Upon filing of application, a visible projects sign, (indicating the name and nature of the proposed project) shall be posted at the project site;

3. The Local Zoning Board of Adjustment and Appeals (LZBAA) shall conduct preliminary studies on the application;

4. A written affidavit of non-objection of the project by the owners of the properties adjacent to the project shall be filed by the applicant with the LZBAA at least fifteen (15) days prior to the decision for exception/variance;

5. In case of objection, the LZBAA shall hold public hearing;

6. At the hearing, any party may appear in person, or be represented by agent/s, all interested parties shall be accorded the opportunity to be heard and present evidences and testimonies;

7. The LZBAA shall render a decision within thirty (30) days from the filing of the application, exclusive of the time spent for the preparation of written affidavit of non-objection and the public hearing, in case of any objection to the granting of exception/variance.

ADMINISTRATION AND ENFORCEMENT

Section 37. Locational Clearance. All owners/developers shall secure Locational Clearance from the Zoning Administrator/Zoning Officer or in case of Variances and Exceptions, form the Local

Zoning Board of Adjustment and Appeals (LZBAA) prior to conducting of any activity or construction on their property/land.

SECTION 5. SECRETARIAT. The Secretariat shall be composed of the following planning staff and shall have its corresponding functions, to wit:

Composition:

- | | | |
|------------------------|---|-------------------|
| 1. Dennis S. Lasat III | - | PDO II/ICO-MPDC |
| 2. Diken Dalagonan | - | Computer Operator |
| 3. Sharmayne Cando | - | Illustrator I |

Functions:

1. Facilitate and assist in the conduct of all meetings relative to applications on Deviations, exceptions, variances and other related activities;
2. Document all proceedings/minutes of the meetings;
3. Drafts resolutions of the LZBAA;
4. Prepares/distributes communication to all LZBAA members;
5. keeps records of LZBAA;
6. Assist in the conduct of public hearings related to LZBAA matters;
7. Conducts projects site inspection/or investigations as deemed necessary and as per Instruction by the LZBAA;
8. Acts other functions/tasks per instruction by the LZBAA Chairman and or the LZBAA.

SECTION 6. MEETINGS. The Chairman of the LZBAA shall call a meeting as often as deemed necessary.

SECTION 7. BUDGET. Necessary and lawful expenses incurred in the activation of LZBAA shall be chargeable against local funds of this LGU specifically from the Institutionalization of MDC in which it is one of the working committees of the latter;

SECTION 8. EFFECTIVITY. This Executive Order shall take effect immediately.

Issued this 1st day of June 2021 at Hagonoy, Davao del Sur.


FRANCO MAGNO CALIDA
Municipal Mayor