

Republic of the Philippines
PROVINCE OF NEGROS ORIENTAL
CITY OF BAYAWAN
Office of the Sangguniang Panlungsod

EXCERPT FROM THE MINUTES OF THE REGULAR SESSION HELD BY THE CITY COUNCIL OF BAYAWAN, NEGROS ORIENTAL ON APRIL 10, 2008 AT 2 O'CLOCK P.M. AT THE SP SESSION HALL.

RECORD OF ATTENDANCE

Hon. Rene G. Gaudiel	Vice Mayor, Presiding Officer
Hon. Clayborne Clyde Lim	Present
Hon. Raul P. Martinez	Present
Hon. Oscar T. Villamil	Present
Hon. Luis J. Sumalpong	Present
Hon. Mark Fidencio L. Aurelia	Present
Hon. Francisco T. Diao	Present
Hon. Douglas T. Tijing	Present
Hon. Victoriano D. Alabastro	Present
Hon. Serafin Ra. Albito	Present
Hon. Urbistondo C. Renacia	Present
Hon. Hermelie T. Saraña (LNMB)	Present
Hon. Flintzel Dyan S. Diao	Present

RESOLUTION NO. 171

“WHEREAS, Bayawan City’s primary problem is deforestation and soil erosion which lead to a heavy siltation and flooding in the lowland;

“WHEREAS, facts have been established that only 2,937 hectares of forestland is left with forest cover scattered in small-sized patches in 14 barangays and it needs aggressive protection and development as a fast track solution of the aforementioned problem;

“WHEREAS, there have been reports and observations that there is rampant indiscriminate cutting of trees for lumber, charcoal, firewood and for other uses almost everyday that needs immediate and appropriate action to eliminate or regulate the same.

“WHEREFORE, on motion of Honorable Councilor Oscar T. Villamil, duly seconded by Honorable Councilor Francisco T. Diao, the council

“RESOLVED, To enact, as it hereby enacts the following ordinance, to wit:

ORDINANCE NO. 9

AN ORDINANCE TO PROHIBIT AND TO REGULATE, CUTTING, HARVESTING, DAMAGING, DESTROYING OR BURNING ALL KINDS OF TREES IN SPECIFIED AREAS IN THE CITY OF BAYAWAN AND PROVIDING PENALTIES IN VIOLATION THEREOF.

SECTION 1. Title

“An Ordinance to prohibit and to regulate, cutting, harvesting, damaging, destroying or burning all kinds of trees in specified areas in the City of Bayawan and providing penalties in violation thereof.”

SECTION 2. Policies - Bayawan City adheres to the following specific policies:

- a.) Establishment of mechanism for transparent, participatory and accountable management of lands both the alienable and disposable (A & D) lands and those classified as forestlands;
- b.) Promulgation of supportive local policies ordinances and incentives that induce private and public sector investments in alienable and disposable land, and or in forest, and forestland management;
- c.) Rehabilitation of fragile riverbanks of the Bayawan River Watershed as principal water production, agroforestry and food production areas;
- d.) Enhancement of community-based protections of the existing forest cover and development of more protection and productive forest cover for the production of water, food, lumber, wood, agroforestry, development of eco-tourism and; conservation of biological diversity.

SECTION 3. Definition of Terms

1. **BENRO** - Barangay Environment and Natural Resources Officer
2. **Burning** - damage something by fire: to injure, damage, or affect somebody or something with fire or extreme heat or the act of consuming by fire or heat or subjecting to effect of fire or heat; the state of being on fire or excessively heated.
3. **Trimming** - a piece cut off from the main part of something.
4. **Cutting** - cutting of the whole tree
5. **Damaging** - causing harm or injury.
6. **Destroy** - to ruin something or make something useless.
7. **Harvesting** - the removal of merchantable tree crops from the area; related to the felling of trees and the extraction of their stems or other usable parts from the forest for subsequent processing into industrial products
8. **Naturally grown trees** - are naturally occurring or growing trees without human intervention with woody stem, regardless of size and economic utility or end-use.
9. **Planted Trees** - are trees planted by man
10. **Prohibited areas** - are areas where cutting, harvesting, damaging, destroying and or burning of all kinds of trees are prohibited
11. **Regulated areas** are areas where cutting, harvesting, damaging, destroying and or burning of all kinds of trees are allowed subject to regulations prescribed by the LGU and DENR. This includes all areas in land classified as Alienable and Disposable except in portion designated for environmental protection or for public use.

SECTION 4. Regulated and Prohibited Areas

4.1 Regulated Areas

Harvesting, cutting, destroying or burning of all kinds of planted trees or natural grown trees are allowed within these areas subject to the following conditions:

4.1.1 Planted or naturally growing trees within alienable and disposable (A & D) lands and are growing in areas not designated by an ordinance as protection or stabilization zones, provided proper clearance is obtained from concerned Barangay Environment and Natural Resources Officer (BENRO).

4.1.2 Planted trees in areas designated by the Department of Environment and Natural Resources (DENR) and or Local Government Unit (LGU) as wood production areas and or agroforestry areas within the classified forestlands provided prior clearance is obtained from concerned BENRO duly affirmed by City Environment and Natural Resources Office (City ENRO) and DENR and provided further that the area is covered with valid land tenure instrument issued by the DENR, LGU or jointly by both entities.

4.1.3 Planted or naturally growing trees and plants of scenic values along public roads, plazas, parks, school premises provided clearance has been obtained from concerned authorities or office in-charge (school, plaza, parks) duly affirmed by CENRO and DENR.

4.1.4 Planted or naturally growing trees in all areas regardless of land classification that pose danger to human lives and properties provided there is written authorization from CENRO.

4.2 Prohibited Areas

Harvesting, cutting, destroying and or burning of all kinds of planted trees or natural grown trees including those classified as premium species for whatever purpose are absolutely prohibited not allowed in the following areas except when public safety is at stake:

4.2.1 Within 20 m strip of land along the edge of normal water line of rivers and streams with channel of at least 5 m wide if within alienable and disposable land.

4.2.2 within 40 m strip of land along the edge of normal water line of rivers and streams with channel of at least 5 m wide if within the forestlands.

4.2.3 within 5 meters of land along the edge of normal water line of rivers and streams including intermittent creeks and tributaries with channel of less than 5 m wide both in A & D and the forestlands.

4.2.4 Within classified forestlands not covered with valid land tenure instrument issued by the Department of Environment and Natural Resources (DENR), Local Government Unit (LGU) or jointly by both parties.

4.2.5 Within environmentally critical areas like slide-prone areas, steep slopes (> 50 % slope gradient), cliffs and in designated protection zones within forestlands.

4.2.6 Other designated protection zones regardless of land classification like water production areas, ecotourism areas and those designated for similar purposes as maybe declared by the LGU.

SECTION 5. Violation and Penalties

Any person violating any of the above provisions shall be penalized with the following:

5.1 Regulated areas

Failure to secure clearance and or permit to harvest, cut, damage or destroy regardless of purpose shall constitute a violation of this ordinance and shall be penalized as follows:

5.1.1 First offense – warning and outright stoppage of harvesting/cutting/damaging/destruction until proper clearance and or permit is obtained.

5.1.2 Second offense – outright confiscation of the cut/harvested trees and tree products including the machinery, equipment, implements and tools used therein in favor of the government. The offender shall also be required to replant equivalent number of plants/trees cut or damaged and take care the plants for at least three (3)

years. In case the offender fails to take care of the replanted trees for 3 years, he shall be required to pay a fine of no less than PhP 1,000.00 and not more than PhP 5,000.00.

5.1.3 third offense – outright confiscation of the cut/harvested trees and tree products including the machinery, equipment, implements and tools used therein in favor of the government. The offender shall also be required to replant equivalent number of plants/trees cut or damaged and take care the plants for at least three (3) years. In case the offender fails to take care of the replanted trees for 3 years, he shall be required to pay a fine of no less than PhP 1,000.00 and not more than PhP 5,000.00. In addition, if the offender is a public official, he/she shall be subjected to administrative proceedings. Furthermore, if the area is within the classified forestland, the offender shall be automatically disqualified to possess and or to apply the prescribed land tenure instrument.

5.2 Prohibited areas.

5.2.1 First offense – outright confiscation of cut/harvested trees and or tree products in favor of the barangay or city LGU. The offender shall also be required to replant equivalent number of plants/trees cut or damaged and take care the plants for at least three (3) years. In case the offender fails to take care of the replanted trees for 3 years, he shall be required to pay a fine of no less than PhP 1,000.00 and not more than PhP 5,000.00.

5.2.2 Second offense - outright confiscation of cut/harvested trees and or tree products, machinery, equipment, implements and tools used therein in favor of the barangay or City LGU. The offender shall also be required to replant twice the number of plants/trees cut or damaged and take care the plants for at least three (3) years. In case the offender fails to take care of the replanted trees for 3 years, he shall be required to pay a fine of no less than PhP 1,000.00 and not more than PhP 5,000.00. In addition, if the offender is a public official, he/she shall be subjected to administrative proceedings. Furthermore, if the area is within the classified forestland, the offender shall be automatically disqualified to possess and or to apply the prescribed land tenure instrument.

5.2.3 third offense - outright confiscation of cut/harvested trees and or tree products, machinery, equipment, implements and tools used therein in favor of the barangay or City LGU. The offender shall also be required to replant thrice the number of plants/trees cut or damaged and take care the plants for at least three (3) years. In case the offender fails to take care the replanted trees for 3 years, he shall be required to pay a fine of no less than PhP 1,000.00 and not more than PhP 5,000.00. In addition, if the offender is a public official, he/she shall be subjected to administrative proceedings. Furthermore, if the area is within the classified forestland, the offender shall be automatically disqualified to possess and or to apply the prescribed land tenure instrument

The subsidiary imprisonment shall be computed in accordance to the provisions of the Revised Penal Code, as amended. The Local Chief Executive is hereby authorized to enter into an extra-judicial compromise on penalties with imposed fees with any offender before a case be filed before the regular courts. The compromise shall be the payment of fine in the amount ranging from half of the imposable fine up to the maximum imposable fine, at the discretion of the Local Chief Executive.

SECTION 6. Monitoring and enforcement team

The team will be composed of representatives from the Barangay Environment and Natural Resources Officers (BENRO), Forest Management Unit (FMU) of the City

Environment and Natural Resources Office (City ENRO), Philippine National Police (PNP-Bayawan) and or the City Public Safety Office (CPSO) and from the local office of the Community Environment and Natural Resources Office (CENRO) of the Department of Environment and Natural Resources Office (DENR). Depending on the situation, monitoring and enforcement activities could be done individually by each member or through team effort.

SECTION 7. Separability Clause

For any reason or reasons, any part or provision of this ordinance shall be held unconstitutional or invalid, other parts or provisions hereof which are not affected thereby shall continue to be in full force and effect.

SECTION 8. Repealing Clause

All other ordinances, resolutions and issuances inconsistent with the provisions herein are repealed.

SECTION 9. Effectivity

This ordinance shall take effect after compliance with the provisions of the Local Government Code of 1991, R.A. No. 7160.

“Enacted.”

* * *

I hereby certify to the correctness of the foregoing resolution.

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JULIUS T. ESPARTERO
Secretary to the Sangguniang Panlungsod

ATTESTED:

RENE G. GAUDIEL
Vice Mayor
Presiding Officer

APPROVED: **MAY 06 2008**

GERMAN P. SARAÑA JR.
Mayor

COPY FOR:

- The Honorable Provincial Board, Dumaguete City