

AN ACT TO REVISE THE CHARTER OF THE CITY OF CALBAYOG

REPUBLIC ACT NO. 3279, June 17, 1961

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Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. This Act shall be known as the Revised. Charter of the City of Calbayog.

ARTICLE 1.—General Provisions

SEC. 2. Territory of the City of Calbayog.—The City of Calbayog which is hereby created, shall comprise the present territorial jurisdiction of the municipalities of Calbayog, Oquendo and Tinambacan, in the Province of Samar.

SEC. 3. Corporate character of the City.—The City of Calbayog constitutes a political body corporate and as such is endowed with the attribute of perpetual succession, and possessed of the powers which pertain to a municipal corporation, to be exercised in conformity with the provisions of this Charter.

SEC. 4. Seal and general powers of the City.—The city shall have a common seal, and may alter the same at pleasure. It may take, purchase, receive, hold, lease, convey, and dispose of real and personal property for the general interests of the city, condemn private property for public use, contract and be contracted with, sue and be sued, prosecute and defend to final judgment and execution, and exercise all powers hereafter conferred.

SEC. 5. Liability for damages.—The city shall not be liable or held for damages or injuries to person or property arising from the failure of the Mayor, the Municipal Board or any other city officer or employee, to enforce the provisions of this Charter, or of any other law or ordinance, or from the negligence of said Mayor, Municipal Board or other city officers or employees while enforcing or attempting to enforce said provisions: Provided, however, That nothing herein contained shall prevent any aggrieved party from filing a personal action in the proper court against any official or employee of the city government for any act or omission in the performance of his duties.

SEC. 6. Jurisdiction of the City.—The jurisdiction of the City of Calbayog for police purposes shall be coextensive with its territorial jurisdiction, and for the purpose of protecting and insuring purity of the water supply of the city, such police jurisdiction shall also extend over all territory within the drainage area of such water supply, or within one hundred meters of any reservoir, conduit, canal, aqueduct or pumping station used in connection with the city water service.

ARTICLE II.—The Mayor

SEC. 7. The Mayor.—The Mayor shall be the chief executive of the city. He shall be elected at large by qualified voters of the city during every election for provincial and municipal officials in accordance with the provisions of the Revised Election Code. No person shall be eligible for the position of mayor unless he is at least thirty years of age, a resident of the city for at least five years and a qualified voter therein.

He shall receive a salary of six thousand six hundred pesos per annum. The Municipal Board may appropriate such sums of money as may be necessary for the house allowance of the Mayor, not to exceed two thousand four

hundred pesos per annum.

SEC. 8. The Vice-Mayor.—There shall be a Vice-Mayor who shall perform the duties and exercise the power of the Mayor, in the event of the death, sickness, absence or other temporary incapacity of the Mayor, or in the event of a definite vacancy in the position of Mayor, until said office shall be filled, in accordance with law. The Vice-Mayor shall be elected in the same manner as the Mayor and shall at the time of his election possess the same qualifications as the Mayor.

If, for any reason, the Vice-Mayor is temporarily incapacitated for the performance of the duties of the office of the Mayor, or said office of the Vice-Mayor is vacant, the duties and powers of the Mayor shall be performed and exercised by a member of the Municipal Board who shall be chosen by a majority of all members thereof. Whenever the Vice-Mayor performs the duties and exercises the powers of the Mayor, he automatically ceases to be the presiding officer of the Municipal Board. Where a member of the Municipal Board exercises the functions of the Vice-Mayor, said member ceases temporarily to take part in the deliberations of the Board except to preside. Where the offices of the City Mayor and the Vice-Mayor are left vacant by virtue of the death or permanent disability of the incumbents, vacancies shall be filled by appointments by the President of the Philippines with the consent of the Commission on Appointments.

The Vice-Mayor shall perform such other duties as may be assigned to him by the Mayor or prescribed by law or ordinance. He shall receive a salary of from three thousand four hundred to three thousand eight hundred pesos per annum.

SEC. 9. General powers and duties of the Mayor.—The Mayor shall have immediate control over the executive and administrative functions of the different departments of the city, subject to the supervision of the President of the Philippines. He shall have the following general powers and duties:

- (a) To comply with and enforce and give the necessary orders for the faithful enforcement and execution of the laws and ordinances in effect within the jurisdiction of the city;
- (b) To safeguard all the lands, buildings, records, moneys, credits, and other property and rights of the city, and subject to the provisions of this Charter, have control and administration of all property owned and operated by the city;
- (c) To see that all taxes and other revenues of the city are collected and applied in accordance with appropriations to the payment of the municipal expenses;
- (d) To cause to be instituted judicial proceedings to recover property and funds of the city wherever found, to cause to be defended all suits against the city, and other wise to protect the interests of the city; (e) To see that the executive officers and employees of the city properly discharge their respective duties. The Mayor, may, in the interest of the service and with the approval of the Department Head of the National Government first had, transfer officers and employees not appointed by the President of the Philippines from one section, division, or service to another section, division or service within the same department without changing the compensation they receive;
- (f) To examine and inspect the books, records and papers of all officers, agents, and employees of the city over whom he has executive supervision and control whenever occasion arises and at least once a year. For this purpose he shall be provided by the Municipal Board with such clerical or other assistance as may be necessary;
- (g) To give such information and recommend such measures to the Board as he shall deem advantageous to the city;
- (h) To attend, if he wishes to do so, either in person or by a duly authorized representative, the session of the Municipal Board and participate in its discussion but not to vote;
- (i) To represent the city in all its business matters and sign on its behalf all its bonds, contracts, and obligations made in accordance with law and ordinances;

- (j) To submit to the Municipal Board at least two and a half months before the beginning of the ensuing fiscal year a budget of receipts and expenditures of the city;
- (k) To receive, hear, and decide as he may deem proper the petitions, complaints, and claims concerning all classes, of municipal matters of an administrative or executive character;
- (l) To grant or refuse municipal licenses or permits of all classes and to revoke the same for violation of the conditions upon which they were granted, or if acts prohibited by law or municipal ordinance are being committed under the protection of such licenses or in the premises in which the business for which the same was granted is carried on, or for any other good reason of general interest;
- (m) To exempt, after consultation with the City Superintendent of Schools, deserving poor pupils from the payment of school fees or any part thereof;
- (n) To take such emergency measures as may be necessary to avoid fires, floods, and to mitigate the effects of storms and other public calamities;
- (o) To submit an annual report to the President of the Philippines; and (p) To perform such other duties and exercise other powers as may be prescribed by law or ordinance.

SEC. 10. Secretary to the Mayor.—The Mayor shall appoint one secretary who shall hold office at the pleasure of the Mayor and who shall receive a compensation to be fixed by ordinance approved by the Office of the President, at not exceeding four thousand pesos per annum.

The Secretary shall have charge and custody of all records and documents of the city and of any office or departments thereof for which provision is not otherwise made; shall keep the corporate seal and affix the same with his signature to all ordinances and resolutions signed by the Mayor and to all other official documents and papers of the government of the city as may be required by law or ordinance; shall attest all executive orders, proclamations, ordinances, and resolutions signed by the Mayor; shall, upon request, furnish certified copies of all city records and documents in his charge which are not of a confidential character and shall charge twenty centavos for each one hundred words including the certificates, such fees to be paid directly to the city treasurer; and shall perform such other duties as the Mayor may require of him.

ARTICLE III.—The Municipal Board

SEC. 11. Constitution and organization of the Municipal Board.—The Municipal Board shall be the legislative body of the city, and shall be composed of the Vice-Mayor, who shall be its presiding officer, and ten councilors who shall be elected at large by the qualified voters of the city. The Vice-Mayor shall have no right to vote except in case of tie.

If the Vice-Mayor or a member of the Municipal Board shall be a candidate for office in any election he shall be disqualified to act with said body in the performance of the duties thereof, relative to such election, and if, for such reason, the number of members should be unduly reduced, the President shall appoint any disinterested voter of the city, belonging to the political party of the disqualified member, to act in his place in such matter.

The members of the Municipal Board shall receive a salary of not more than three thousand six hundred pesos per annum.

SEC. 12. Qualifications, election, suspension and removal of members.—The members of the Municipal Board shall, at the time of their election, be qualified electors of the city, residents thereof for at least two years immediately prior to their election and not less than twenty-three years of age. Such members may be suspended or removed from office under the same circumstances, in the same manner, and with the same effect, as elective provincial officers, and the provisions of law governing the suspension or removal of elective provincial officers are hereby made applicable in the suspension or removal of said members.

Elections for members of the Board shall be held on the date of the regular election for provincial and municipal

offices, and elected members shall assume office on the first day of January next following their election, upon qualifying and shall hold office for four years and until their successors shall have been duly elected and qualified.

The ten candidates receiving the greatest number of votes shall be declared elected.

A vacancy in the Municipal Board shall be filled in accordance with the provisions of the Election Code.

SEC. 13. Secretary of the Board.—The Board shall have a secretary, who shall be elected by it to serve during the term of office of the members. A vacancy in the office of secretary shall be filled temporary for the unexpired term in like manner.

The secretary shall be in charge of the records of the Municipal Board. He shall keep a full record of the proceedings of the Board, and file all documents relating thereto; shall record in a book kept for that purpose, all ordinances and all resolutions and motions directing the payment of money or creating liability, enacted or adopted by the Board, with the dates of passage of the same, and of the publication of ordinances; shall keep a seal, circular in form, with the inscription "Municipal Board— City of Calbayog, in the center of which shall be placed the arms of the city, and affix the same, with his signature, to all ordinances and other official acts of the Board, and shall present the same for signature to the presiding officer; shall cause each ordinance passed to be published as herein provided; shall, upon request, furnish certified copies of all records of public character in his charge under the seal of his office and collect and receive thereafter such fees as may be prescribed by resolution of the Board; and shall keep his office and all records therein which are not of a confidential nature open to public inspection during usual business hours. The compensation of the secretary of the Board shall be fixed by ordinance approved by the President of the Philippines, at not exceeding four thousand pesos per annum.

SEC. 14. Method of transacting business by the Board—Veto—Authentication and publication of ordinances.—The Board shall hold two ordinary sessions for the transaction of business during each week on a day which it shall fix by resolution, and such extraordinary sessions, not exceeding thirty during any one year, as may be called by the Mayor. It shall sit with open doors, unless otherwise ordered by an affirmative vote of seven members. It shall keep a record of its proceedings and determine its rules or procedure not herein set forth. Seven members of the Board shall constitute a quorum, for the transaction of business. But a smaller number may adjourn from day to day and may compel the immediate attendance of any member absent without good cause by issuing to the police of the city an order for his arrest and production at the session under such penalties as shall have been previously prescribed by ordinance. Seven affirmative votes shall be necessary for the passage of any ordinance, or of any resolution or motion directing the payment of money or creating liability, but other measures shall prevail upon the majority votes of the members present at any meeting duly called and held. The ayes and nays shall be taken and recorded upon the passage of all ordinances, upon all resolutions or motions directing the payment of money or creating liability, and at the request of any member, upon any other resolution or motion. Each approved ordinance, resolution or motion shall be sealed with the seal of the Board, signed by the presiding officer and the secretary of the Board and recorded in a book kept for that purpose and shall, on the day following its passage, be posted by the secretary at the main entrance of the city hall, and shall take effect and be in force on and after the tenth day following its passage unless otherwise stated in said ordinance, resolution or motion or vetoed by the Mayor as hereinafter provided. A vetoed ordinance, if repassed, shall take effect ten days after the veto is overridden by the required vote unless otherwise stated in the ordinance or again disapproved by the Mayor within said time.

Each ordinance and each resolution or motion directing the payment of money or creating liability enacted or adopted by the Board shall be forwarded to the Mayor for his approval. Within ten days after the receipt of the

ordinance, resolution or motion, the Mayor shall return it with his veto, his reasons therefor in writing shall accompany it. It may then be again enacted by the affirmative votes of eight members of the Board, and, again forwarded to the Mayor for his approval, and if within ten days after its receipt he does not again return it with his veto, it shall be deemed to be approved. If within said time he again returns it with his veto, it shall be forwarded forthwith to the President for his approval or disapproval, which shall be final. The Mayor shall have the power to veto any particular item or items of an appropriation ordinance, or of an ordinance, resolution or motion directing the payment of money or creating liability, but the veto shall not affect the item or items to which he does not object. The item or items objected to shall not take effect except in the manner heretofore provided in this section as to ordinances, resolutions and motions returned to the Board with his veto, but should an item or items in an appropriation ordinance be disapproved by the Mayor, the corresponding item or items in the appropriation ordinance of the previous year shall be deemed restored unless otherwise expressly directed in the veto.

SEC 15. Legislative powers.—The Municipal Board shall have the following legislative powers:

- (a) To provide for the levy and collection of taxes for, general and special purposes in accordance with law, including specifically the power to levy real property tax not to exceed one and one-half per centum ad valorem: Provided, That the said maximum rate of one and one-half per centum shall not be imposed during the first five years of the effectivity of this Act;
- (b) To fix with the approval of the Department Head of the National Government the number and salaries of officials and employees of the city not otherwise provided for in this Act;
- (c) To authorize the free distribution of medicine to the employees and laborers of the city whose salary or wage does not exceed one hundred and twenty pesos per month or four pesos per day, and of evaporated or fresh milk to indigent mothers residing in the city and of bread and light meals to indigent children ten years or less of age residing in the city, the distribution to be made under the direct supervision and control of the Mayor;
- (d) To fix the tariff of fees and charges for all services rendered by the city or any of its departments, branches or officials;
- (e) To provide for the erection and maintenance or the rental, in case of need, of the necessary buildings for the use of the city;
- (f) To provide for the establishment and maintenance of public schools and, except as otherwise provided by law to fix, with the approval of the Director of Public Schools, reasonable matriculation and/or tuition fees for intermediate and secondary instruction therein and to acquire sites for school houses for primary and intermediate classes through purchase or conditional or absolute donation;
- (g) To establish and maintain or aid in the establishment and maintenance of vocational schools and institutions of higher learning conducted by the National Government or any of its subdivisions or agencies; and, with the approval of the Director of Public Schools, to fix reasonable tuition fees for instruction in the vocational schools and in the institutions of higher learning supported by the city;
- (h) To provide for and maintain an efficient police force for the maintenance of law and order in the city, and make all necessary police ordinances, with a view to the confinement and reformation of vagrants, disorderly persons, mendicants, prostitutes and persons convicted of violating any of the ordinances of the city;
- (i) To maintain the municipal court established by law which shall have jurisdiction of all criminal cases under the ordinances of the city, and such further jurisdiction as may be herein or hereafter conferred; (j) To establish for and maintain a city fire department and to establish and maintain engine houses, fire engines, hose trucks, hooks and ladders, and other equipment for the prevention and extinguishment of fires, and to regulate the management and use of the same;
- (k) To establish fire zones, determine the kinds of buildings or structures that may be erected within their limits, regulate the manner of constructing and repairing the same, and fix the fees for permits for the construction, repairs, demolition of buildings and other structures;
- (l) To regulate the use of lights in stables, shops, and other buildings and places and to regulate and restrict the issuance of permits for the building of bonfires, rockets and other pyrotechnic displays, and to fix the fees for

such permits;

(m) To make regulations to protect the public from conflagrations and to prevent and mitigate the effects of famine, floods, storms and other public calamities, and provide relief for victims thereof;

(n) To tax, regulate and fix the amount of the license fees for the following: hawkers, peddlers, hucksters, not including hucksters or peddlers who sell only native vegetables, fruits, or foods, personally carried by the hucksters or peddlers; barbers, collecting agencies, manicurists, hairdressers, tattooers, jugglers, acrobats, wrestlers and boxers, shooting galleries, slot machines, merry-go-rounds and other similar riding devices, and the keeping preparation, and sale of meat, poultry, fish, game, butter, cheese, lard, vegetables, bread, other provisions and to impose a municipal occupation tax, not to exceed fifty pesos per annum, on lawyers, medical practitioners, land surveyors, architects, public accountants, civil, electrical, chemical, mechanical, or mining engineers, radio engineers or technicians, veterinarians, dental surgeons, opticians and optometrists, insurance agents and sub-agents, business agents and business consultants, professional appraisers or connoisseurs of tobacco or other domestic or foreign products, music teachers, piano tuners, nurses and midwives, auctioneers, plumbers, electrical contractors, building contractors, massagists, physical culture instructors, chiroprodists, money changers, real estate, commercial and other brokers, and persons engaged in the transportation of passengers or freight by hire, including common carriers and transportation contractors: Provided, That persons exercising their profession or occupation only as salaried employees and not as independent practitioners shall be exempt from the municipal occupation tax herein prescribed;

(o) To tax, fix the license fee and regulate the business of hotels, restaurants, refreshment places, cafes, lodging houses, brewers, distillers, rectifiers, laundries, dyeing and cleaning establishments, beauty parlors, physical or beauty culture and fashion schools, clubs, livery garages, public warehouses, pawnshops, theaters, cinematographs, and the letting or subletting of lands and buildings, whether used for commercial, industrial or residential purposes; and further to fix the location of, and to tax, fix the license fee on, and regulate the business of livery stables, boarding stables, embalmers, public billiard tables, public halls, tables, bowling alleys, dance halls, public dancing halls, cabarets, night clubs, circuses, and other similar parades, public vehicles, public ferries, cockpits, dealers in second hand materials or merchandise, junk dealers, theatrical performances, boxing contests, public exhibitions, blacksmith shops, foundries, steam boilers, lumberyards, shipyards, the storage and sale of gunpowder, tar, pitch, resin, coal, oil, gasoline, benzine, turpentine, hemp, cotton, nitro-glycerin, petroleum or any of the products thereof and of all other highly combustible or explosive materials, and other establishments likely to endanger the public safety or give rise to conflagrations or explosions, and, subject to the provisions of ordinances issued by the Department. of Health in accordance with law, tanneries, renderies, tallow chandleries, bone factories, soap factories; Provided, That no license shall be granted to any theater or cinematograph unless the application for said license agrees to exhibit pictures made in the Philippines to the extent of five per centum of their annual exhibitions: And provided, further, That any violation of this condition shall cause the revocation of said license;

(p) To tax and fix the license fees on printers or bookbinders or both, tailor shops, milliners, manufacturers of jewelry, embroideries, sail or awnings or both, rope, paper, leather goods, including shoes, slippers, sandals, harnesses and valises or bags, sporting goods, rubber goods, plastics and celluloid products, hardware including glasswares, cooking utensils, electrical goods and construction materials, chemical products including drugs, perfumes, toilet articles, paints, dyes and inks, textiles, shell lamps or lamp shades or both, statuettes or tombstones or both, sacks, furniture of all kinds, including rattan goods, wire, brass beds or both, clothing, hats, eyeglasses or optical goods or both, fertilizers or buttons.

Manufactures above-mentioned shall not be subject to the payment of any municipal tax or license fee as retail dealers of their own products: Provided, That any manufacturing conducted solely by the immediate members of a family at their own home shall not be subject to any tax or license fees;

(q) To tax and fix license fee on dealers in general merchandise, including importers, and indentors, except those dealers who may be expressly subject to the payment of some other municipal tax under the provisions of this section.

Dealers in general merchandise shall be classified as (a) wholesale dealers and (b) retail dealers. For purposes of the tax on retail dealers, general merchandise shall be classified into four main classes; namely: (1) luxury articles, (2) semi-luxury articles, (3) essential commodities, and (4) miscellaneous articles. A separate license shall be prescribed for each class but where commodities of different classes are sold in the same establishment, it shall not be compulsory for the owner to secure more than one license if he pays the higher or highest rate of tax prescribed by ordinance. Wholesale dealers shall pay the license tax as such, as may be provided by ordinance.

For purposes of this section, the term "general merchandise" shall include poultry and livestock, agricultural products, fish and other allied products;

(r) To tax, fix the license fee on and regulate the sale trading in or disposal of alcoholic or malt beverages, wines, and mixed or fermented liquors, including tuba, basi, tapuy, offered for retail sale;

(s) To impose a tax on all products or commodities manufactured or produced in the city and removed therefrom;

(t) To impose a sales tax of not exceeding one per centum of the gross value in money of all articles sold, bartered, exchanged or transferred within the city;

(u) To regulate the method of using steam engines and boilers, and all other motive powers other than marine, or belonging to the Government of the Philippines, to provide for the inspection thereof, and fix a reasonable fee for such inspection; and to regulate and fix the fees for the licenses of the engineers engaged in operating the same;

(v) To provide for the prohibition and suppression of riots, affrays, disturbances, and disorderly assemblies; houses of ill-fame and other disorderly houses; gaming houses, gambling and all fraudulent devices for the purpose of obtaining money or property; prostitution, vagrancy, intoxication, fighting, quarrelling, and all disorderly conduct; and printing, circulation, exhibition, possession or sale of obscene pictures, books, or publications, and for the maintenance and preservation of peace and good morals;

(w) To prohibit, or regulate and fix the license fees for the keeping of dogs, and to authorize their impounding and destruction when running at large contrary to ordinances, and to tax and regulate the keeping or training of fighting cocks;

(x) To establish and maintain municipal pounds; to regulate, restrain, and prohibit the running at large of domestic animals, and provide for the distraining, impounding, and sale of the same for the penalty incurred, and the cost of the proceedings; and to impose penalties upon owners of said animals for the violation of any ordinance in relation thereto;

(y) To prohibit, and provide for the punishment of, cruelty to animals; (z) To require property owners by ordinance to construct or repair, at their expense, sidewalks along the-street adjacent to their lots in accordance with the specifications of the city engineer as to quality, width and grade, and subject to his supervision and approval, providing that, in case of failure or inability of the property owners to comply with the requirement within a specified period of time after demand, the city engineer shall cause the work to be done and the cost thereof collected as special assessment from such owners, who may choose to pay the same in full, or in ten equal yearly installments which shall be due and payable to the City of Calbayog in the same manner as the annual tax levied on real estate and shall be made subject to the same remedies as such annual tax; and all said sums and amounts shall, from the day in which they are assessed, constitute liens on the property against which the same were assessed and shall take precedence over any and all other liens which may exist upon such property excepting only such as may have been attached as a result of the nonpayment of said annual tax.

(aa) To regulate the inspection, weighing and measuring of brick, lumber, coal and other articles or merchandise;

(bb) Subject to the provisions of existing law, to provide for the laying out, construction and improvement, and to regulate the use of streets, avenues, alleys, sidewalks, to provide for lighting, cleaning, and sprinkling of streets, avenues, alleys, sidewalks, wharves, piers, parks, cemeteries, and other public places; to regulate, fix license fees-for and prohibit the use of the same for processions, signs, signposts, awning, awning posts, and

the carrying or displaying of banners, placards, advertisements, or handbills, or the flying of signs, flags or banners whether along, across, over or from buildings along the same; to prohibit the placing, throwing, depositing, or leaving of obstacles of any kind, garbage, refuse, or other offensive matter or matters liable to cause damage in the street and other public places and to provide for the collection and disposition thereof; to provide for the inspection of, fix, the license fees for and regulate the openings in the same for the laying of water, sewer and other pipes, the building and repair of tunnels, sewers and drains, and all structures in and under the same and the erecting of poles and the stringing of wires therein; to provide for and regulate cross-walks, curbs and gutters therein; to name streets without a name and provide for and regulate the numbering of houses and lots fronting thereon or in the interior of the blocks; to regulate traffic and sales upon the streets and other public places; to provide for the abatement of nuisances in the same and punish the authors or owners thereof; to provide for the construction and maintenance, and regulate the use of bridges, viaducts, and culverts; to provide and regulate ball playing, kite-flying, hoop-rolling, and other amusements which may annoy persons using the streets and public places, or frighten horses or other animals; to regulate the speed of horse and other animal-driven vehicle within the limits of the city;

(cc) To provide for the construction and maintenance of, and regulate the navigation on, canals, and water courses within the city and provide for the cleansing and purification of the same; unless otherwise provided by law, to provide for the construction and maintenance, and regulate the use of public landing places, wharves, piers, docks, and levees, and those of private ownership; and to provide for or regulate the drainage and filling of private premises when necessary in the enforcement of sanitary rules and regulations issued in accordance with law;

(dd) Subject to the provisions of the Public Service Law, to fix the charges to be paid by all water craft landing at or using public wharves, docks, levees, or landing places owned, operated, managed or controlled by the city;

(ee) Any provision of law to the contrary notwithstanding, to provide for the maintenance of waterworks for the purpose of supplying water to the inhabitants of the city, and for the purification of the source of water supply and the places through which the same passes, and to regulate the consumption and use of water; to fix, subject to the provisions of the Public Service Law, and provide for the collection of rents therefor and to regulate the construction, repair and use of hydrants, pumps, cisterns and reservoirs;

(ff) To provide for the establishment and maintenance and regulate the use of public drains, sewers, latrines and cesspools;

(gg) Subject to the rules and regulations issued by the Director of Health Services in accordance with law, to provide for the establishment, maintenance and to fix the fees for the use of, and regulate public stables, laundries and baths, and public markets and prohibit the establishment or operation within the city limits of public markets by any person, entity, association, or corporation other than the city;

(hh) To establish or authorize the establishment of slaughterhouses, to provide for their veterinary or sanitary inspection, to regulate the use of the same, and to charge reasonable slaughter fees. No fees shall be charged for veterinary or sanitary inspection of meat from large cattle or domestic animals slaughtered outside the city, when such inspection was had at the place where the animals were slaughtered; (ii) To regulate, inspect and provide measures preventing and discrimination or the exclusion of any race or races in or from any institution, establishments, or service open to the public within the city limits, or in the sale and supply of gas or electricity, or in the telephone service; to fix and regulate charges therefor where the same has not been fixed by national law; to regulate and provide for the inspection of all gas, electric and telephone conduits, mains, meters, and other apparatus, and provide for the condemnation, substitution or removal of the same when defective or dangerous;

(jj) To declare, prevent and provide for the abatement of nuisances; to regulate the ringing of bells and the making of loud or unusual noises; to provide that owners, agents, or tenants of buildings, or premises keep and maintain the same in sanitary condition, and that, in case of failure to do so within sixty days from the date a written notice is served, the city health officer shall cause the same to be kept in sanitary condition, and the cost thereof to be assessed against the owner to the extent of not to exceed sixty per centum of the assessed value, which cost shall constitute a lien against the property; and to regulate and/or prohibit, or fix the license

fees for the use of property on or near public ways, grounds or places, or elsewhere within the city, for display, by electric signs or the erection or maintenance of billboards or structures of whatever materials erected, maintained, or used for the display of posters, signs, or other pictorial or reading matter, except signs displayed at the place or places where the profession or business advertised thereby is in whole or in part conducted;

(kk) To provide for the enforcement of the rules and regulations issued by the Director of Health Services, and by ordinance to prescribe penalties for violation of such rules and regulations;

(ll) To extend its ordinances over all waters within the city and over any boat or other floating structures thereon and for the purpose of protecting and insuring the purity of the water supply of the city, over all territory within the drainage area of such water supply, and within one hundred meters of any reservoir, conduit, canal, aqueduct, or pumping station used in connection with the city water service;

(mm) To regulate any other business or occupation being conducted within the city not specifically mentioned in the preceding paragraphs, and to impose a license fee upon all persons engaged in the same or who enjoy privileges in the city;

(nn) To fix and regulate the size, speed, and operation of motor and other vehicles within the city; to regulate the lights used on such vehicles; to establish bus stops and terminals; and prohibit and regulate the entrance of provincial public utility vehicles into the city, except those passing through the city;

(oo) To grant fishing and fishery privileges subject to the provisions of the Fisheries Act;

(pp) To fix the date of the holding of a fiesta in the city not oftener than once a year and to alter, not oftener than once in three years, the date fixed for the celebration thereof; and (

qq) To enact all ordinances it may deem necessary and proper for the sanitation and safety, the furtherance of the prosperity, and the promotion of the morality, peace, good order, comfort, convenience, and general welfare of the city and its inhabitants, and such others as may be necessary to carry into effect and discharge the power and duties conferred by this Charter; and to fix penalties for the violation of ordinances, which shall not exceed a two hundred-peso fine or six months imprisonment, or both such fine and imprisonment for a single offense.

SEC. 16. Restrictive provisions.—No commercial sign, signboard, or billboard shall be erected or displayed on public lands, premises or buildings. If, after due investigation, and having given the owners an opportunity to be heard, the Mayor should consider any sign, signboard or billboard displayed or exposed to public view as offensive to the sight or is otherwise a nuisance, he may order the removal of such sign, signboard or billboard, and if same is not removed within ten days after he has issued such order, he may himself cause its removal, and the sign, signboard, or billboard shall thereupon be forfeited to the city and the expenses incident to the removal of the same shall become a lawful charge against any person or property liable for the erection or display thereof.

ARTICLE IV.—Barrio Councils

SEC. 17. Barrio Councils.—In each barrio there shall be organized a barrio council which shall be composed of a barrio lieutenant who shall be its chairman, a sub-barrio lieutenant who shall assist the barrio lieutenant in the discharge of his duties, a councilman for livelihood, a councilman for education, and a councilman for health who, in addition to their other duties, will look after the enforcement of laws, ordinances and resolutions, pertaining to the matters comprised within their respective offices and the promotion of the welfare of the barrio. They shall be elected at a meeting to be attended by at least one-third of all the residents of the barrio who are qualified voters. The election shall take place annually not earlier than the third Saturday of January and not later than the second Saturday of February. The councilor assigned to the barrio shall convoke and preside over the meeting. He shall appoint a board of inspectors and canvassers to conduct the election. The manner of election shall be by secret ballot. Those who obtain the highest number of votes for the position for which they are candidates shall be declared elected and shall assume office immediately: Provided, however, That no person shall be eligible as a candidate for the barrio council unless he has been a president of the barrio for at least six months immediately prior to the election, at least twenty-one years of age at the time of the election, able

to read and write and possesses the necessary training, experience, and fitness for the position. Any person who is a resident of the barrio and is twenty-one years of age or over and is able to read and write is eligible to vote in the election, provided he has been a resident of the barrio for at least three months prior to the election.

The members of the barrio council shall hold office for one year or until their successors are duly elected and qualified. But in no case can he be re-elected for more than four consecutive terms, unless two years have elapsed from the expiration of his last term, in which case he shall again be eligible for election to any barrio office. The councilor may, for cause, recommend to the municipal board the suspension or dismissal of any of the members of the barrio council. They shall not receive any compensation or emolument of any kind.

The barrio council shall have the power to promulgate rules not inconsistent with law or ordinances of the municipal board and, subject to the approval of the latter, shall be operative within the barrio. The council shall be responsible for the planning, budgeting and spending of funds belonging to the barrio treasury and shall have the following powers and duties: (a) to represent the barrio in cases in which such representation is not incompatible with the personality of the municipal board; (b) to hold a regular session once a month; (c) to make their own rules of procedure which shall be approved by the councilor concerned; (d) to submit to the municipal board, through said councilor, such suggestions or recommendations as they may see fit for improvements in their place or for the welfare of the inhabitants thereof; (e) to provide for the publication by town crier or such other means as they see fit, of new laws and municipal ordinances; (f) to organize at least three times a year civic lectures tending to generalize information concerning the duties and rights of citizenship; and (g) to cooperate with the government for the success of measures of general interest in their respective barrios. The barrio councilmen may hold their sessions in the public school building of the barrio during hours when there are no classes, or in any house or lot in the barrio, the provisional or permanent use of which may be granted to them for said purpose free of charge; and shall elect from among their number a secretary who shall prepare short minutes of the proceedings of the council and draft the recommendations or suggestions to be submitted by the same to the municipal council, in either of the official languages of the country or in the local dialect. The barrio council shall also elect from among their number a treasurer who shall collect all fees and contributions due the barrio treasury for which he shall issue the proper receipts. He shall be the custodian of the barrio funds and shall deposit all collections with the City Treasurer within a period of one week after receipt of such fees and contributions. He shall disburse the same in accordance with resolutions of the municipal board, upon vouchers signed by the payee and approved by the barrio lieutenant with the approval of the municipal board and subject to availability of funds in the barrio treasury. The barrio council may provide for necessary traveling expenses for the barrio lieutenant or any member of the council.

SEC. 18. Duties of barrio lieutenants.—The barrio lieutenant shall assist the councilor assigned to such barrio in the performance of his duties. In the absence or incapacity of the barrio lieutenant, his duties shall be performed by the sub-barrio lieutenant.

SEC. 19. Barrio police force.—There shall be a barrio police force whose members shall be appointed by the Mayor and who, together with the members of the barrio council, shall be deemed agents of person in authority.

ARTICLE V.—Departments and offices of the City

SEC. 20. City Departments.—There shall be the following city departments over which the Mayor shall have direct control and supervision, any existing law to the contrary notwithstanding:

1. Department of Finance
2. Department of Engineering and Public Works

3. Law Department
4. Department of Health
5. Police Department
6. Fire Department
7. Department of Assessment

The Municipal Board may from time to time make such readjustment of the duties of the several departments as the public interest may demand, and, with the approval of the President, may consolidate any department, division or office of the city with any other department, division or office.

SEC. 21. Powers and duties of heads of departments.—Each head of department of the city government shall be in control of such department under the direction and supervision of the Mayor, and shall possess such powers as may be prescribed herein or by ordinance. He shall certify to the correctness of all payrolls and vouchers of his department covering the payment of money before payment, except as herein otherwise expressly provided. At least four months before the beginning of each fiscal year, he shall prepare and present to the Mayor an estimate of the receipts and appropriation necessary for the operation of his department for the ensuing fiscal year, and shall submit therewith such information for purposes of comparison as the Mayor may desire. He shall submit to the Mayor as often as required reports covering the operation of his department.

In case of the absence or sickness, or inability to act for any other reason, of the head of one of the city departments, or in case of temporary vacancy, the officer next in rank of that department shall perform the duties of the department head concerned.

SEC. 22. Appointment and removal of officials and employees.—The President of the Philippines, with the consent of the Commission on Appointments, shall appoint the judge and auxiliary judge, the city treasurer, the city engineer, the city fiscal and his assistants, the chief of police, the city health officer, the city assessor, the chief of the fire department, the city superintendent of schools, and other heads of such city departments as may be created. Said officers shall not be suspended nor removed except in the manner and for causes provided by law.

Subject to the provisions of the Civil Service Law, the Mayor shall appoint all other officers and employees paid out of city funds, and they shall be suspended or removed in accordance with law.

SEC. 23. Officers not to engage in certain transactions.—It shall be unlawful for any city officer, directly or indirectly, individually or as a member of a firm, to engage in any business transaction with the city, or with any of its authorized officials, boards, agents or attorneys, whereby money is to be paid, directly or indirectly, out of the resources of the city to such person or firm; or to purchase any real estate or other property belonging to the city, or which shall be sold for taxes or assessments, or by virtue of legal process at the suit of the city; or to be surety for any person having a contract or doing business with the city, for the performance of which security may be required; or to be surety on the official bond of any officer of the city; and shall not be financially interested in any transaction or contract in which the national government or any subdivision or instrumentality thereof is an interested party.

ARTICLE VI.—Relation to Bureaus and Offices

SEC. 24. The General Auditing Office.—The Auditor General shall receive and audit all accounts of the city, in accordance with the provisions of law relating to Government accounts and accounting. The city auditor shall be appointed by the Auditor General and shall receive a salary of five thousand one hundred pesos per annum, one-half to be paid by the National Government and the other half by the city.

SEC. 25. The Bureau of Public Schools.—The Director of Public Schools shall exercise the same jurisdiction and powers in the city as elsewhere in the Philippines and the city superintendent of schools shall have all the powers and duties in respect to the schools of the city as are vested in division superintendents in respect to schools of their division: Provided, That the operational expenses of primary and intermediate schools shall be borne by the National Government.

SEC. 26. Reports to the Mayor concerning schools.—The City Superintendent of Schools shall make a quarterly report of the conditions of the schools and school buildings of the city to the Mayor, and such recommendations as seem to him wise relative to improving the schools or school buildings in the city.

ARTICLE VII.—Department of Finance

SEC. 27. The City Treasurer—His powers and duties.— There shall be a City Treasurer who shall have charge of department of finance and shall act as chief fiscal officer and financial adviser of the city and custodian of its funds. He shall receive a salary of six thousand pesos per annum. He shall have the following general powers and duties:

- (a) He shall collect all taxes due the city, all licenses authorized by law or ordinance, all rents due for lands, markets and other property owned by the city, and all further charges of whatever nature fixed by law or ordinance; shall administer markets and slaughterhouses, and shall receive and issue receipts for all costs, fees, fines and forfeitures imposed by the municipal court;
- (b) He shall collect all miscellaneous charges made by the engineering department and by the other departments of the city government, and all charges made by the city engineer for inspections, permits, licenses, and the installations, maintenance, and services rendered in the operation of the private privy system;
- (c) He shall collect, as deputy of the Commissioner of Internal Revenue, by himself or deputies, all taxes and charges imposed by the Government of the Republic of the Philippines upon persons or property in the City of Calbayog depositing daily such collections in any depository bank of the government;
- (d) Unless otherwise specifically provided by law or resolution, he shall perform in and for the city the duties imposed by law or resolution upon provincial treasurers in general as well as other duties imposed upon him by law;
- (e) He shall purchase and issue all supplies, equipment or other property required by the city, through the purchasing agent, or otherwise, as may be authorized, subject to the general provisions of law relating thereto;
- (f) He shall be accountable for all funds and property of the city and shall render such accounts in connection therewith as may be prescribed by the Auditor General;
- (g) He shall deposit all city funds and collections in any bank duly designated as Government depository in accordance with the existing rules and regulations.
- (h) He shall disburse the funds of the city in accordance with duly authorized appropriations, upon properly executed vouchers bearing the approval of the chief of the department concerned, and on or before the twentieth day of each month he shall furnish the Mayor and the Municipal Board, for their information, a statement of the appropriation, expenditures, and balances of all funds and accounts as of the last day of the month preceding.

ARTICLE VIII.—Department of Engineering and Public Works

SEC. 28. The City Engineer—His powers and duties.— There shall be a City Engineer who shall have charge of the department of engineering and public works. He shall receive a salary of six thousand pesos per annum. He shall have the following powers and duties:

- (a) He shall have charge of all the surveying and engineering works of the city, care, cleaning and sprinkling of streets, canals and esteros, parks and public grounds, bridges, recreation, and playgrounds, and shall perform such services in connection with public improvements, or any work entered upon or projected by the city, or

any department thereof, as may require the skill and experience of a civil engineer; (b) He shall ascertain, record, and establish monuments of the city survey and from thence extend the surveys of the city, and locate, establish, and survey all city property, and also private property abutting on the same, whenever directed by the Mayor;

(c) He shall prepare and submit plans, maps, specifications and estimates for buildings, streets, bridges, docks, and other public works, and supervise the construction and repair of the same;

(d) He shall make such tests and inspection of engineering materials used in construction and repair as may be necessary to protect the city from the use of materials of a poor or dangerous quality;

(e) He shall have the care of all public buildings, when erected including markets and slaughterhouses and all buildings rented for city purposes, and of any system now or hereafter established by the city for lighting the streets, public places, or public buildings;

(f) He shall have the care of all public streets, parks, and bridges, and shall maintain and regulate the use of the same for all purposes as provided for by ordinance; shall collect and dispose of all garbage, refuse, the contents of closets, vaults, and cesspools, and all other offensive and dangerous substances within the city and, in the event the disposal and collection of such garbage, refuse and other offensive substances has been awarded to a private contractor, the disposal and collection thereof shall be under the supervision of the city engineer; (g) He shall have the care and custody of all public docks, wharves, levees, and landing places owned by the city;

(h) He shall prevent the encroachment of private buildings and fences on the streets and public places of the city;

(i) He shall have general supervision and inspection of all private docks, wharves, piers, levees, and landing places and other property bordering on the harbor, river, esteros, and waterways of the city, and shall issue permits for the construction, repair and removal of the same, and enforce all ordinances relating the same;

(j) He shall have the care and custody of the public systems of waterworks and sewers, and all sources of water supply, and shall control, maintain, and regulate the use of the same, in accordance with the ordinance relating thereto; shall inspect and regulate the use of all private systems for supplying water to the city and its inhabitants and all private sewers and their connections with the public sewers systems;

(k) He shall supervise the laying of mains and connections for the purpose of supplying gas to the inhabitants of the city;

(l) He shall inspect and report upon the conditions of public property and public works whenever required by the Mayor;

(m) He shall supervise and regulate the location and use of engines, boilers, forges, and other manufacturing and heating appliances in accordance with law and ordinance relating thereto. He is authorized to charge fees, at rates to be fixed by the Municipal Board, for the sanitation and transportation services and supplies furnished by his department;

(n) He shall inspect and supervise the construction, repair, removal, and safety of private buildings, and regulate and enforce the numbering of houses in accordance with the ordinances of the city;

(o) With the previous approval of the Mayor in each case, he shall order the removal of buildings and structures erected in violation of the ordinances; shall order the removal of materials employed in the construction or repair of any building or structure made in violation of said ordinances; and shall cause buildings and structures dangerous to the public to be made secure or torn down; and

(p) He shall file and preserve all maps, plans, notes, surveys and other papers and documents pertaining to his office.

SEC. 29. Execution of authorized public works and improvements.—All repair or construction of any work or public improvements, except parks, boulevards, streets or alleys, involving an estimated cost of three thousand pesos or more shall be awarded by the Mayor upon the recommendation of the city engineer to the lowest responsible bidder after public advertisement by posting notices of the call for bids in conspicuous places in the City Hall and by publication in the Official Gazette, both for not less than ten days: Provided, however, That the city engineer may, with the approval of the President of the Philippines, upon the recommendation of the Secretary of Public Works and Communications, execute by administration any such public work costing three

thousand pesos or more.

In case of public works involving an expenditure of less than three thousand pesos, it shall be discretionary with the city engineer either to proceed with the work himself or to let the contract to the lowest bidder after such publication and notice as shall be deemed appropriate or as may be, by regulations, prescribed.

ARTICLE IX.—Law Department

SEC. 30. The City Fiscal—His powers and duties.— There shall be a City Fiscal who shall discharge his duties under the general supervision of the Secretary of Justice. The City Fiscal shall receive a salary of six thousand pesos per annum. The City Fiscal shall be the chief legal adviser of the city and all offices and departments thereof. He shall be assisted in the discharge of his duties by two assistant city fiscals—the first city fiscal shall receive a salary of five thousand four hundred pesos per annum and the second assistant city fiscal shall receive a salary of four thousand eight hundred pesos per annum. The City Fiscal shall have the following powers and duties:

- (a) He shall, personally or through any assistant, represent the city in all civil cases wherein the city or any officer thereof, in his official capacity, is a party, and shall prosecute and defend all civil actions related to or connected with any city office or interest;
- (b) He shall, when directed by the Mayor, institute and prosecute in the city's interest a suit on any bond, or contract, and upon any breach or violation thereof;
- (c) He shall, when requested, attend meetings of the Board, draw ordinances, contracts, bonds, leases, and other instruments involving any interest of the city, and inspect and pass upon any such instruments already drawn;
- (d) He shall give his opinion in writing, when requested by the Mayor or the Board or any of the heads of the city departments, upon any question relating to the city or the rights, or duties of any city officer thereof;
- (e) He shall, whenever it is brought to his knowledge that any city officer or employee is guilty of neglect or misconduct in office, or that any person, firm, or corporation holding or exercising any franchise or public privilege from the city, has failed to comply with any condition, or to pay any consideration mentioned in the grant of such franchise or privilege, investigate or cause to be investigated the same and report to the Mayor;
- (f) He shall have charge of the prosecution of all crimes and violations of the city ordinances, in the municipal court of the city or the Court of First Instance and shall discharge all the duties in respect to criminal prosecutions as are enjoined by law upon provincial fiscals;
- (g) The city fiscal shall cause to be investigated all charges of crimes, misdemeanors, and violations of laws and city ordinances and have the necessary information or complaints prepared or made against the accused. He or any of his assistants may conduct such investigations by taking oral evidence of reputed witnesses, and for this purpose may issue subpoena to summon witnesses to appear and testify under oath before him, and subpoena duces tecum for the production of documents and other evidence. The attendance of an absent or recalcitrant witness may be enforced by application for a warrant of arrest to the municipal court or to the Court of First Instance;
- (h) The city fiscal shall also cause to be investigated the cause of sudden deaths which have not been satisfactorily explained and when there is suspicion that the cause arose from the unlawful acts or omissions of other persons, or from foul play. For that purpose, he may cause autopsies to be made in case it is deemed necessary and shall be entitled to demand and receive for the purpose of such investigations or autopsies aid of the city health officer;
- (i) He shall at all times render such official services as the Mayor or the Municipal Board may require, and shall have such powers, and perform such duties as may be prescribed by law or ordinance; and
- (j) He shall act as register of deeds for the city.

Article X.—Department of Health

SEC. 31. The City Health Officer—His powers and duties.—There shall be City Health Officer who shall have charge of the department of health and shall receive a salary of six thousand pesos per annum. He shall have the following duties and powers:

- (a) He shall have general supervision over the health and sanitary conditions of the city, including the cleaning of crematories, cemeteries, stockyards, slaughterhouses, and markets;
- (b) He shall execute and enforce all laws, ordinances and regulations relating to the public health;
- (c) He shall recommend to the Municipal Board the passage of such ordinances as he may deem necessary for the preservation of the public health;
- (d) He shall cause to be prosecuted all violations of sanitary laws, ordinances, or regulations;
- (e) He shall make sanitary inspections and may be aided therein by such members of the police force of the city or the national police as shall be designated as sanitary police by the chief of police or proper national police officer and such sanitary inspectors as may be authorized by law;
- (f) He shall keep a civil register for the city and shall record therein all births, marriages and deaths with their respective dates; (g) He shall have control and supervision over puericulture centers and social services of the city; and
- (h) He shall perform such other duties, not repugnant to law or ordinance, with reference to the health and sanitation of the city as the Director of Health Services shall direct. In case of epidemic or when the inhabitants of the city are menaced by any infectious or contagious diseases, the Director of Disease Control shall assume full control of the health and sanitation services of the city until such condition shall have ceased to exist.

ARTICLE XI.—Police Department

SEC. 32. The Chief of Police—His powers and duties.— There shall be a Chief of Police who shall have charge of the police department and shall receive a salary of five thousand four hundred pesos per annum. He shall be assisted in the discharge of his duties by a deputy chief of police who shall receive a salary of three thousand six hundred pesos per annum. The Chief of Police shall have the following powers and duties:

- (a) He may issue supplementary regulations not incompatible with law or general regulations promulgated by the proper department head of the National Government, in accordance with law, for the government of the city police and detective force;
- (b) He shall quell riots, disorders, disturbances of the peace, and shall arrest and prosecute through the city fiscal, violators of law or ordinances; shall exercise exclusive police supervision over all land and water within the police jurisdiction of the city; shall be charged with the protection of the rights of persons and property wherever found within the jurisdiction of the city, and shall arrest when necessary to prevent the escape of offenders and violators of any law or ordinance, and all who obstruct or interfere with him in the discharge of his duty; shall have charge of the city prison; and shall be responsible for the safekeeping of all prisoners until they shall be released from custody, in accordance with law, or delivered to the warden of the proper prison or penitentiary;
- (c) He may take good and sufficient bail for the appearance before the judge of the municipal court of any person arrested for violation of any city ordinance: Provided, however, That he shall not exercise this power in cases of violations of any penal law, except when the fiscal of the city shall so recommend and fix the bail to be required of the person arrested;
- (d) He shall have authority, within the police limits of the city, to serve and execute criminal processes of any court;
- (e) He shall be the deputy sheriff of the city, and as such he shall, personally or by representative, attend the sessions of the municipal court, and shall execute promptly and faithfully, all writs and processes of said court;
- (f) He shall exercise supervision over the police training school established in accordance with the rules and regulations of the police department; and
- (g) He shall have such further powers and perform such further duties as may be prescribed by law or ordinance.

SEC. 33. Chief of Secret Service.—There shall be a chief of the secret service who shall, under the chief of police, have charge of the detective work of the department and of the detective force of the city, and shall perform such other duties as may be assigned to him by the chief of police or prescribed by law or ordinance. The chief of the secret service shall receive a salary of two thousand four hundred pesos per annum.

SEC. 34. Peace officers—their powers and duties.—The Mayor, the chief of police, the deputy chief of police, the chief of the secret service, and all officers and members of the city police and detective force shall be peace officers. Such peace officers are authorized to serve and execute all processes of the municipal court and criminal processes of all other courts to whomsoever directed within the jurisdictional limits of the city or within the police limits as hereinbefore defined; within the same territory, to pursue and arrest, without warrant, any person found in suspicious places or under suspicious circumstances reasonably tending to show that such person has committed, or is about to commit, a crime or breach of the peace; to arrest or cause to be arrested, without warrant, any offender when the offense is committed in the presence of a peace officer or within his view; and, in such pursuit or arrest to enter any building, ship, boat, or vessel or take into custody any person therein suspected of being concerned in such crime or breach of the peace, and any property suspected of having been stolen; and to exercise such other powers and perform such other duties as may be prescribed by law or ordinance. They shall detain an arrested person only in accordance with the provisions of existing laws relative to such detention. Whenever the Mayor shall deem it necessary to avert danger or to protect life and property, in case of riot, disturbance, or public calamity, or when he has reason to fear any serious violation of law and order, he may call upon the provincial commander or other members of the Armed Forces of the Philippines. Except upon the occurrence of any such conditions, police jurisdiction and supervision and the preservation of peace and order shall pertain exclusively to the peace officers herein mentioned, existing law to the contrary notwithstanding.

ARTICLE XII.—Fire Department

SEC. 35. Chief of Fire Department.—There shall be a Chief of Fire Department who shall have the management and control of all matters relating to the administration, organization, government, discipline, and disposition of the fire forces. He shall receive a salary of four thousand eighty pesos per annum and shall have the following powers and duties:

- (a) He shall issue supplementary regulations not incompatible with law or general regulations issued by the proper department head of the National Government in accordance with law, for the governance of the fire force;
- (b) He shall have charge of the fire-engine houses, the fire engines, hose trucks, hooks and ladders, trucks and all other fire apparatus; (c) He shall have full police powers in the vicinity of fires;
- (d) He shall have authority to remove or demolish any building or other property whenever it shall become necessary to prevent the spreading of fire or to protect adjacent property;
- (e) He shall investigate and report to the Mayor upon the origin and cause of all fires occurring within the city;
- (f) He shall inspect all buildings erected or under construction or repair within the city and determine whether they provide sufficient protection against fire and comply with the ordinances relating thereto;
- (g) He shall have charge of the city telegraph, telephone and fire alarm service;
- (h) He shall have exclusive power, any law to the contrary notwithstanding, to supervise and regulate the stringing, grounding, and installation of wires for all electrical connections with a view to avoiding conflagrations, interference with public traffic or safety, or the necessary operation of the fire department;
- (i) He shall condemn all defective electrical installations and shall take the necessary steps to effect immediate corrective action, informing the Mayor of the action thus taken;
- (j) He shall supervise the manufacture, storage, and use of petroleum, gas, acetylene, gunpowder, and other highly combustible matter and explosives;
- (k) No permit for the construction or repair of buildings within the city shall be granted unless the plans

relative thereto have been approved by the chief of the fire department. He shall have the power to alter or disapprove such plans as do not provide for adequate protection against the occurrence of fires; and
(l) He shall have such powers and perform such duties as may further be prescribed by law or ordinance.

ARTICLE XIII.—Department of Assessment

SEC. 36. The City Assessor—His powers and duties.— There shall be a City Assessor who shall have charge of the department of assessment and who shall receive a salary of four thousand eighty pesos per annum. The city treasurer shall act as city assessor ex-officio until the Municipal Board, by ordinance, provides otherwise, at which time the city assessor shall be appointed as heretofore provided. The city assessor shall have the following powers and duties:

- (a) The city assessor and his authorized deputies are empowered to administer any oath authorized to be administered in connection with the valuation of real estate for the assessment and collection of taxes;
- (b) He shall make a list of the taxable real estate in the city, arranging in the order of the lot and block numbers the names of the owners thereof, with a brief description of the property opposite each such name and the cash value thereof. In making this list, the city assessor shall take into consideration any sworn statement made by the owners of the property, but shall not be prevented thereby from considering any other evidence on the subject and exercising his own judgment in respect thereto. For the purpose of completing this list, he and his representatives may enter upon the real estate for the purpose of examining and measuring it, and may summon witnesses, administer oaths to them, and subject them to examination concerning the ownership and the amount of real estate and its cost value; and
- (c) He may, if necessary, examine the records of the Register of Deeds of the Province of Samar showing the ownership of real estate in the city.

SEC. 37. Real estate exempt from taxation.—The following shall be exempted from taxation:

- (a) Lands or buildings owned by the Republic of the Philippines, the Province of Samar or the City of Calbayog, and burying grounds, churches and adjacent parsonages and convents, and lands or buildings used exclusively for religious, charitable, scientific, or educational purposes, and not for profit; but such exemption shall not extend to lands or buildings held for investment, though income therefrom be devoted to religious, charitable, scientific, or educational purposes;
- (b) Lands or buildings which are the only real property of the owners, and the value of which does not exceed four hundred pesos; and
- (c) Machinery, which term shall embrace machines, mechanical contrivances, instruments, appliances, and apparatus attached to the real estate, used for industrial, agricultural or manufacturing purposes, during the first five years of the operation of the machinery.

SEC. 38. Declaration to be made by persons acquiring or improving real estate.—It shall be the duty of each person who, at any time, acquires real estate in the city, and of each person who constructs or adds to any improvements on real estate owned by him in the city, to prepare and present to the city assessor within a period of sixty days next following such acquisition, construction or addition, a sworn declaration setting forth the value of the real estate acquired or the improvement constructed or addition made by him and a description of such property sufficient to enable the city assessor readily to identify the same. Any person having acquired real estate who fails to make and present the declaration herein required within the period of sixty days shall be deemed to have waived his right to notice of the assessment of such property and the assessment of the same in the name of its former owner shall in all such cases, be valid and binding on all persons interested, and for all purposes, as though the same has been assessed in the name of its present owner.

SEC. 39. Action when owner makes no returns, or is unknown, or ownership is in dispute or in doubt, or when land and improvements are separately owned.—If the owner of any parcel of real estate shall fail to make a

return thereof, or if the city assessor is unable to discover the owner of any real estate, he shall nevertheless list the same for taxation, and charge the tax against the true owner, if known, and if unknown, then as against an unknown owner. In case of doubt or dispute as to the ownership, of real estate, the taxes shall be levied against the possessor or possessors thereof. When it shall appear that there are separate owners of the land and the improvements thereon, a separate assessment of the property shall be made.

SEC. 40. Action in case estate has escaped taxation.—If it shall come to the knowledge of the city assessor that any taxable real estate in the city has escaped listing, it shall be his duty to list and value the same at the time and in the manner provided in the next succeeding section and to charge against the owner thereof the, taxes due for the current year and the last preceding one year, and the taxes thus assessed shall be legal and collectible by all the remedies herein provided, and if the failure of the city assessor to assess such taxes at the time when they should have been assessed was due to any fault or negligence on the part of the owner of such property, the penalties shall be added to such back taxes as though they have been assessed at the time when they should have been assessed.

SEC. 41. When assessment may be increased or decreased.—The city assessor shall, during the first fifteen days of January of each year, add to his list of taxable real estate in the city the value of the improvements placed upon such property during the preceding year, and any property which is taxable and which has therefore escaped taxation. He may during the same period revise and correct the assessed value of any or all parcels of real estate in the city which are not assessed at their true money value, by reducing or increasing the existing assessment as the case may be.

SEC. 42. Publication of complete list and proceedings thereon.—The city assessor shall, after the list shall have been completed, inform the public by notice published for seven days in a newspaper of general circulation in the city, if any, and by notice posted for seven days at the main entrance of the City Hall, that the list is on file in his office and may be examined by any person interested therein, and that upon the date fixed in the notice, which shall not be later than the tenth day of February, the city assessor will be in his office for the purpose of hearing complaints as to the accuracy of the listing of the property and the assessed value thereof. He shall further notify in writing each person the amount of whose tax will be changed by such proposed revision by delivering or mailing at least thirty days in advance of the date fixed in the notice, such notification to such person or his authorized agent at the last known address of such owner or agent in the Philippines.

It shall be his duty carefully to preserve and record in his office copies of said notice. On the day fixed in the notice, and for five days thereafter, he shall be present in his office to hear all complaints filed within the period by persons against whom taxes have been assessed as owners of real estate, and he shall make his decision forth with and enter the same in a well-bound book, to be kept by him for that purpose, and if he shall determine that injustice had been done or errors have been committed he is authorized to amend the list in accordance with his findings.

SEC. 42. City Assessor to authenticate list of real estate assessed.—The city assessor shall authenticate each list of real estate valued and assessed by him as soon as the same is completed, by signing the following certificate at the foot thereof:

"I hereby certify that the foregoing list contains a true statement of the piece of taxable real estate belonging to each person named in the list, and its true cash value, and that no real estate taxable by law in the City of Calbayog has been omitted from the list, according to the best of my knowledge and belief.

_____ (Signature of City Assessor)

SEC. 44. Time and manner of appealing to City Board of Tax Appeals, and composition thereof.—In case

any owner of real estate or his authorized agent shall feel aggrieved by any decision of the city assessor under the preceding sections of this article, such owner or agent may, within thirty days after the entry of such decision, appeal to the Board of Tax Appeals. The appeal shall be perfected by filing a written notice of the same with the city assessor, and it shall be the duty of that officer forthwith to transmit the appeal to the Board of Tax Appeal with all written evidence in his possession relating to such assessment and valuation.

There shall be a City Board of Tax Appeals which shall be composed of five members to be appointed by the President of the Philippines with the consent of the Commission on Appointments. Three members of the Board shall be selected from among government officials in the city other than those in charge of assessment and they shall serve without additional compensation.

The two other members shall be selected from among property owners in the city and they shall each receive a compensation of ten pesos for each day of session actually attended. The chairman of the Board shall be designated in the appointment and shall have the power to designate any city official or employee to serve as the secretary of the Board without additional compensation.

The members of the City Board of Tax Appeals shall hold office for a term of two years unless sooner removed by the President of the Philippines.

SEC. 45. Oath to be taken by member of the City Board of Tax Appeals.—Before organizing as such, the members of the City Board of Tax Appeals shall take the following oath before the municipal judge or any other officer authorized to administer oaths:

"I do solemnly swear (or affirm) that I will hear and deter mine well and truly all matters and issues between taxpayers and the city assessor submitted for my decision. So help me God. (In case of affirmation the last words are to be stricken out.)

_____ (Signature)

"Subscribed and sworn to (or affirmed) before me this day of , 19 .

_____ (Signature and Title of Officer Administering Oath)

SEC. 46. Proceedings before the City Board of Tax Appeals and the Department Head.—The City Board of Tax Appeals shall hold such number of sessions as may be authorized by the Secretary of Finance, and shall hear and decide all appeals duly transmitted to it. It shall have authority to cause to be amended the listing and valuation of the property in respect to which any appeal has been perfected by order signed by the Board or a majority thereof, and transmit it to the city assessor who shall amend the tax list in conformity with said order.

It shall also have power to revise and correct, with the approval of the Department Head first had, any and all erroneous or unjust assessments and valuations for taxation, and make a correct and just assessment and state the true valuation, in each case when it decides that the assessment previously made is erroneous or unjust. The assessment when so corrected shall be lawful and valid for all purposes as though the assessment had been made within the time herein prescribed. Such reassessment and revaluation shall be made on due notice to the individual concerned who shall be entitled to be heard by the City Board of Tax Appeals before any reassessment or revaluation is made. The decision of the City Board of Tax Appeals shall be final unless the Department Head declares the decision reopened for review by him, in which case he may make such revision or revaluation as in his opinion the circumstances justify. Such revision when approved by the President of the Philippines shall be final.

SEC. 47. Taxes on real estate; extension and remission of the tax.—A tax, the rate of which shall not exceed

one and one-half per centum ad valorem to be determined by the Municipal Board, shall be levied annually on the assessed value of all real estate, in the city subject to taxation. All taxes on real estate for any year shall be due and payable annually on the first day of January and from this date such taxes together with all penalties accruing thereto shall constitute a lien on the property subject to such taxation.

Such lien shall be superior to all other liens, mortgages or encumbrances of any kind whatsoever; and shall be enforceable against the property whether in the possession of the delinquent or any subsequent owner, and can only be removed by the payment of the tax and penalty.

At the option of the taxpayer, the tax for any year may be paid in two installments to be fixed annually by the Municipal Board simultaneously with the rate per centum of ad valorem taxation: Provided, That the time limit for the first and second installments shall be set at not later than the thirty-first day of May and the thirty-first day of October of each year, respectively.

Any person who on the last day set for the payment of the real estate tax as provided in the preceding paragraphs, shall be within the premises of the City Hall willing and ready to pay the tax but is unable to effect it on account of the large number of taxpayers therein present shall be furnished a properly inscribed card which will entitle him to pay the tax without penalty on the following day.

The words "paid under protest" shall be written on the face of the real estate tax receipt upon the request of the person willing to pay the tax under protest. Confirmation in writing of an oral protest shall be made within thirty days.

At the expiration of the time for the payment of the real estate tax without penalty, the taxpayer shall be subject, from the first day of delinquency, to the payment of a penalty at the rate of two per centum for each full month of delinquency that has expired, on the amounts of the original tax due, until the tax shall have been paid in full or until the property shall have been forfeited to the city as provided in this Act: Provided, That in no case shall the total penalty exceed twenty-four per centum of the original tax due.

In the event that the crop is extensively damaged or that a great lowering of prices of products is registered in any year or that similar disaster extends throughout the province, or for other good and sufficient reason, the Municipal Board may, by resolution passed on or before the thirty-first day of December of such year, extend the time for the collection of the tax on real estate in the city for a period of not to exceed three months, or remit wholly or in part the payment of the tax penalty for the ensuing year, but such resolution shall have to specify clearly the grounds for such extension or remission and shall not take effect until it shall have been approved by the Department Head.

The President of the Philippines may, in his discretion, remit or reduce the real estate taxes for any year in the city if he deems this to be in the public interest.

SEC. 48. Seizure of the personal property for delinquency in payment of the tax.—After a property shall have become delinquent in the payment of taxes and said taxes and the corresponding penalty or penalties shall remain unpaid ninety days after payment thereof shall have become due, the city treasurer or his deputy, if he desires to compel payment through seizure of any personal property of any delinquent person or persons, shall issue a duly authenticated certificate, based on the records of his office, showing the fact of delinquency and the amount of the tax and penalty due from said delinquent person or persons or from each of them. Such certificate shall be sufficient warrant for the seizure; and these proceedings may be carried out by the city treasurer, his deputy, or any other officer authorized to carry out legal proceedings.

SEC. 49.—Personal property exempt from seizure and sale for delinquency.—The following personal

property shall be exempt from seizure, sale and execution for delinquency in the payment of the real estate tax:

- (a) The tools and implements necessarily used by the delinquent in his trade or employment;
- (b) Two horses, or two cows, or two carabaos, or other beasts of burden, such as the delinquent may select, and necessarily used by him in his ordinary occupation;
- (c) His necessary clothing and that of his family;
- (d) Household furniture and utensils necessary for housekeeping, and used for that purpose by the delinquent, such as he may select, of a value not exceeding two hundred pesos;
- (e) Provisions for individual or family sufficient for three months; (f) The professional libraries of lawyers, judges, physicians, pharmacists, dentists, engineers, surveyors, clergy men, school teachers, and music teachers, not exceeding five hundred pesos in value;
- (g) One fishing boat and net, the property of any fisherman, by the lawful use of which he earns a livelihood ;
- (h) So much of the earnings of the delinquent for his personal services within the month preceding the levy as are necessary for the support of his family;
- (i) Lettered gravestones;
- (j) All moneys, benefits, privileges, or annuities accruing or in any manner growing out of any life insurance, if the annual premiums paid do not exceed five hundred pesos, and if they exceed that sum, a like exemption shall exist which shall bear the same proportion to the moneys, benefits, privileges, and annuities so accruing or growing out of such insurance that said five hundred pesos bears to the whole annual premiums paid; and
- (k) Any article or material which forms part of a home or of any improvements on any real estate.

SEC. 50. The owner may redeem the personal property before sale.—The owner of the personal property seized may redeem the same from the collecting officer at any time after seizure and before sale by tendering to him the amount of the tax, the penalty, and the costs incurred up to the time of tender. The costs to be charged in making such seizures and sale shall only embrace the actual expense of seizure and preservation of the property pending the sale, and no charge shall be imposed for the services of the collecting officer or his deputy.

SEC. 51. Sale of seized personal property.—Unless redeemed as hereinabove provided, the property seized through proceedings under Section forty-nine hereof, shall after due advertisement, be exhibited for sale at public auction and so much of the same as shall satisfy the tax, penalty and cost of seizure and sale, shall be sold to the highest bidder. The purchaser at such sale shall acquire an indefeasible title to the property sold.

The advertisement shall state the time, place and cause of sale, and be posted for ten days prior to the date of the auction, at the main entrance of the city hall and at a public and conspicuous place in the district where the property was seized.

The sale shall take place, at the discretion of the city treasurer or his deputy, either at the main entrance of the city hall or at the district where the property was seized. If no satisfactory bid is offered in the afore mentioned places, another auction shall be had upon notice published anew.

SEC. 52. Return of officer; Disposal of surplus.—The officer directing the sale under the preceding section shall forthwith make return of his proceedings, and note thereof shall be made by the city treasurer, in his records. Any surplus resulting from the sale, over and above the tax penalty and cost, and any property remaining in possession of the officer shall be returned to the taxpayer on account of whose delinquency the sale has been made.

SEC. 53. Vesting title to real estate in the city government.—Upon the expiration of one year from the date on which the taxpayer became delinquent, and in the event of continued default in the payment of the tax and penalty, all private rights, titles and interest in and to the real estate on which said tax is delinquent, shall be indefeasibly vested in the city government, subject only to the rights of redemption and repurchase hereinafter

provided for: Provided, That the title acquired by said city government to real estate shall not be superior to the title thereto of the original owner prior to the seizure thereof.

SEC. 54. Redemption of real estate before seizure— At any time after the delinquency shall have occurred, but not after the expiration of ninety days from the date of the publication of the advertisement provided for in the next succeeding section, the owner or lawful representative, or any person having any lien, right, or any other legal or equitable interest in said property, may pay the taxes and penalties accrued and thus redeem the property. Such redemption shall operate to divest the city government of its title to the property in question and to revert the same to the original owner, but when such redemption shall be made by a person other than the owner, payment shall constitute a lien on the property, and the person making such payment shall be entitled to recover the same from the original owner, or if he be a lessee, he may retain the amount of said payment from the proceeds of any income due to the owner of such property: Provided, That the persons exercising the right of redemption shall not acquire a title to said property, better than that of the original owner prior to the seizure.

SEC. 55. Notice of seizure of real estate.—Notice of the seizure of real estate shall be given by posting notices at the main entrance of the city hall, the provincial capitol building, and all the municipal buildings in the Province of Samar, in English and Spanish and in the dialect commonly used in the locality, and a copy of said notice shall be sent by registered mail to the owner of the property subject to seizure. Such notices shall state the name of the delinquent person, the date on which such delinquency commenced, the amount of the taxes and penalties then due, and shall state that unless such taxes and penalties are paid within ninety days from the date of publication of such notice, the forfeiture of the delinquent real estate to the city government shall become absolute.

SEC. 56. Ejectment of occupants of seized, property.—After the expiration of ninety days from the date of the publication of the notice of delinquency provided for in the next preceding section, the city treasurer or his deputy, may issue to the Mayor or to other officers authorized by law to execute and enforce the laws a certificate describing the parcel of real estate on which the taxes have been declared delinquent, stating the amount of taxes due, and the penalties and costs accrued by reason of the delinquency, and requesting him to eject from said property all the tenants and occupants thereof. Upon receiving such certificate, the Mayor or any other official authorized to enforce the law shall forth with have all the tenants and occupants who refused to recognize the title of the city expelled from the property in question, and to that end he may use the police force: Provided, however, That if the property so seized is, or includes a residential home, the occupant thereof shall be given a sufficient time not exceeding ten days from the date of the notice of ejectment, to vacate the premises.

SEC. 57. Redemption of real property before sale—After the title to the property shall have become vested in the city government in the manner provided for in the preceding sections, and at any time prior to the sale or execution of the contract of sale by the city treasurer to a third party, the original, owner or his authorized representative or any person having lien, right, or other legal interest or equity in said property in question, shall have the right to redeem the entire property in question, by paying the full amount of the taxes and penalties due thereon at the time of the seizure, and if the city treasurer shall have entered into a lease of the property, the redemption shall be made subject to such lease: Provided, That the payment of the price of sale may, at the discretion of the purchaser, be made in installments, extending over period not exceeding twelve months, but the initial payment, which must be made on the date of the filing of the application for redemption, and every subsequent payment, shall not be less than twenty-five per centum of the entire sum due, and shall in no case be less than two pesos, unless the total or the balance of the amount due on all seized property in the name of the taxpayer is less than two pesos. The purchaser may occupy the property after paying the first installment, and the usual taxes on the property shall be payable in the year after that in which the application for redemption was

approved, Any failure of the purchaser to pay an installment on the date it is due shall have the effect of a forfeiture to the city government of any partial payment made by said purchaser, and in case he has taken possession of the property due, he shall forthwith surrender the same to the city government. In case the purchaser should fail to relinquish possession of said property, the city treasurer or his deputy shall forthwith adopt measures to eject therefrom all the tenants or occupants thereof as provided for in this Act: Provided, That the original owner of any real estate seized prior to the approval of this Act, who redeems the same within six months subsequent to its approval, is hereby released from any obligation he may have to the government for rent for the use of such property: Provided, further, That the provisions of this section shall apply to redemption of real estate seized for delinquency in the payment of taxes thereon and not redeemed up to the date of the approval of this Act.

SEC. 58. Notice of sale of real estate at public auction.—At any time after the forfeiture of any real estate shall have become absolute, the treasurer, pursuant to the rules of procedure promulgated by the Department Head, may announce the sale of the real estate seized on account of delinquency for the payment of taxes thereon, for the redemption of which no application has been filed. Such announcement shall be made by posting a notice for three consecutive weeks at the main entrances of the city hall and all the municipal buildings of the province, in either English or Spanish, and in the dialect commonly used in the locality, and by publishing the same once a week for three consecutive weeks in the newspaper of general circulation in the city. Copies of such notice shall be sent immediately by registered mail to the delinquent taxpayer at the latter's home address, if known. The notice shall state the amount of the taxes and penalties due, the time and place of sale, the name of the taxpayer against whom the taxes are levied, and the appropriate area, the lot number and the location by district and street and the street number and district or barrio where the real estate to be sold is located.

SEC. 59. Sale of real estate; conditions.—At any time during the sale or prior thereto, the taxpayer may stay the proceedings by paying the taxes and penalties to the treasurer or his deputy. Otherwise the sale shall proceed and shall be held either at the main entrance of the city hall or on the premises of the real estate to be sold as the city treasurer or his deputy may determine. The payment of the sale price may, at the option of the purchaser, be made in installments covering a period of not more than twelve months, but the initial payment which shall be made at the time of the sale, and each subsequent payment shall not be less than twenty-five per centum of the sale price, and shall in no case be less than two pesos. The purchaser may occupy the property after paying the first installment, and the usual taxes on the property shall be payable in the year following that in which the sale took place. Any failure of the purchaser to pay the total price of the sale within twelve months from the date thereof shall be sufficient ground for its cancellation, and any part payment made shall revert to the government and if the purchaser has taken possession of the property he shall forthwith surrender the same to the city government. In case the purchaser should fail to relinquish possession of the property, the city treasurer or his deputy shall immediately take steps to eject the tenants or occupants of the property in accordance with the procedure prescribed in Section fifty-seven of this Act.

The city treasurer or his deputy shall make a report of the sale to the Municipal Board within five days after the sale and shall make the same appear on its records. The purchaser at this sale shall receive from the city treasurer or his deputy a certificate showing the proceedings of the sale, describing the property sold, stating the name of the purchaser, the sale price, the conditions of payment, the amount paid and the exact amount of the taxes and penalties.

SEC. 60. Redemption of real estate after sale.—Within one year from and after the date of the sale the delinquent taxpayer or any other person in his behalf, shall have the right to redeem the property sold by paying to the city treasurer or his deputy the amount of the taxes, penalties, costs and interests at the rate of twelve per

centum per annum on the purchase price, if paid in whole or on any portion thereof as may have been paid by the purchaser, and such payment shall invalidate the certificate of sale issued to the purchaser, if any, and shall entitle the person making such payment to a certificate to be issued by the city treasurer or his deputy, stating that he has thus redeemed the property, and the city treasurer or his deputy upon the return by the purchaser of the certificate of sale previously issued to him, shall forth with refund to the purchaser the entire sum paid by him with interest at twelve per centum per annum, as provided for herein, and such property shall thereafter be free from the lien of such taxes or penalties.

SEC. 61. Execution of deed of final sale.—In case the delinquent taxpayer shall not redeem the property sold as herein provided within one year from the date of the sale, and the purchaser shall then have paid the total purchase price, the city treasurer, as grantor, shall execute a deed in form and effect sufficient to convey to the purchaser so much of the real estate against which the taxes have been assessed as has been sold, free from all liens or encumbrances of any kind whatsoever, and said deed shall succinctly recite all the proceedings upon which the validity of the sale depends. Any balance remaining from the proceeds of the sale, after deducting the amount of the taxes and penalties due, and the costs, if any, shall be returned to the original owner or his representatives.

SEC. 62. Taxes and penalties which shall be paid, upon, redemption or repurchase.—The taxes and penalties to be paid by way of redemption or repurchase, shall comprise in all cases only the original tax by virtue of the failure to pay which the seizure was made, and its incidental penalties, up to the date of the forfeiture of the real estate to the government.

SEC. 68. Taxes; legal procedure.—

(a) Assessment of a tax shall constitute a lawful indebtedness of the taxpayer to the city which may be enforced by civil action in any court of competent jurisdiction, and this remedy shall be in addition to all remedies provided by law.

(b) No court shall entertain any suit assailing the validity of a tax assessed under this Charter until the tax payer shall have paid, under protest, the taxes assessed against him; nor shall any court declare any tax invalid by reason of irregularities or informalities in the proceedings of the officers charged with the assessment of collection of taxes or of a failure to perform their duties within the time specified for their performance, unless such irregularities, informalities, or failure shall have impaired the substantial rights of the taxpayer.

(c) No court shall entertain any suit assailing the validity of the tax sale of land under this Charter until the taxpayer shall have paid into the court the amount for which the land was sold, together with interest at the rate of twelve per centum, per annum upon the sum from the date of the sale to the time of instituting the suit. The money so paid into the court shall belong and delivered to the purchaser at the tax sale, if the deed is declared invalid, and shall be returned to the depositor, should he fail in his action.

(d) No court shall declare any such sale invalid by reason of any irregularities or informalities in the proceeding of the officer charged with the duty of making the sale, or by reason of failure by him to perform his duties within the time herein specified for their performance unless such irregularities, informalities, or failure shall have impaired the substantial rights of the taxpayer.

ARTICLE XIV.—Tax Allotments and Special Assessment for Public Improvements

SEC. 64. Allotment of internal revenue and, other taxes.—On the internal revenue accruing to the National Treasury under Chapter II, Title XII of Commonwealth Act Numbered Four hundred sixty-six, and other taxes collected by the National Government and allotted to the various provinces, as well as the national aid for schools, the city shall receive a share equal to what it would receive if it were a regularly organized province.

SEC. 65. Power to levy special assessments for certain purposes.—The Municipal Board may, by ordinance, provide for the levying and collection, by special assessment of the land comprised within the district or section of the city specially benefited, or a part not to exceed sixty per centum of the cost of laying out, opening, constructing, straightening, widening, extending, grading, paving, curbing, enlarging, or improving public avenues, roads, streets, walling, deepening, or otherwise establishing, repairing alleys, sidewalks, parks, plazas, bridges, landing places, wharves, piers, docks, levees, reservoirs, water works, water mains, water courses, esteros, canals, drains, and sewers, including the cost of acquiring the necessary land and public improvements thereon, as hereinafter provided.

In case of national public works the Municipal Board, as an agency of the National Government shall, when the President of the Philippines so directs it, provide for the levying and collection by special assessment of the lands within the section or district of the city specially benefited of the cost or a part thereof to be determined by the President, of laying out, opening, constructing, straightening, widening, extending, grading, paving, curbing, walling, or deepening, or otherwise repairing, enlarging, or improving national roads and other national public works within the city, including the cost of acquiring the necessary land and improvements thereon.

SEC. 66. Basis of apportionment.—The amount of the special assessment shall be apportioned and computed according to the assessed valuations of such lands as shown in the books of the city assessor. If the property has not been declared for taxation purposes, the city assessor shall immediately declare it for the owner and assess its value, and such value shall be the basis of the apportionment and computation of the special assessment due thereon.

SEC. 67. Property subject to special assessment.—All lands comprised within the section or district benefited, except those owned, by the Republic of the Philippines, shall be subject to the payment of the special assessment.

SEC. 68. Ordinance levying special assessment.—The ordinance providing for the levying and collection of a special assessment shall describe with reasonable accuracy the nature, extent, and location of the work to be undertaken; the probable cost of the work; the percentage of the cost to be defrayed by special assessment; the district or section which shall be subject to the payment of the special assessment and shall describe with reasonable accuracy metes and bounds if practicable, and by other reasonable accurate means if otherwise, and the period, which shall not be less than five nor more than ten years, in which said special assessment shall be payable without interest. One uniform rate per centum for all lands in the entire district or section subject to the payment of all the special assessment need not be established, but different rates for different parts or sections of the city according as said property will derive greater or less benefit from the proposed work, may be fixed.

It shall be the duty of the city engineer to make the plans, specifications, and estimates of the public works contemplated to be undertaken.

SEC. 69. Publication, of proposed ordinance levying special assessment.—The proposed special assessment ordinance shall be published, with a list of the owners of the lands affected thereby, once a week for four consecutive weeks in any newspaper published in the city, one in English, one in Spanish, and one in the local dialect, if there be any, and in default of local papers, in any newspaper of general circulation in the city. The said ordinance in English, Spanish, and the local dialect shall also be posted in places where public notices are generally posted in the city and also in the district or section where the public improvement is constructed or contemplated to be constructed.

The Secretary of the Municipal Board shall, on application, furnish a copy of the proposed ordinance to each landowner affected or his agent and shall, if possible, send to all of them a copy of said proposed ordinance by

ordinary mail or otherwise.

SEC. 70. Protest against special assessment.—Not later than thirty days after the last publication of the ordinance and the list of landowners, as provided in the preceding section, the landowners affected may file with the Municipal Board a protest against the enactment of the ordinance. The protest shall be duly signed by them and shall set forth addresses of the signers and the arguments in support of their objection or protest against the special assessment established in the ordinance. If no protest is filed within the time and under the condition above specified, the ordinance shall be considered approved as published.

SEC. 71. Hearing of protest.—The Municipal Board shall designate a date and place for the hearing of the protest filed in accordance with the next preceding section and shall give reasonable time to all protestants who have given their addresses and to all landowners affected by any protest or protests, and shall order the publication once a week for two consecutive weeks, of a notice of the place and date of the hearing in the same manner herein provided for the publication of the proposed special assessments ordinance. All pertinent arguments and evidences presented by the landowners interest or their attorney shall be attached to the proper records. After the hearing, the Municipal Board shall either modify its ordinance or approve it in toto and send notice of its decision to all interested parties who have given their addresses, and shall order the publication of the ordinance as approved finally together with a list of the owners of the parcels of land affected by the special assessment, three times weekly, for three consecutive weeks, in the same manner hereinabove prescribed. The ordinance finally passed by said body shall be sent to the Mayor with all the papers pertaining thereto, for his approval or veto as in the case of other city ordinances. If the Mayor approves it, the ordinance shall be published as above provided, but if he vetoes it, the procedure in similar cases provided in this Charter shall be observed.

SEC. 72. When the ordinance is to take effect.—Upon the expiration of thirty days from the date of the last publication of the ordinance as finally approved, the same shall be effective in all respects, if no appeal therefrom is taken to the proper authorities in the manner hereinafter prescribed.

SEC. 73. Appeals.—At any time before the ordinance providing for the levying and collection of special assessments becomes effective in accordance with the preceding section, appeals from such assessment may be filed with the President of the Philippines in case of public works undertaken or contemplated to be undertaken by the National Government, and with the Secretary of Finance in the case of public works undertaken or contemplated to be undertaken by the city. In all cases, the appeal shall be in writing and signed by at least a majority of the owners of the lands situated in the special assessment zone whose holdings represent more than one-half of the total assessed value of the lands affected. The appellant or appellants shall immediately give the Municipal Board a written notice of the appeal, and the Secretary of the Municipal Board shall, within thirty days after receipt of the notice of appeal, forward to the officer who has jurisdiction to decide the appeal an excerpt from the minutes of the Board relative to the proposed special assessment and all the documents in connection therewith.

SEC. 74. Decision of the appeal.—Only appeals made within the time and in the manner prescribed in this Act shall be entertained, and the officer to whom the appeal is made may call for further hearing or decide the same in accordance with its merits as shown in the papers or documents submitted to him. All appeals shall be decided within sixty days after receipt by the appellate officer of the docket of the case, and such decision shall be final.

SEC. 75. Fixing the amount of special assessment.—As soon as the ordinance is in full force and effect, the city treasurer shall determine the amount of the special assessment which the owner of each parcel of land comprised within the zone described in the ordinance levying the same is to pay each year during the prescribed

period, and shall send to each landowner a notice thereof by ordinary mail. If upon completion of the public works it should appear that the actual cost thereof is smaller or greater than the estimated cost, the city treasurer shall without delay proceed to correct the assessment by increasing or decreasing, as the case may be, the special tax on each parcel of land affected for the balance of the unpaid annual installments. If all annual installments have already been paid, the city treasurer shall fix the amount of credit to be allowed to, or the additional special tax to be levied upon, the land as the case may be. In all cases, he shall give notice of such rectifications to the parties interested.

SEC. 76. Payment of special assessment.—All sums due from any landowner or owners as the result of any action taken pursuant to this Article shall be payable to the city treasurer in the same manner as the annual ordinary tax levied upon real property, and shall be subject to the same penalties for delinquency and be enforced in the same manner as said annual ordinary tax; and all said sums together with any of said penalties shall, from the dates on which they were assessed, constitute special liens on payment of the ordinary real property tax. If, upon recomputation of the amount of the special assessment in accordance with the next preceding section, it appears that the landowner has paid more than what is correctly due from him, the amount paid in excess shall be refunded to him immediately upon demand; in the other case, the landowner shall have one year within which to pay without penalty the amount still due from him. Said period shall be counted upon the date the landowner received the proper notice.

SEC. 77. Disposition of proceeds.—The proceeds of the special assessment and penalties thereon shall be applied exclusively to the purpose or purposes for which the assessments were levied. It shall be the duty of the city treasurer to turn over to the National Treasury all collections made by him from special assessment levies for national public works.

ARTICLE XV.—City Budget

SEC. 78. Annual Budget.—At least four months before the beginning of each fiscal year, the city treasurer shall present to the Mayor a certified detailed statement by department of all receipts and expenditures of the city pertaining to the preceding fiscal year, and to the first seven months of the current fiscal year together with an estimate of the receipts and expenditures for the remainder of the current fiscal year; and he shall submit with this statement a detailed estimate of the revenues and receipts of the city from all sources for the ensuing fiscal year. Upon receipt of this statement and estimate and the estimates of department heads as required by Section twenty-one of this Charter, the Mayor shall formulate and submit to the Municipal Board at least two and a half months before the beginning of the ensuing fiscal year, a detailed budget covering the estimated necessary expenditure for the said ensuing fiscal year, which shall be the basis of the annual appropriation ordinance: Provided, however, That in no case shall the aggregate amount of such appropriation exceed the estimate of revenues and receipts submitted by the city treasurer as provided above.

SEC. 79. Supplemental budget.—Supplemental budget formulated in the same manner as the annual budget may be adopted when special or unforeseen circumstances make such action necessary.

SEC. 80. Failure to enact an appropriation ordinance.—Whenever the Municipal Board fails to enact an appropriation ordinance for any fiscal year before the end of the current fiscal year, the appropriation ordinance for such year shall be deemed reenacted, and shall go into effect on the first day of July of the new fiscal year as the appropriation ordinance for that year.

ARTICLE XVI.—The Municipal Court

SEC. 81. Regular, auxiliary, and acting judges of municipal courts.—There shall be a municipal court for

the City of Calbayog for which there shall be appointed a municipal judge and an auxiliary municipal judge. The Municipal Board may, when the circumstances so warrant and subject to the approval of the Secretary of Justice, appropriate the necessary amount for the establishment of another branch of the municipal court, the judge and auxiliary judge thereof to be appointed as herein provided. The municipal judge may, upon proper application to the Secretary of Justice, be allowed a vacation of not more than thirty days every year with salary. The auxiliary municipal judge shall discharge the duties of the municipal judge in case of absence, incapacity or inability of the latter until he assumes his post, or until a new judge shall have been appointed. During his incumbency, the auxiliary municipal judge shall enjoy the powers, emoluments and privileges of the municipal judge who shall not receive any remuneration therefor except the salary to which he is entitled by reason of his vacation provided for in this Charter.

In case of absence, incapacity or inability, of both the municipal judge and auxiliary municipal judge, the Secretary of Justice shall designate the justice of the peace of any of the adjoining municipalities to prescribe over the municipal court, and he shall hold office temporarily until the regular incumbent or the auxiliary judge thereof shall have resumed office, or until another judge shall have been appointed in accordance with the provisions of this Charter. The justice of the peace so designated shall receive his salary as justice of the peace plus seventy per cent of the salary of the municipal judge whose office he has temporarily assumed. The municipal judge shall receive a salary of six thousand pesos per annum.

SEC. 82. Clerk and employees of the Municipal Court.—There shall be a clerk of the municipal court who shall be appointed by the municipal, judge in accordance with Civil Service Law, rules and regulations, and who shall receive a compensation of two thousand four hundred pesos per annum. He shall keep the seal of the court and affix it to all orders, judgments, certificates, records, and other documents issued by the court. He shall keep a docket of the trials in the court, in which he shall record in a summary manner the names of the parties and the various proceedings in civil cases, and in criminal cases, the name of the defendant, the charge against him, the name of the witnesses, the date of the arrest, the appearance of the defendant, together with the fines and costs adjudged or collected in accordance with the judgment. He shall have power to administer oaths.

The clerk of the municipal court shall at the same time be sheriff of the city and shall have, as such, the same powers and duties conferred by existing law upon sheriffs. The municipal court may provide for two positions of court stenographers and such number of clerks in the office of the clerk of the municipal court as the needs of the service may demand. Said clerks shall be appointed by the Mayor subject to Civil Service rules and regulations.

SEC. 83. Jurisdiction of municipal court.—The Municipal court shall have the same jurisdiction in civil and criminal cases and the same incidental powers as conferred by law upon municipal courts chartered cities.

SEC. 84. Procedure in municipal court in prosecutions for violation of laws and ordinances.—In a prosecution for the violation of any ordinance, the first process shall be a summons; except that a warrant for the arrest of the offender may be issued in the first instance upon the affidavit of any person that such ordinance has been violated; and that the person making the complaint has reasonable grounds to believe that the party charged is guilty thereof, which warrant shall conclude: "Against the ordinance of the city in such cases made and provided."

All proceedings and prosecutions for offenses against the laws of the Philippines shall conform to the rules relating to process, pleading, practice, and procedure for the judiciary of the Philippines, and such rules shall govern the municipal court and its officers in all cases insofar as the same may be applicable. An appeal from the municipal court to the Court of First Instance shall be governed by the provisions of the Rules of Court.

SEC. 85. Preliminary investigations in the city fiscal's office, municipal court and Court of First

Instance.—Every person arrested shall, without necessary delay, be brought before the city fiscal, the municipal court or the Court of First Instance for preliminary hearing, release on bail, or trial. In cases triable in the municipal court the defendant shall not be entitled as of right to a preliminary investigation, except to summary one to enable the court to fix the bail in any case where the prosecution announces itself ready and is ready for trial within three days, not including Sundays, after the request for an investigation is presented. In cases triable only in the Court of First Instance the defendant shall not be entitled as of right to preliminary investigation in any case where the fiscal of the city, after a due examination of the facts, shall have presented an information against him in proper form. But the Court of First Instance may make such summary investigation into the case as it may deem necessary to enable it to fix the bail or determine whether the offense is bailable.

SEC. 86. Costs, fees, fines and forfeitures in municipal court.—There shall be taxed against and collected from the defendant, in case of his conviction in the municipal court, such costs and fees as may be prescribed by law in criminal cases in justice of the peace courts. All costs fees, fines and forfeitures shall be collected by the clerk of court, who shall keep a docket of those imposed and of those collected, and shall pay collections of the same to the city treasurer, for the benefit of the city, on the next business day the same are collected, and take receipts therefor. The municipal judge shall examine said docket each day, compare the same with the amount receipted for by the city treasurer and satisfy himself that all such costs, fees, fines and forfeitures have been duly accounted for.

SEC. 87. Commitment to prison.—No person shall be confined in the prison by sentence of the municipal court until the warden or officer in charge of the prison shall receive a written commitment showing the offense for which the prisoner was tried, the date of the trial, the exact terms of the judgment or sentence, and the date of the order of the commitment. The clerk shall, under seal of the court, issue such commitment in each case of sentence to imprisonment.

ARTICLE XVII.—Final and Transitory Provisions

SEC. 88. Change of government.—The incumbent mayor, vice-mayor and members of the municipal board of the City of Calbayog shall continue in office as the mayor, vice-mayor, and members of the Municipal Board of the city, respectively, until the expiration of their present terms of office.

SEC. 89. Election, of Provincial Governor and members of the Provincial Board of the Province of Samar.—The voters of the City of Calbayog shall be qualified and entitle to vote in the election of the Provincial Governor and the members of the Provincial Board of Samar.

SEC. 90. Representative District.—Until otherwise provided by law, the City of Calbayog shall continue as part of the first representative district of the Province of Samar.

SEC. 91. Republic Act Numbered Three Hundred Twenty-eight, as amended by Republic Acts Numbered One thousand nine hundred ninety-two, two thousand six hundred eighty-nine and Two thousand three hundred sixty-six, are hereby repealed.

SEC. 92. This Act shall take effect upon its approval.

Approved, June 17, 1961.

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