

# #7 AGENDA

## The Power of Local Legislation

✓ Due process requirement  
Factors to consider:

- Limitations from Republic Act 7160
- National Laws

✓ Advantages of Ordinance



✓ SOURCE OF LEGISLATIVE POWER

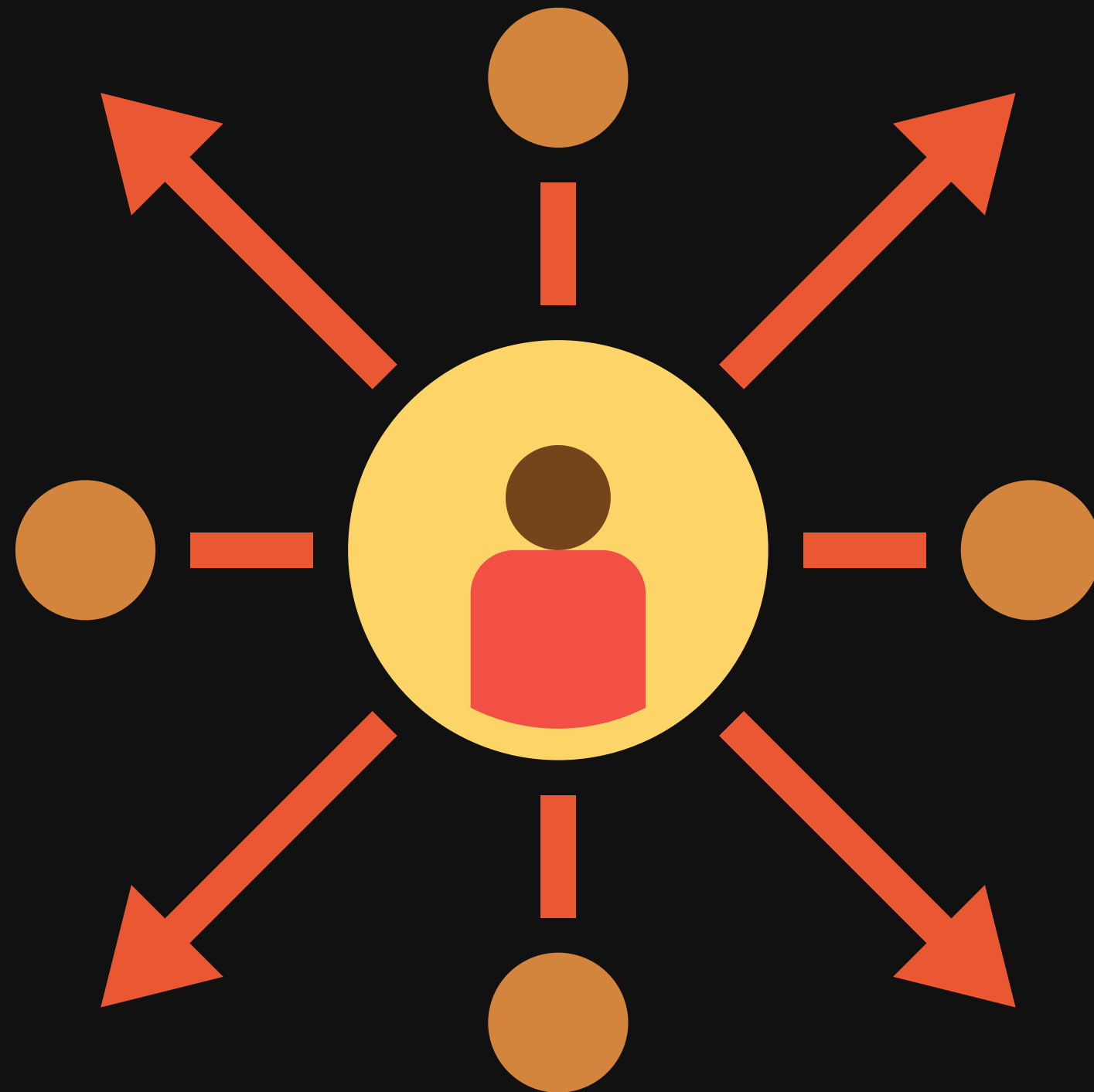


✓ VALIDITY OF ORDINANCE



# R.A. 7160 [LOCAL GOVERNMENT CODE OF 1991]

## DECENTRALIZATION



LOCAL  
AUTONOMY



# OPERATIVE PRINCIPLES OF DECENTRALIZATION

- ✓ IMPROVED COORDINATION
- ✓ EXTENSION OF ADEQUATE TECHNICAL & MATERIAL ASSISTANCE
- ✓ CONTRIBUTES TO CONTINUING IMPROVEMENT
- ✓ QUALITY OF COMMUNITY LIFE







# GENERAL POWERS & ATTRIBUTES OF LGUS

Section 16. General  
Welfare Clause



## SHALL ENSURE & SUPPORT:

- preservation and enrichment of culture, promote health and safety;
- enhance the right of the people to a balanced ecology;
- encourage and support the development of appropriate & self-reliant scientific & technological capabilities;
- improve morals;
- economic prosperity & social justice;



**ROAD SAFETY MANAGEMENT:  
PREPARING YOUR LGU**

# **R.A. 7160 [LOCAL GOVERNMENT CODE OF 1991]**

**BASIC SERVICES & FACILITIES**





# GENERAL POWERS AND ATTRIBUTES OF LGUS

## SEC. 21: CLOSURE AND OPENING OF ROADS





# POLITICAL SUBDIVISIONS

**LGU  
POWERS**

*SANGGUNIANG*

**LEGISLATIVE  
POWER**

**EXECUTIVE  
POWER**


*GOVERNOR*

*MAYOR*

*BARANGAY CAPTAIN*

# MAYORS AND GOVERNORS

- Initiate and propose legislative measures to the Sanggunian
- Issue such EXECUTIVE ORDERS as are necessary for the proper enforcement and execution of laws and ordinances
- Ensure that the construction and repair of roads and highways funded by the national government shall be, as far as practicable, carried out



**EXECUTIVE  
POWER**




# SANGGUNIANG BARANGAY

Enact ordinances as may be necessary to discharge the responsibilities conferred upon it by law or ordinance and to promote the general welfare of the inhabitants therein

# SANGGUNIANG BAYAN & PANLUNGSOD

Regulate the use of streets, avenues, alleys, sidewalks, bridges, parks and other public places and approve the construction, improvement, repair and maintenance of the same; establish bus and vehicle stops and terminals or regulate the use of the same by privately-owned vehicles which serve the public; and others related to making the roads cleared and safe.



**EXECUTIVE  
POWER**

**Legaspi vs. City of Cebu,  
GR No. 159692**

**In explaining the LGU  
power to regulate  
traffic and streets**



**DELEGATED  
POWER**



# Exercise of Legislative Power

Local legislative power shall be exercised by the sangguniang panlalawigan for the province; the sangguniang panlungsod for the city; the sangguniang bayan for the municipality; and the sangguniang barangay for the barangay.

The legislative process can be found in the Internal Rules of Procedure of the Sanggunian.

## Section 54. Approval of Ordinances. –

Every ordinance enacted by the sangguniang panlalawigan, sangguniang panlungsod, or sangguniang bayan shall be presented to the provincial governor or city or municipal mayor, as the case may be. The sanggunian concerned may override the veto of the local chief executive by two-thirds ( $2/3$ ) vote of all its members, thereby making the ordinance or resolution effective for all legal intents and purposes.

Sec. 55 (a) The local chief executive may veto any ordinance of the sanggunian panlalawigan, sangguniang panlungsod, or sanggunian bayan on the ground that it is ultra vires or prejudicial to the public welfare, stating his reasons therefor in writing.

(c) The local chief executive may veto an ordinance or resolution **ONLY ONCE**. The sanggunian may override the veto of the local chief executive concerned by two-thirds ( $2/3$ ) vote of all its members, thereby making the ordinance effective even without the approval of the local chief executive concerned.



# Effectivity of Ordinance

- 01** Ordinance to take effect after ten (10) days from the date
- 02** Post the ordinance or resolution in the bulletin board at the entrance of the provincial capitol and the city, municipal, or barangay hall in at least two (2) conspicuous places in the local government unit concerned not later than five (5) days after approval thereof
- 03** The gist of all ordinances with penal sanctions shall be published in a newspaper of general circulation
- 04** In the case of highly urbanized and independent component cities, the main features of the ordinance or resolution shall be published once in a local newspaper of general circulation

# Test for A Valid Ordinance

## DILG Opinion No. 43 s. 2020

01

Does not  
contravene  
fundamental  
law

02

Not against  
public  
policy

03

Not  
unreasonable  
oppressive  
partial  
discriminating or  
in derogation of  
a common right

04

Consonant with  
the general  
powers and  
purpose of the  
corporation



# **Legaspi vs. City of Cebu, GR No. 159692**

## **FORMAL & SUBSTANTIVE TEST**

Formal Test - whether the ordinance was enacted within the corporate powers of the LGU, and whether it was passed in accordance with the procedure prescribed by law

Substantive Test- involving inherent merit, like the conformity of the ordinance with the limitations under the Constitution and the statutes, as well as with the requirements of fairness and reason, and its consistency with public policy

City of Manila vs. Laguio Jr. GR No. 118127  
LGU can legislate by virtue of their derivative  
legislative power.

Substantive Requirements:

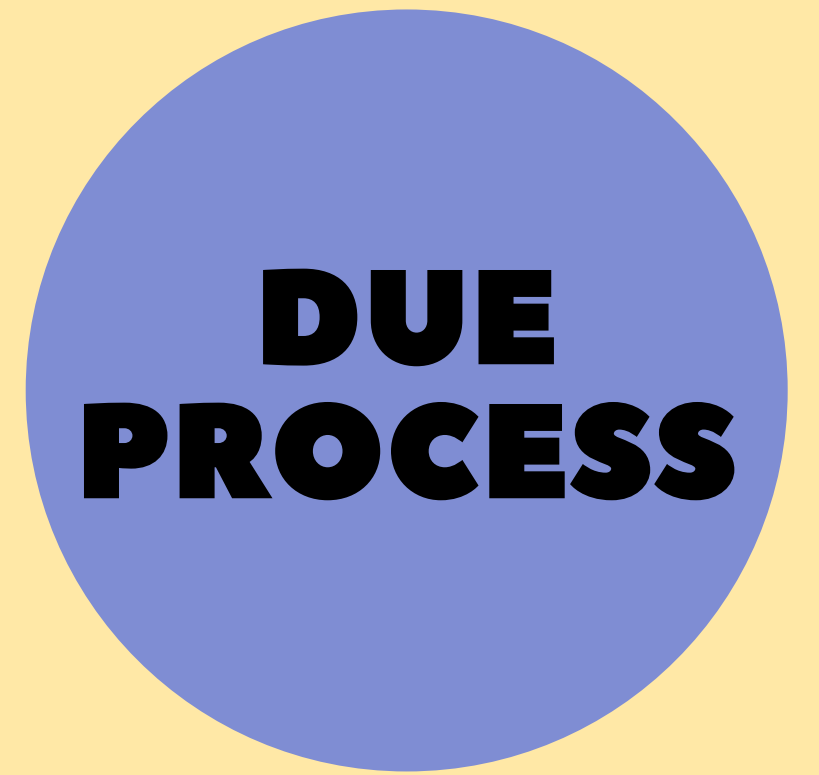
- must not contravene the Constitution or any statute.
- must not be unfair or oppressive
- must not be partial or discriminatory
- must not prohibit but may regulate trade
- must be general and consistent with public policy
- must not be unreasonable

**SUPREME  
COURT  
RULING**



## City of Manila vs. Laguio Jr.

The first substantive requirement for a valid ordinance is the adherence to the constitutional guaranty of due process of law.



PROCEDURAL DUE PROCESS refers to the procedures that the government must follow before it deprives a person of life, liberty, or property. Classic procedural due process issues are concerned with that kind of notice and what form of hearing the government must provide when it takes a particular action.

SUBSTANTIVE DUE PROCESS asks whether the government has an adequate reason for taking away a person's life, liberty, or property. In other words, substantive due process looks to whether there is sufficient justification for the government's action.



## City of Manila vs. Laguio Jr.

There must be equal protection of the law.

The ordinance must conform to the following requirements:

- (1) It must be based on substantial distinction
- (2) It must be germane to the purpose of the law
- (3) It must not be limited to existing conditions only
- (4) It must apply equally to all members of the class

**VALID  
CLASSIFICATION**

# FACTORS TO CONSIDER IN CRAFTING YOUR ROAD SAFETY ORDINANCE

1. **CONDUCT A LEGAL ASSESSMENT** – evaluate national laws, existing ordinances on road safety and other related laws, issuances, circulars, or executive orders.
2. **Determine your ROAD SAFETY PLAN** based on evidence and data within your jurisdiction. (long-term, medium-term and short-term plans).
3. A road safety ordinance should be enacted based on the context of the **LGU's ROAD SAFETY CONDITION**.
4. Ordinance must pass the DUE PROCESS, FORMAL and SUBSTANTIVE requirements.
5. Conduct regular **Monitoring and Evaluation**.

## ROAD SAFETY ORDINANCE



# ADVANTAGES OF A LOCAL ROAD SAFETY ORDINANCE

- LGU will benefit from established **BEST PRACTICES** adopted by the national government.
- LGU can make the law more responsive to local needs.
- If codified in local ordinances, law enforcers would have a **SINGLE REFERENCE** material.
- Local law enforcers can **ENFORCE** national laws.
- LGU can collect fines that will go to the local treasury.
- LGU can directly **PROCURE EQUIPMENT** necessary for enforcement.
- LGU can **PRIORITIZE ENFORCEMENT** based on local circumstances.

Source: ImagineLaw



# NATIONAL ROAD SAFETY LAWS



SPEED LIMITER



SPEEDING



DISTRACTED DRIVING



SEATBELT



CHILD HELMET



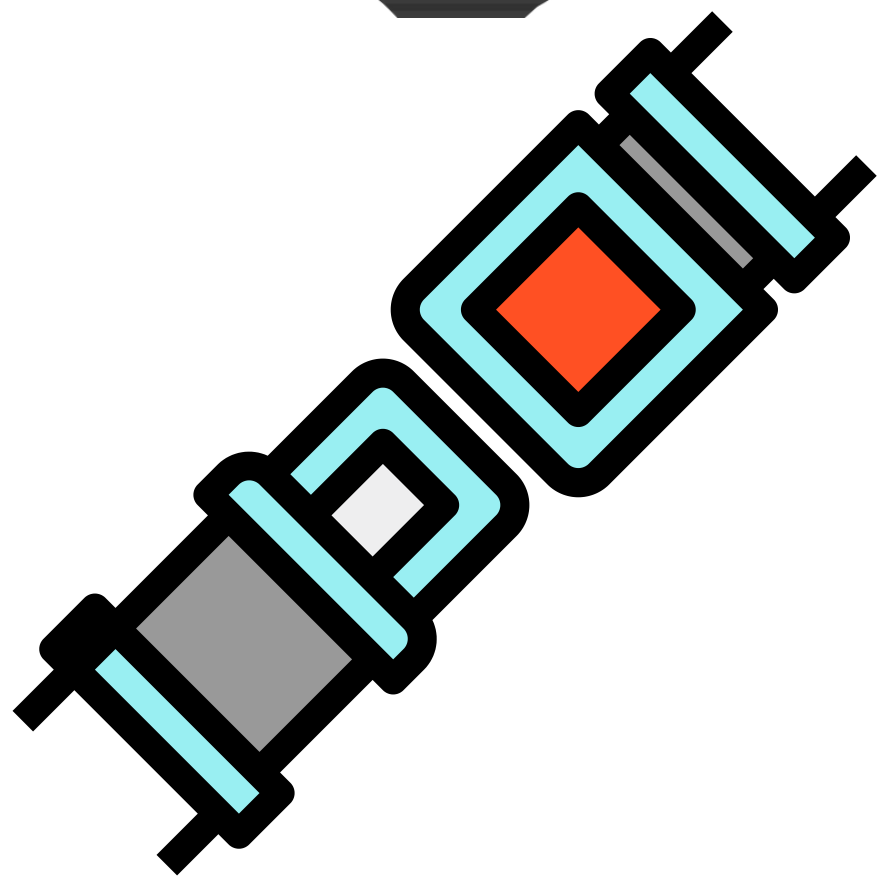
HELMET



DRUNK/DRUGGED DRIVING



CHILD RESTRAINT



# SALIENT PROVISIONS OF ROAD SAFETY ORDINANCE

- ✓ LEAD OFFICE AND PARTNERSHIPS
- ✓ CAPACITY BUILDING
- ✓ SAFE SYSTEM APPROACH AND FIVE PILLARS OF ROAD SAFETY
- ✓ SAFETY
- ✓ PROCEDURAL AND SUBSTANTIVE DUE PROCESS
- ✓ EFFECTIVE ENFORCEMENT AND PENAL CLAUSE
- ✓ FUNDING AND PROCUREMENT
- ✓ REGULAR REVIEW AND UPDATING



# Penal Sanctions by LGU

- 01** Section 391(a)(14). Sanggunian Pambarangay can prescribe fines in amounts not exceeding One thousand pesos (P1,000.00) for violation of barangay ordinances.
- 02** Section 447(a)(1)(iii). Sangguniang Pambayan can approve ordinances imposing a fine not exceeding Two thousand five hundred pesos (P2,500.00) or an imprisonment for a period not exceeding six (6) months, or both in the discretion of the court, for the violation of a municipal ordinance
- 03** Section 458(a)(1)(iii). Sangguniang Panlungsod can approve ordinances imposing a fine not exceeding Five thousand pesos (P5,000.00) or an imprisonment for a period not exceeding one (1) year, or both in the discretion of the court, for the violation of a city ordinance.
- 04** Section 468(a)(1)(iii) Sangguniang Panlalawigan can approve ordinances imposing a fine not exceeding Five thousand pesos (P5,000.00) or imprisonment not exceeding one (1) year, or both in the discretion of the court, for the violation of a provincial ordinance.



# QUIZ

Answers to the questions are given five (5) points each

## QUIZ 1

What are our existing national road safety laws?



## QUIZ 2

What are the salient provisions that can be added to a road safety ordinance?

