

ERLINDO P. LAPLANA  
SP Member

TERESITA J. VELOSO  
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CARLO S. ENRIQUEZ  
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TEODORO MARTINEZ  
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CARL NICOLAS C. CARI  
SP Member

Excerpt from the  
MINUTES OF THE 20<sup>th</sup> REGULAR SESSION OF THE SECOND SANGGUNIANG  
PANLUNGSOD OF BAYBAY, LEYTE HELD IN THE SESSION HALL ON DECEMBER  
10, 2007.

**PRESENT:**

HON. REX A. RETANA.....	City Vice Mayor & Presiding Officer
HON. ERNESTO M. BUTAWAN.....	Sangguniang Panlungsod Member
HON. CRISTELO S. LORETO.....	-do-
HON. EDUARDO S. GUINOCOR, JR.....	-do-
HON. LEONIDO A. BERAY.....	-do-
HON. LOLITO C. MUÑEZ.....	-do-
HON. ERLINDO P. LAPLANA.....	-do-
HON. TERESITA J. VELOSO.....	-do-
HON. CARLO S. ENRIQUEZ.....	-do-
HON. TEODORO MARTINEZ.....	ABC President, Ex-Officio
HON. CARL NICOLAS C. CARI.....	SK Federation President



**ABSENT:**  
NONE

**CITY ORDINANCE NO. 003  
S. 2007**

**AN ORDINANCE ENACTING THE REAL PROPERTY TAX CODE OF THE CITY OF BAYBAY**

Principally Authored and Introduced by Hon. Carlo S. Enriquez; Also Authored by  
Hon. Erlindo P. Laplana

BE IT ORDAINED, by the Sangguniang Panlungsod of the city of Baybay, in session, that:

SECTION 1. There is hereby enacted a Real Property Tax Code that shall govern taxation on all real properties located within the territorial jurisdiction of the city of Baybay, as allowed under Title Two of the Local Government Code of 1991, R.A. No. 7160, as implemented under Rule XXXI of the Implementing Rules and Regulations.

SECTION 2. Definition of Terms. When used in this Code, the following terms shall have the following definitions:

- (a) "Acquisition Cost" for newly-acquired machinery not yet depreciated and appraised within the year of its purchase, refers to the actual cost of the machinery to its present owner, plus the cost of transportation, handling, and installation at the present site;
- (b) "Actual Use" refers to the purpose for which the property is principally or predominantly utilized by the person in possession thereof;
- (c) "Ad Valorem Tax" is a levy on real property determined on the basis of a fixed proportion of the value of the property;
- (d) "Agricultural Land" is land devoted principally to the planting of trees, raising of crops, livestock and poultry, dairying, salt making, inland fishing and similar aquaculture activities, and other agricultural activities, and is not classified as mineral, timber, residential, commercial or industrial land;
- (e) "Appraisal" is the act or process of determining the value of property as of a specific date



(Cont'd. City Ord. No. 003 s. 2007)

- for a specific purpose;
- (f) "Assessment" is the act or process of determining the value of a property, or proportion thereof subject to tax, including the discovery, listing, classification, and appraisal of properties;
  - (g) "Assessment Level" is the percentage applied to the fair market value to determine the taxable value of the property;
  - (h) "Assessed Value" is the fair market value of the real property multiplied by the assessment level. It is synonymous to taxable value;
  - (i) "Commercial Land" is land devoted principally for the object of profit and is not classified as agricultural, industrial, mineral, timber, or residential land;
  - (j) "Depreciated Value" is the value remaining after deducting depreciation from the acquisition cost;
  - (k) "Economic Life" is the estimated period over which it is anticipated that a machinery or equipment may be profitably utilized;
  - (l) "Fair Market Value" is the price at which a property may be sold by a seller who is not compelled to sell and bought by a buyer who is not compelled to buy;
  - (m) "Improvement" is a valuable addition made to a property or an amelioration in its condition, amounting to more than a mere repair or replacement of parts involving capital expenditures and labor, which is intended to enhance its value, beauty or utility or to adapt it for new or further purposes;
  - (n) "Industrial Land" is land devoted principally to industrial activity as capital investment and is not classified as agricultural, commercial, timber, mineral or residential land;
  - (o) "Machinery" embraces machines, equipment, mechanical contrivances, instruments, appliances or apparatus which may or may not be attached, permanently or temporarily, to the real property. It includes the physical facilities for production, the installations and appurtenant service facilities, those which are mobile, self-powered or self-propelled, and those not permanently attached to the real property which are actually, directly, and exclusively used to meet the needs of the particular industry, business or activity and which by their very nature and purpose are designed for, or necessary to its manufacturing, mining, logging, commercial, industrial or agricultural purposes;
  - (p) "Mineral Lands" are lands in which minerals, metallic or non-metallic, exist in sufficient quantity or grade to justify the necessary expenditures to extract and utilize such materials;
  - (q) "Reassessment" is the assigning of new assessed values to property, particularly real estate, as the result of a general, partial, or individual reappraisal of the property;
  - (r) "Remaining Economic Life" is the period of time expressed in years from the date of appraisal to the date when the machinery becomes valueless;
  - (s) "Remaining Value" is the value corresponding to the remaining useful life of the machinery;
  - (t) "Replacement or Reproduction Cost" is the cost that would be incurred on the basis of the current prices, in acquiring an equally desirable substitute property, or the cost of reproducing a new replica of the property on the basis of current prices with the same or closely similar material; and
  - (u) "Residential Land" is land principally devoted to habitation.

**SECTION 3. Real Property Subject to Tax.** All real properties such as lands, buildings, machineries, and other improvements temporarily or permanently attached to the real property located in the city of Baybay, not hereinafter specifically mentioned as exempt, are taxable.

**SECTION 4. Exemptions from Payment of Real Property Tax.** The following are exempted from real property tax:

- (a) All real property owned by the Republic of the Philippines or any of its political subdivisions, except when the beneficial use thereof has been granted, for consideration or otherwise, to a taxable person;
- (b) Charitable institutions, churches, parsonages, or convents appurtenant thereto, mosques, nonprofit or religious cemeteries and all lands, buildings, and improvement actually, directly, and exclusively used for religious, charitable or educational purposes;

- more over -

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- (c) All machineries and equipment that are actually, directly, and exclusively used by local water districts and government-owned or-controlled corporations engaged in the supply and distribution of water and/or generation transmission of electric power;
- (d) All real property owned by duly registered cooperatives as provided in RA 6938; and
- (e) Machinery and equipment exclusively used for pollution control and environmental protection.

Except as provided herein, any exemption from payment of real property tax previously granted to or presently enjoyed by all persons, whether natural or juridical, including all government-owned or-controlled corporations, are hereby withdrawn upon the effectivity of this Code.

SECTION 5. Real Property Identification System. All declarations of real property made under the provisions of this Code shall be kept and filed under a uniform classification system to be established by the city assessor.

SECTION 6. Assessment and Appraisal of Real Property. All real property, whether taxable or exempt, shall be appraised at the current and fair market value prevailing in the locality where the property is situated in accordance with the necessary rules and regulations promulgated by the Department of Finance for the classification, appraisal, and assessment of real property pursuant to the provisions of R.A. 7160; Provided, however, that in cases where (a) real property is declared and listed for taxation purposes for the first time; (b) there is an ongoing general revision of property classification and assessment; or (c) a request is made by the person in whose name the property is declared, the city assessor or his deputy shall, in accordance with the provisions of Chapter I, Book II of R.A. 7120, make a classification, appraisal and assessment of the real property listed and described in the declaration irrespective of any previous assessment or taxpayer's valuation thereon; Provided, further, that the assessment of real property shall not be increased oftener than once every three (3) years except in case of new improvements substantially increasing the value of said property or of any change in its actual use.

SECTION 7. Adoption of the Schedule of Market Values. The Schedule of Fair Market Values as implemented and/or used pursuant to the 12<sup>th</sup> revision, approved by the province of Leyte, is hereby adopted; Provided, that there shall be a moratorium of five (5) years upon the approval of this Code before another revision may be made. This revision and subsequent revisions shall be published in a newspaper of general circulation in the city and/or posted in the city hall and in two (2) other conspicuous public places therein.

SECTION 8. Assessment Levels. The assessment levels adopted in the 12<sup>th</sup> Revision of Assessments by the Province of Leyte shall be applied to the fair market value of real property to determine its assessed value. The following rates for the following classes and classifications shall apply:

(a) On Lands:

Class

Assessment Levels

Residential	20%
Agricultural	40%
Commercial	50%
Industrial	50%
Mineral	50%
Timberland	20%

(b) On Buildings and Other Structures

(1) Residential

Fair Market value

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Over	Not Over	Assessment Levels
P 175,000.00	P 175,000.00	0%
300,000.00	300,000.00	5%
500,000.00	500,000.00	15%
750,000.00	750,000.00	20%
1,000,000.00	1,000,000.00	25%
2,000,000.00	2,000,000.00	30%
5,000,000.00	5,000,000.00	35%
10,000,000.00	10,000,000.00	45%
		50%

(2) Agricultural  
Fair Market value

Over	Not Over	Assessment Levels
P 300,000.00	P 300,000.00	25%
500,000.00	500,000.00	30%
750,000.00	750,000.00	35%
1,000,000.00	1,000,000.00	40%
2,000,000.00	2,000,000.00	45%
		50%

(3) Commercial/Industrial  
Fair Market Value

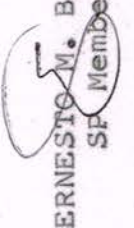

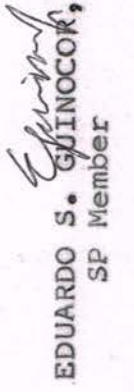


Over	Not Over	Assessment Levels
P 300,000.00	P 300,000.00	30%
500,000.00	500,000.00	35%
750,000.00	750,000.00	40%
1,000,000.00	1,000,000.00	50%
2,000,000.00	2,000,000.00	60%
5,000,000.00	5,000,000.00	70%
10,000,000.00	10,000,000.00	75%
		80%


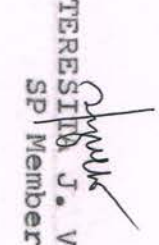
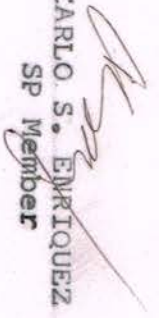


(4) Timberland  
Fair Market value

Over	Not Over	Assessment Levels
P 300,000.00	P 300,000.00	45%
500,000.00	500,000.00	50%
750,000.00	750,000.00	55%
1,000,000.00	1,000,000.00	60%
2,000,000.00	2,000,000.00	65%
		70%

(c) Machineries  
Class

	Assessment Levels
Agricultural	40%
Residential	50%
Commercial	80%
Industrial	80%

  
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(d) Special Classes: The assessment levels for all lands, buildings, machineries and other improvements; Actual Use	Assessment Levels
Cultural	15%
Scientific	15%
Hospital	15%
Local Water Districts	10%
Government-owned or controlled corporations engaged in the supply and distribution of water and/or generation and transmission of electric power	10%

The city assessor shall prepare and submit to the city treasurer on or before the 31<sup>st</sup> day of December each year, an assessment roll containing a list of all persons whose real properties have been newly assessed or reassessed and the values of such properties.

SECTION 9. Classes of Real Property for Assessment Purposes. For purposes of assessment, the real properties in the city are hereby classified as residential, agricultural, commercial, industrial, mineral, timberland, or special in accordance with the city's zoning ordinances.

All lands, buildings, and other improvements thereon, directly and exclusively used for hospitals, cultural, or scientific purposes, and those owned and used solely by local water districts, and government-owned or-controlled corporations rendering essential public services in the supply and distribution of water and/or generation and transmission of electric power shall be classified as special real property.

SECTION 10. Rate of Levy. There is hereby levied an annual *ad valorem* tax on real property such as lands, buildings, machineries, and other improvements not specifically exempted herein, at the rate of one percent (1%) of the assessed value.

SECTION 11. Additional Levy on Real Property for the Special Education Fund (SEF). There is hereby levied an annual tax of one percent (1%) on the assessed value of real property, which shall be in addition to the basic real property tax, the proceeds thereof shall exclusively accrue to the Special Education Fund.

SECTION 12. Additional *Ad Valorem* Tax on Idle Lands. There is hereby imposed an annual *ad valorem* tax on idle lands at a rate of five percent (5%) of the assessed value of the property, which shall be in addition to the basic real property tax. The city assessor shall make and keep an updated record of all idle lands located within his area of jurisdiction, and for purposes of collection, he shall furnish a copy thereof to the city treasurer who shall notify, on the basis of such record, the owner of the property or person having legal interest therein, of the imposition of the additional tax.

For purposes of real property taxation, idle lands include the following:

- Agricultural lands, more than one (1) hectare in area, suitable for cultivation, dairying, inland fishery and other agricultural uses, one-half of which remain uncultivated or unimproved by the owner of the property or person having legal interest therein. Agricultural lands planted to permanent or perennial crops with at least fifty (50) trees to a hectare shall not be considered idle lands. Land actually used for grazing purposes shall, likewise, not be considered idle lands;
- Lands, other than agricultural, located in the poblacion of the city of Baybay of more than one thousand (1,000) square meters in area, one-half (1/2) of which remain unutilized or unimproved by the owner of the property or person having legal interest therein; and
- Regardless of land area, this provision shall, likewise, apply to residential lots in subdivisions duly approved by proper authorities, the ownership of which has been

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transferred to individual owners, who shall be liable for the additional tax.; Provided, however, that individual lots of such subdivisions the ownership of which has not been transferred to the buyer shall be considered as part of the subdivision and shall be subject to the additional tax payable by subdivision owners or operators.

SECTION 13. Exemptions from Idle Land Tax. The idle land tax shall not apply to landowners who are unable to improve, utilize, or cultivate their lands due to any of the following causes:

- (a) Financial losses of the owner due to force majeure such as fire, flood, typhoon, earthquake and other cause of similar nature declared by the owner in a sworn statement to be submitted to the city assessor stating the ground or grounds thereof. If the idle land is not improved within two (2) years from the date of the occurrence of the loss, the tax provided under this Section shall be imposed;
- (b) Existing civil disturbance, such as court litigations involving land subject to tax mentioned in the Section as certified to by the court under which the case is pending, unless said land is not improved within one (1) year after the final adjudication of the case; and
- (c) Acquired subdivision lots which remain idle due to the failure of the subdivision developers or owners to develop the said subdivision in accordance with the approved subdivision plan as determined by the city assessor. If within one (1) year, from the time the subdivision is developed, the said lot still remains unutilized or unimproved, the tax provided under this Section shall be imposed.

SECTION 14. Collection of Tax. The collection of the real property tax, interest thereon and related expenses, and the enforcement of the remedies provided for in this Code or any applicable law, shall be the responsibility of the city treasurer. The city treasurer shall, on or before the thirty-first (31) day of January each year, in the case of the basic real property tax and the additional tax for the Special Education Fund (SEF) or on any other date to be prescribed by the Sanggunian in the case of any other tax levied under this Code, post the notice of the dates when the tax may be paid without interest at a conspicuous and publicly accessible place at the city hall. Said notice shall likewise be published in a newspaper of general circulation in the city once a week for two (2) consecutive weeks.

- (a) The city treasurer may deputize the barangay treasurers to collect all taxes on real property located in the barangay; Provided, that the barangay treasurer is properly bonded for the purpose; Provided, further, that the premium on the bond shall be paid by the city government;
- (b) The basic tax and the additional Special Education Fund (SEF) realty tax shall be collected together. In case only a portion of the tax is paid, such payment shall be equally divided and applied to both.

Payments of real property taxes shall first be applied to prior year delinquencies, interest, and penalties, if any, and only after said delinquencies are settled shall tax payments be credited for the current period.

SECTION 15. Date of Accrual of Tax. The basic real property tax and the additional one percent (1%) tax on Special Education Funds (SEF) for any year shall accrue on the first day of January and from that date it shall constitute a lien on the property which shall be superior to any other lien, mortgage, or encumbrances or any kind whatsoever, and shall be extinguished only upon the payment of the delinquent tax. The same may, however, at the discretion of the taxpayer, be paid without penalty in four (4) equal installments every year, as follows:

- (a) The first installment shall be on before March 31<sup>st</sup>
- (b) The second installment shall be on before June 30<sup>th</sup>
- (c) The third installment shall be on or before September 30<sup>th</sup>; and
- (d) The fourth and last installment shall be on or before December 31<sup>st</sup>.

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SECTION 16. Tax Discount for Advance/Prompt Payment. There is hereby granted a discount on the real property tax payable if the basic realty tax and the additional Special Education Fund (SEF) realty tax are current and paid, as follows:

- (a) Twenty percent (20%) discount if total tax due is paid in full on or before March 31st; and
- (b) Ten percent (10%) discount if the tax is paid within the quarterly schedule of payments provided in Section 15.

SECTION 17. Notice of Delinquency in the Payment of the Real Property Tax.

- (a) When the real property tax or any other tax imposed under this Code becomes delinquent, the city treasurer shall immediately cause a notice of the delinquency to be posted at the main entrance of the city hall and in a publicly accessible and conspicuous place in each barangay in the city of Baybay. The notice of delinquency shall also be published once a week for two (2) consecutive weeks in a newspaper of general circulation in the city.
- (b) Such notice shall specify the date upon which the tax became delinquent and shall state that the personal property may be distrained to effect payment. It shall likewise state that at any time before the distraint of personal property, payment of the tax with surcharges, interest and penalties may be made in accordance with Section 23 provided herein and unless the tax, surcharges and penalties are paid before the expiration of the year for which the tax is due, except when the notice of assessment or special levy is contested administratively or judicially pursuant to the provisions of this Code. The delinquent real property may also be sold at public auction, and the title to the property shall be vested in the purchaser, subject, however to the right of the delinquent owner of the property or any person having legal interest therein to redeem the property within one (1) year from the date of sale.

SECTION 18. Interest on Unpaid Real Property tax. In case of failure to pay the basic real property tax or any other tax levied under this Code upon the expiration of the periods as provided for here in Section 15, or when due, as the case may be, shall subject the tax payer to the payment of interest at the rate of two percent (2%) per month on the unpaid amount or a fraction thereof, until the delinquent tax shall have been fully paid; Provided, however, that in no case shall the total interest on the unpaid tax or portion thereof exceed thirty six (36) months.

SECTION 19. Distribution of Proceeds. The proceeds of the basic real property tax, including interest thereon, and proceeds from the use, lease or disposition, sale or redemption of property acquired at a public auction in accordance with the provisions of this Code by the city shall be distributed as follows:

- (a) Seventy-percent (70%) shall accrue to the general fund of the city;
- (b) Thirty-percent (30%) shall be distributed among the component barangays of the city in the following manner:
  - (1) Fifty-percent (50%) shall accrue to the barangay where the property is located; and
  - (2) Fifty-percent (50%) shall accrue equally to all component barangays of the city.

The share of each barangay shall be released directly to the barangay treasurer on a quarterly basis within five (5) days after the end of each quarter, without need of any further action, and shall not be subject to any lien or holdback for whatever purposes.

SECTION 20. Application of Proceeds of the Additional One Percent (1%) Special Education Fund Tax.

- (a) The proceeds of the additional one percent (1%) real property tax accruing to the special education fund shall be automatically released to the local school board in this city.
- (b) Said proceeds shall be allocated as determined and approved by the Local School Board in this city only for the following purposes:

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- (1) Operation and maintenance of public schools;
- (2) Construction and repair of school buildings, facilities and equipment;
- (3) Educational research;
- (4) Purchase of books and periodicals; and
- (5) Sports development.

SECTION 21. Proceeds of the Tax on Idle Lands. The collection of additional real property tax on idle lands shall accrue to the general fund of the city. Accordingly, the proceeds of this tax shall be treated in the income account as revenue from taxation.

SECTION 22. Proceeds of the Special Levy. The proceeds of the special levy on lands benefited by public works, projects, and other improvements financed by the city shall accrue to the general fund of the city; Provided, that a tax ordinance imposing a special levy shall be enacted by the Sanggunian Panlungsod describing with reasonable accuracy the nature, extent, and location of the public works projects or improvements to be undertaken, state the estimated cost thereof, specify the metes and bounds by monuments and lines and the number of annual installments for the payment of the special levy which in no case shall be less than five (5) nor more than ten (10) years. Accordingly, all income derived from this special levy shall be treated in the income account as revenue from taxation.

SECTION 23. Remedies for Collection of Real Property tax. For the collection of the basic real property tax and any other tax levied under this Code, the city may avail of any of the remedies by administrative or judicial function. The administrative remedies, which are summary in nature, are:

- (a) Levy on real property; and
- (b) Sale of real property at public auction.

The judicial remedy is availed of in the court of appropriate jurisdiction. These remedies are cumulative, simultaneous and unconditional, that is, any or all of the remedies or combination thereof may be resorted to and the use or non-use of one (1) remedy shall not be a bar against the institution of others. Formal demand for the payment of the delinquent taxes and penalties due is not a pre-requisite to such remedies. The Notice of Delinquency required under Section 17 of this Code shall be sufficient for the purpose as provided for under Art. 347 of the IRR of RA 7160.

SECTION 24. Local Government Lien. The basic real property tax and any other tax levied under this Code constitute a lien on the property subject to tax, superior to all liens, charges or encumbrances in favor of any person, real or juridical, irrespective of the owner or possessor thereof, enforceable by administrative or judicial action, and may only be extinguished upon payment of the tax and the related interests and expenses.

SECTION 25. Levy on Real Property. After the expiration of the time required paying the basic real property tax or any other tax levied under this Code, real property subject to such tax may be levied upon through the issuance of a warrant on or before, or simultaneously with, the institution of the civil action for the collection of the delinquent tax. Levy on real property shall be made in the manner herein set forth:

- (a) The city treasurer, when issuing a warrant of levy, shall prepare a duly authenticated certificate showing the name of the delinquent property owner or person having legal interest therein, the description of the property, the amount of the tax and interest thereon;
- (b) The warrant shall be mailed to or served upon the delinquent real property owner or person having legal interest therein. In case he is out or cannot be located, to the occupant or administrator of the subject property;
- (c) Written notice of the levy with the attached warrant shall be mailed to or served upon the assessor and the registrar of deeds of the province or city where the property is located;
- (d) The assessor and the registrar of deeds shall annotate the levy on the tax declaration or Field Assessment Appraisal Sheet (FAAS) and on the certificate of title of the property, respectively; and

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(Cont'd City Ord. 003 2007)

- (e) The levying officer shall submit a written report on the levy to the Sangguniang Panlungsod of this city within ten (10) days after the receipt of the warrant by the property owner or person having legal interest in the property.

SECTION 26. Penalty of Failure to Issue and Execute Warrant. Without prejudice to criminal prosecution under the Revised Penal Code and other applicable laws, any local treasurer who fails to issue or execute the warrant of distraint or levy after the expiration of the time prescribed, or who is found guilty of abusing the exercise thereof, by competent authority, shall be automatically dismissed from the service after due notice and hearing.

SECTION 27. Advertisement and Sale. Within thirty (30) days after levy, the city treasurer shall proceed to publicly advertise for sale or auction the property or a usable portion thereof, as may be necessary to satisfy the tax delinquency and expenses of sale, and such advertisement shall cover a period of at least thirty (30) days. It shall be effected by posting a notice at the main entrance of the city hall, and in a public and conspicuous place in the barangay where the real property is located, and by publication once a week for two (2) weeks in a newspaper of general circulation in the city. The advertisement shall specify the amount of the delinquent tax, fees or charges, the interests and penalties due thereon and expenses of sale, the time and place of sale, the name of the owner of the real property, or person having legal interest therein, or taxpayer against whom the taxes, fees, or charges are levied, and a short description of the property to be sold. At any time before the date fixed for the sale, the owner of the real property or person having legal interest therein may stay the proceedings by paying the full amount of the delinquent tax, the fees, charges, penalties, interest and the expenses of sale. If he fails to do so, the sale shall proceed and shall be held either at the main entrance of the city hall, or on the property to be sold, or at any place as specified in the notice of the sale.

Within thirty (30) days after the sale, the city treasurer or his deputy shall make a report of the sale to the Sangguniang Panlungsod and which shall form part of his/her records. The city treasurer shall prepare and deliver to the purchaser a certificate of sale, which shall contain the name of the purchaser, a description of the property sold, the amount of delinquent taxes, fees, charges and related surcharges, interest or penalties, the expenses of the sale and a brief description of the proceedings; Provided, that any excess in the proceedings of the sale over the claim and cost of sale shall be remitted to the owner of the property or person having legal interest therein.

The city treasurer may, by duly approved ordinance, advance an amount sufficient to defray the costs of collection through the remedies provided for in this Code and such other existing tax ordinances, including the preservation or transportation in case of personal property, and the advertisement and subsequent sale, in case of personal and real property including improvements thereon.

SECTION 28. Redemption of Property Sold. Within one (1) year from the date of sale, the delinquent taxpayer of his representative, shall have the right to redeem the property upon payment to the city treasurer the total amount of taxes, fees, or charges, and related surcharges, interest or penalties from the date of delinquency to the date of sale, plus interest of not more than two percent (2%) per month on the purchase price from the date of purchase to the date of redemption. Such payment shall invalidate the certificate of sale issued to the purchaser and the owner shall be entitled to a certificate of redemption from the city treasurer or his deputy.

From the date of sale until the expiration of the period of redemption, the delinquent real property shall remain in the possession of the owner or person having legal interest therein, who shall be entitled to the income and other fruits thereof.

The city treasurer or his deputy, upon surrender by the purchaser of the certificate of sale previously issued to him, shall forthwith return to the latter the entire purchase price, paid by him plus the interest of not more than two percent (2%) per month herein provided for, the portion of the cost of sale and other legitimate expenses incurred by him and said property thereafter shall be free from the lien of such taxes, fees or charges, related surcharges, interest, and penalties and expenses of sale.

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SECTION 29. Final Deed to Purchaser. In case the owner or person having legal interest therein fails to redeem the property as provided herein, the city treasurer shall execute a deed conveying to the purchaser so much of the property as has been sold, free from liens of any taxes, fees, charges, related surcharges, interests, penalties and expenses of sale. The deed shall briefly state all the proceedings upon which the validity of the sale depends.

SECTION 30. Purchase of Property by the City for Want of Bidder. In case there is no bidder for the real property advertised for sale as provided herein, or if the highest bid is for an amount insufficient to pay the taxes, fees, or charges, related surcharges, interests, penalties, costs and expenses of sale, the city treasurer conducting the sale shall purchase the property in behalf of the city of Baybay to satisfy the claim and within two (2) days thereafter shall make a report of the proceedings which shall be reflected upon the records of his office. It shall be the duty of the registrar of deeds concerned to transfer the title of the forfeited property to the city without the necessity of an order from a competent court.

Within one (1) year from the date of such forfeiture, the owner or person having legal interest or taxpayer or any of his representative, may redeem the property by paying to the city treasurer the full amount of taxes, fees, charges, and related surcharges, interests, or penalties, and the cost of sale. If the property is not redeemed as provided herein, the ownership thereof shall be fully vested on the city.

SECTION 31. Resale of Real Estate Taken for Taxes, Fees or Charges. The Sangguniang Panlungsod may, by ordinance duly approved, and upon notice of not less than twenty (20) days, sell and dispose of the real property acquired under the preceding section at public auction. The proceeds of the sale shall accrue to the general fund of the city of Baybay.

SECTION 32. Further Dstraint or Levy. The remedies by dstraint and levy may be repeated, if necessary, until the full amount due, including all expenses, are collected.

SECTION 33. Personal Property Exempt from Dstraint or Levy. The following property shall be exempted from dstraint and the levy, attachment or execution thereof, for delinquency in the payment of any local tax, fee or charge, including the related surcharge and interest:

- (a) Tools and the implements necessarily used by the delinquent taxpayer in his trade or employment;
- (b) One (1) horse, cow, carabao, or other beast of burden, such as the delinquent taxpayer may select, and necessarily used by him in his ordinary occupation;
- (c) His necessary clothing, and that of all his family;
- (d) Household furniture and utensils necessary for housekeeping and used for that purpose by the delinquent taxpayer, such as he may select, of a value not exceeding Ten thousand pesos (P10,000.00);
- (e) Provisions, including crops, actually provided for individual or family use sufficient for four (4) months;
- (f) The professional libraries of doctors, engineers, lawyers and judges;
- (f) One (1) fishing boat and net, not exceeding the total value of Ten thousand pesos (P10,000.00) by the lawful use of which a fisherman earns his livelihood; and
- (g) Any material or article forming part of a house or improvement of any real property.

SECTION 34 Collection of Delinquent Taxes, Fees, Charges or Other Revenue through Judicial Action. The city may enforce the collection of delinquent taxes, fees, charges or other revenues by civil action in any court of competent jurisdiction.

SECTION 35. Collection and Prescriptive Period through Judicial Action. The city shall enforce the collection of the basic real property tax or any other tax levied by civil action in a court of competent jurisdiction within five (5) years from the date they become due. No action for the collection of the tax, whether administrative or judicial shall be instituted after the expiration of such period. However, in case of

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(Cont'd City Ord. 003 s. 2007)

fraud or intent to evade payment of the same, civil action may be instituted within ten (10) years from the discovery of such fraud or intent to evade payment.

#### SECTION 36. Grounds for Suspension of Prescriptive Period within to Collect.

- (a) When the city treasurer is legally prevented from collecting the tax;
- (b) When the owner of the property or the person having legal interest therein request for re-investigation and execute a waiver in writing before the expiration within which to collect; and
- (c) When the owner of the property or the person having legal interest therein is out of the country or otherwise cannot be located.

SECTION 37. Appeal of Assessment. For purposes of this Code, any owner or person having legal interest in the property who is not satisfied with the action of the city assessor in the assessment of his property may, within sixty (60) days from the date of receipt of the written notice of assessment, appeal to the city of Baybay Board of Assessment Appeal by filing a petition under oath in the form prescribed for the purpose in three (3) copies, together with the same number of copies of the tax declarations or FAAS and such affidavits or documents submitted in support of the appeal.

This Ordinance hereby constitutes the city of Baybay Board of Assessment Appeals which shall be composed of the registrar of deeds as Chairman and the city prosecutor and city engineer as Members who shall serve in an ex-officio capacity without additional compensation. The board chairman shall have the power to designate any employee of the city to act as Board Secretary who shall also serve as head of the Board Secretariat also without additional compensation.

The Board of Assessment Appeals shall meet once a month, and as often as may be necessary, for the prompt dispensation of appealed cases, and shall conduct ocular inspections of the property whose assessment is under appeal. The city Board of Assessment Appeals shall have the following powers and functions:

- (a) The Board shall decide the appeal within one hundred twenty (120) days from the date of receipt of such appeal. The Board, after hearing, shall render its decision based on substantial evidence or such relevant evidence on record as a reasonable mind might accept as adequate to support the conclusion.
- (b) In the exercise of its appellate jurisdiction, the board shall have the power to summon witnesses, administer oaths, take depositions, and issue subpoena and subpoena duces tecum. The proceedings of the Board shall be conducted solely for the purpose of ascertaining the facts without necessarily adhering to technical rules applicable in judicial proceedings; and
- (c) The secretary of the Board shall furnish the owner of the property or the person having legal interest therein and the city assessor with a copy of the decision of the Board. In case the city assessor concurs in the revision or the assessment, it shall be his duty to notify the owner of the property or the person having legal interest therein of such fact using the form prescribed for the purpose. The owner of the property or the person having legal interest therein or the city assessor who is not satisfied with the decision of the Board, appeal to the Central Board of Assessment Appeals, as herein provided. The decision of the Central Board shall be final and executory.

SECTION 38. Effects of Appeal in the Payment of Real Property Tax. Appeals on the assessment of real property shall, in no case, suspend the collection of the corresponding realty taxes involved as assessed by the city assessor, without prejudice to subsequent adjustment dependent upon the final outcome of the appeal.

SECTION 39. Payment under Protest. No appeal or protest on assessment shall be entertained unless the taxpayer first pays the realty tax and there shall be annotated on the tax receipts the words "paid under protest." The protest in writing must be filed within thirty (30) days from payment of tax to the city treasurer who shall decide the protest within sixty (60) days from receipt.

- more over -

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The tax or a portion thereof paid under protest shall be held in trust by the city treasurer. In the event that the protest is finally decided in favor of the taxpayer, the amount or portion of the tax protested shall be refunded to the protestant, or applied as tax credit against his existing or future tax liability. In the event that the protest is denied or upon the lapse of the sixty (60) day period prescribed in the first paragraph of this section, the taxpayer may avail of the remedies as provided for in Chapter 3, Title II, and Book II of the Local Government Code.

#### SECTION 40. Special Provisions.

- (a) The expenses incident to the general revision of real property assessment shall be provided for by the city government and the barangays.
- (b) It shall be the duty of the register of deeds and notaries public to furnish the city assessor with copies of all contracts selling, transferring or otherwise conveying, leasing, or mortgaging real property received or acknowledged before them.
- (c) The building official entrusted by laws with the issuance of permits for the construction, renovation, addition, repair or any other permanent improvement on land, or those who are authorized to issue certificates of registration or installation of any machinery, including mechanical contrivances and apparatus attached to or affixed on land or any other real property, shall transmit within thirty (30) days from the date of issuance a copy of such permits or certificates to the city assessor. The building official shall likewise furnish the city assessor with copies of the building floor plans and/or certificates of registration or installation of other machineries, which may not be permanently or temporarily attached to the land or another real property.
- (d) Insurance companies are hereby required to furnish the city assessor copies of any contract or policy insurance on buildings, structures, and improvements insured by them or other documents necessary for the assessment thereof.
- (e) It shall be the duty of all persons, natural or juridical, owning or administering real property, including the improvements thereon within the city of Baybay or their duly authorized representatives, to prepare or cause to be prepared and filed with the city assessor a sworn statement declaring the current and fair market value of their real property whether previously declared or undeclared taxable or exempt once every three (3) years, commencing immediately upon approval of this Code.
- (f) Any person who fails to file the sworn statement declaring the current and fair market value of his property within the prescribed period of filing shall, upon conviction, be punished by a fine of not more than five thousand pesos (P5, 000.00), or by imprisonment of not more than six (6) months, or both, at the discretion of the court.
- (g) A case shall not be filed in court against real property owner who failed to file the sworn statement herein mentioned if he voluntarily agrees to pay the following:
  - (1) A standard fine of three hundred pesos (P300.00) if the sworn statement is filed within a grace period of thirty (30) days after the last day of filing.
  - (2) If the sworn statement is not filed by the person concerned within thirty (30) days after the deadline, the fine shall be equivalent to one-fourth of one percent (1/4 of 1%) of the assessed value of his property located in the city of Baybay plus the standard fine of three hundred pesos (P300.00); Provided, however, that the total fine shall not be less than four hundred pesos (P400.00) nor more than two thousand five hundred pesos (P2,500.00).
- (h) In case of juridical persons, the case shall be filed against the owner or person administering or managing the business or property.

SECTION 41. All other provisions of Title Two, Book II of the Local Government Code of 1991 on Real Property Taxation and its Implementing Rules and Regulations not included/provided in this Code are hereby adopted and incorporated as if herein expressed.

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(Cont'd City Ord. No. 003 s. 2007

SECTION 42. Separability Clause. If any portion or provision of this Code is declared unconstitutional, invalid, or inconsistent with any law, the same shall not affect the validity and effectivity of the other provisions not affected thereby.

SECTION 43. Effectivity. This Ordinance shall take effect upon its approval and publication in a newspaper of general circulation in the city or after posting for three (3) consecutive weeks in the city hall and in two (2) other conspicuous places.

ENACTED December 10, 2007.

RESOLVED, FURTHER, to let certified copies of this ordinance be furnished to the Honorable Sangguniang Panlalawigan of Leyte and other offices concerned for their information and appropriate action.

CARRIED UNANIMOUSLY.

I HEREBY CERTIFY to the correctness of the foregoing ordinance which was duly adopted by the Sangguniang Panlungsod during its regular session held on December 10, 2007.

ATTESTED AND CERTIFIED  
TO BE DULY ADOPTED

REX A. RETANA  
City Vice Mayor &  
Presiding Officer

AMELITO V. BORNEO  
Secretary to the SP

APPROVED BY HIS HONOR:

MICHAEL L. CARI  
City Mayor



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