

[REPUBLIC ACT NO. 328, July 15, 1948]

AN ACT CREATING THE CITY OF CALBAYOG

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 Charter of the City of Calbayog.

ARTICLE I.—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. *The City not liable for damages.*—The City shall not be liable or held for damages or injuries to persons or property arising from the failure of the Municipal Board, the Mayor or any other city officer or employee, to enforce the provisions of this Charter, or any other law or ordinance, or from negligence of said Municipal Board, Mayor or other city officers or employees while enforcing or attempting to enforce the provisions thereof.

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 the 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—His Appointment and Compensation.*—The Mayor shall be the chief executive of the city. He shall be appointed by the President of the Philippines, with the consent of the Commission on Appointments of the Congress of the

Philippines and shall hold office at the pleasure of the President.

He shall receive a salary of not exceeding four thousand pesos a year. With the approval of the Secretary of the Interior, the Mayor may be provided, in addition to his salary, a non-commutable allowance of not exceeding two thousand pesos *per annum*.

SEC. 8. *The Acting Mayor.*—In the event of sickness, absence, or other temporary incapacity of the Mayor, or in the event of a vacancy in the position of Mayor, the City Treasurer shall perform the duties of the Mayor until said office shall be filled in accordance with law. If, for any reason, the duties of the office of the Mayor cannot be performed by the City Treasurer, said duties shall be performed by the City Engineer. In case of the incapacity of the officials mentioned above to perform the duties of the Mayor, the President shall appoint or designate one. The Acting Mayor shall have the same powers and duties as the Mayor, and, if one appointed or designated is other than a government official, he shall receive the same compensation.

SEC. 9. *General powers and duties of the Mayor.*—Unless otherwise provided by law, the Mayor shall have immediate control over the executive and administrative functions of the different departments of the city, subject to the authority and supervision of the Secretary of the Interior. 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 Chapter, have control of all its property.
- (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 otherwise to protect the interests of the city.
- (e) To see that the executive officers and employees of the city properly discharge their respective duties.
- (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 at least once a year, and whenever occasion arises. 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 represent the city in all its business matters and sign in its behalf all its bonds, contracts, and obligations made in accordance with law or ordinance.
- (i) To submit to the Municipal Board at least two months before the beginning of each fiscal year a budget of receipts and expenditures of the city.
- (j) 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.

(k) 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 have been granted is carried on, or for any other good reason of general interest.

(I) To exempt, with the concurrence of the division superintendent of schools, deserving poor pupils from the payment of school fees or of any part thereof.

(m) To take such emergency measures as may be necessary to avoid fires, floods, and to mitigate the effects of storms and other public calamities.

(n) To submit an annual report to the Secretary of the Interior.

(o) To perform such other duties and exercise such other executive powers as may be prescribed by law or ordinance.

SEC. 10. *Secretary to 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 Secretary of the Interior, at not exceeding one thousand eight hundred pesos per annum.

The secretary shall have charge and custody of all records and documents of the city and of any office or department 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, and shall perform such other duties as the Mayor may require of him; 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 certificate, such fees to be paid directly to the City Treasurer.

ARTICLE III.—*The Municipal Board*

SEC. 11. *Constitution and organization of the Municipal Board; Compensation of members thereof.*—The Municipal Board shall be the legislative body of the city and shall be composed of the Mayor, who shall be its presiding officer, and eight councilors, who shall be appointed by the President of the Philippines with the consent of the Commission on Appointments of the Congress of the Philippines. The councilors shall, unless sooner removed from office by the President, serve for a term of four years. In case of sickness, absence, suspension or other temporary disability of any member of the Board, or if necessary to maintain a *quorum*, the President of the Philippines may appoint a temporary substitute who shall possess all the rights and perform all the duties of a member of the Board until the return to duty of the regular incumbent.

If any member of the Municipal Board should be candidate for office in any election, he shall be disqualified to act with the Board in the discharge of the duties conferred upon it relative to election matters, and in such case the other members of the Board shall discharge said duties without his assistance, or they may choose some disinterested elector of the city to act with the Board in such matters in his stead.

The members of the Municipal Board shall receive ten pesos for each day of

attendance of the session of the Board.

SEC. 12. *Appointment, salary and duties of secretary of Board.*—The Board shall have a secretary who shall be appointed by it to serve during the term of office of the members thereof. The compensation of the secretary shall be fixed by ordinance approved by the Secretary of the Interior, at not exceeding one thousand eight hundred pesos *per annum*. A vacancy in the office of the secretary shall be filled temporarily 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", 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 of the board; shall cause each ordinance to be published as herein provided; shall, upon request, furnish copies of all records of public character in his charge under the seal of his office and charge twenty centavos for each one hundred words including the certificate, the fees to be paid directly to the city treasurer and shall keep his office and all records therein which are not of a confidential character open to public inspection during usual business hours.

SEC. 13. *Method of transacting business by the board-Veto—Authentication and publication of ordinances.*—Unless the Secretary of the Interior orders otherwise, the board shall hold one ordinary session for the transaction of business during each week on a day which it shall fix by resolution, and such extraordinary session, 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 five members. It shall keep a record of its proceedings and determine its rules of procedure not herein set forth. Five 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. Five 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 measure 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 for the 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 over-ridden by the required votes 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 six 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 Secretary of the Interior 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. 14. *Copies of resolutions and ordinances to be forwarded to provincial board.*— Within thirty-six hours after a session of the municipal board, the secretary of the board shall forward to the provincial board of Samar a true copy of each resolution and approved ordinance passed at such session. When an ordinance has not been approved by the Mayor within such time, the copy shall thereafter be forwarded immediately upon approval, or, in case of an ordinance passed over the mayor's veto, immediately upon such passage.

Upon the receipt of such copies of resolutions and ordinances passed by the municipal board, the provincial board shall examine the same. If the provincial board should in any case find that any resolution or ordinance is beyond the powers conferred upon the municipal board, it shall declare such resolution or ordinance invalid, and shall thereupon enter its action upon the minutes and advise the municipal board thereof. The effect of such action shall be to annul the resolution or ordinance, subject to the action of the Secretary of the Interior as hereinafter provided.

SEC. 15. *Appeal from action of provincial board.*—Should the municipal board be dissatisfied with the decision of the provincial board, an appeal may be taken by a two third vote of the board to the Secretary of the Interior, who shall decide the same question which was presented to the provincial board. If the decision of provincial board is affirmed, the resolution or ordinance involved shall be null and void. If, however, the Secretary of the Interior shall reverse the decision of the provincial board, then in that case notice of his decision shall be given to the provincial board and to the municipal board, and upon receipt of such notice, the resolution or ordinance shall be revived and come into force again.

Pending the decision on appeal from a decision of the provincial board annulling any resolution or ordinance, the same shall have no force or effect.

SEC. 16. *General powers and duties of the board.*— Except as otherwise provided by law, and subject to the conditions and limitations thereof, 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