



Republic of the Philippines
PROVINCE OF ZAMBOANGA DEL SUR
Municipality of Dumingag
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OFFICE OF THE SANGGUNIANG BAYAN



EXCERPT FROM THE MINUTES OF THE 7th REGULAR SESSION OF THE 5th SANGGUNIANG BAYAN OF DUMINGAG, ZAMBOANGA DEL SUR HELD AT THE MUNICIPAL SESSION HALL ON September 10, 2007.

OFFICERS/MEMBERS	POSITION	PRESENT	ABSENT	OB	OL
Hon. Michael F. Morpos	Mun. Vice Mayor	/			
Hon. Francisco D. Gumban	SB Member	/			
Hon. Roger M. Pacalioga	SB Member	/			
Hon. Nita T. dela Torre	SB Member		/		
Hon. Corazon J. Mandao	SB Member	/			
Hon. Onofre E. Paculaba	SB Member	/			
Hon. Agustin M. Adapon	SB Member	/			
Hon. Edgar G. Daarol	SB Member	/			
Hon. Reynante G. Borling	SB Member	/			
Hon. Julius G. Jamero	Ex- Officio Member	/			
Hon. Mayfher L. Tangalin	Ex-Officio Member		/		
Mrs. Jessyl B. Palon	SB Secretary	/			

Ordinance No. 6, s. 2007

AN ORDINANCE PROVIDING FOR THE RULES OF PROCEDURE IN ADMINISTRATIVE CASES IN THE SANGGUNIANG BAYAN OF DUMINGAG, ZAMBOANGA DEL SUR.

Be it ordained by the Sangguniang Bayan of Dumingag, Zamboanga del Sur, that:

RULE I - GENERAL PROVISIONS

Section 1. Title. These Rules shall be known and cited as the Rules of Procedure in Administrative Cases.

Section 2. Applicability. These Rules shall be applicable to all disciplinary actions brought before the Sangguniang Bayan of Dumingag, Zamboanga del Sur against elective Barangay Officials within its jurisdiction.

Section 3. Grounds for Disciplinary Actions.

a) An elective Barangay Official may be censured, reprimanded, suspended, or removed from office after due notice and hearing on any of the following grounds:

1. Disloyalty to the Republic of the Philippines;
2. Culpable violation of the Constitution;
3. Dishonesty, oppression, misconduct in office, gross negligence, or dereliction of duty;
4. Commission of any offense involving moral turpitude or any offense punishable by at least prison mayor which is from six (6) years and one (1) day to twelve (12) years imprisonment;
5. Abuse of authority
6. Unauthorized absence for fifteen (15) consecutive working days, in the case of Punong Barangay and four (4) consecutive sessions in the case of members of the Sangguniang Pambarangay;
7. Application for, or acquisition of, foreign citizenship or residence or the status of an immigrant of another country;
8. Such other grounds as may be provided by existing laws such as RA 7160, RA 6713, RA 3019, the Administrative Code of 1987, the Revised Penal Code and all other applicable general and special laws.

(b) An elective Barangay Official may be removed from office on the grounds enumerated above by order of the proper court. (Sec. 60, RA. 7160)

RULE II - JURISDICTION

Section 4. Jurisdiction of the Sangguniang Bayan. The Sangguniang Bayan shall hear and decide administrative case brought before it against any erring elective Barangay Official before the Sangguniang Bayan whose decision shall be final and executory. (Sec. 61, RA 7160)

Section 5. Commencement of Administrative Case. An administrative case is commenced by filing a verified complaint against any erring elective Barangay Official before the Sangguniang Bayan whose decision shall be final and executory. (Sec. 61, RA 7160)

The Office of the Governor and the DILG shall be furnished with copies of the complaints by the Secretary to the Sangguniang Bayan. (Art. 125, IRR of RA 7160).

Section 6. Complaint. A complaint against any erring elective Barangay Official shall not be given due course unless it is in writing and verified. (Sec. 61, RA 7160)

The verified complaint should be written in a clear, simple and concise language and in a systematic manner as to apprise the elective Barangay Official concerned of the nature and cause of the accusation against him and to enable him to intelligently prepare his defense or answer.

The complaint shall contain the following:

- a. full name and address of the complainant;
- b. full name and address of the respondent;
- c. a narration of the relevant and material facts which shows the action or omissions allegedly committed by the elective Barangay Official;
- d. certified true copies of documentary evidence and affidavits of his witness, if any, and
- e. verification and certification or statement of non-forum shopping.

Section 7. When and Where to File. A complaint against any erring elective Barangay Official shall be filed during office hours at the office of the Sangguniang Bayan.

Section 8. Withdrawal of the Complaint. A withdrawal of the complaint does not result in its outright dismissal and discharge the person complained of from any administrative liability. Where there is obvious truth or merit to the allegation in the complaint or where there is documentary evidence that would tend to prove the guilt of the person complained of, the complaint shall proceed in accordance with these rules.

RULE III - ADMINISTRATIVE INVESTIGATION

Section 9. Notice and Time to File Answer. Within seven (7) days after the administrative complaint is filed, the Sangguniang Bayan shall notify the respondent of the case against him by furnishing him a copy of the complaint and shall require him to submit his verified answer within fifteen (15) days from receipt thereof. (Sec. 62 (a), RA 7160 and Art. 126 (a), IRR of RA 7160).

Unreasonable failure of the respondent to file his verified answer within fifteen (15) days from receipt of the complaint shall be considered waiver of his right to present evidence in his behalf. (Art. 126(a) (1), IRR of RA 7160).

Section 10. Answer. The answer, which should be in writing and verified, shall be specific and shall contain material facts and applicable laws, if any, including documentary evidence, sworn statements covering testimonies of witnesses, if there be any, in support of the case of the respondent.

Section 11. Commencement of the Investigation. Within ten (10) days after receipt of the verified answer of the respondent, the Sangguniang Bayan shall commence the investigation of the case. (Sec. 62 (a), RA 7160 and Art. 126 (a), IRR of RA 7160).

Section 12. Investigation Prior to Local Elections. No investigation shall be held within ninety (90) days immediately prior to any local elections, and no preventive suspension shall be imposed within the same period. If preventive suspension has been imposed prior to the (90) days period immediately preceding local elections, it shall be deemed automatically lifted upon the start of the said period. (Sec. 62 (c), RA 7160 and Art. 126 (c), IRR of RA 7160).

Section 13. Conduct of the Investigation. The investigation shall be conducted by the Sangguniang Bayan itself and cannot be delegated to a member or committee thereof. (Crispin Carmona et al. vs. Felix Amante, 99 Phil. 7160; Romulo Cuyo vs. City of Baguio, et al., 101 Phil. 558).

Section 14. Options in the Conduct of Administrative Investigation. In the conduct of administrative investigation, the Sangguniang Bayan may adopt any of the following options:

- (a) To convert the Sangguniang Bayan into a "committee of the whole" and free itself from the intricacies of its own internal rules; provided that while sitting as a "whole body" (also known as "full court" or "en banc") a quorum is present.

- (b) To conduct the administrative investigation either in a regular or special session, provided that its internal rules would be suspended; and provided further that there is a quorum.

Section 15. Venue of Hearing and Investigation. The hearing and investigation shall be conducted in the session hall of the Sangguniang Bayan. (Sec. 62(b), RA 7160 and Art. 126 (b), IRR of RA 7160).

Section 16. Duration of the Investigation. The investigation of the case shall be terminated within ninety (90) days from the start thereof. (Sec. 66 (a), RA 7160 and Art. 130 (a), IRR of RA 7160).

Section 17. Rights of the Respondent. The respondent shall be accorded full opportunity to appear and defend himself in person or by counsel, to confront and cross-examine the witnesses against him, and to require the attendance of witnesses and the production of documentary evidence in his favor through the compulsory process of subpoena or subpoena duces tecum. (Sec. 65, RA 7160 and Art. 126, IRR of RA 7160).

Section 18. Presentation and Admission of Evidence.

- a) Affidavits or sworn statements may constitute the direct testimonies of the witnesses who executed the same. Witnesses who testified may be subjected to cross-examination, re-direct or cross-examination. Should the affiant fail to testify, his affidavit or sworn statement shall not be considered as competent evidence for the party presenting the affidavit.
- b) The Sangguniang Bayan members may be allowed to propound searching questions to the witnesses who testified during the investigation in a manner and procedure that the Presiding Officer of the Sangguniang Bayan may determine before the commencement of the investigation.
- c) The Sangguniang Bayan may admit and give probative value to evidence commonly accepted by reasonable prudent men in the conduct of administrative proceedings.
- d) Documentary evidence may be received in the form of photocopies or excerpts if the original is not readily available. Upon request, the parties shall be given opportunity to compare the copy with the original. If the original is in the official custody of a public officer, a certified copy thereof may be accepted.
- e) The Sangguniang Bayan may take notice of judicially cognizable facts and generally cognizable technical and scientific facts within its specialized knowledge. The parties shall be notified and afforded an opportunity to contest the facts so noticed.
- f) The Rules on Evidence of the Rules of Courts shall apply in the admission and appreciation of evidence presented during the investigation in a supple Torry capacity.

RULE IV - PREVENTIVE SUSPENSION

Section 19. Preventive Suspension. Preventive suspension may be imposed by the Local Executive against the elective Barangay Official under investigation at any time after the issues only upon the recommendation of the Sangguniang Bayan and subject to the following conditions:

- a. When the evidence of guilt is strong, and given the gravity of the offense, there is great probability that the continuance in office of the respondent could influence the witnesses or pose a threat to the safety and integrity of the records and evidence.
- b. Any single prevention suspension of an elective Barangay Official shall not extend beyond sixty (60) days.
- c. In the event that several administrative cases are filed against an elective Barangay Official, he cannot be placed under preventive suspension for more than ninety (90) days within a single year on the same ground or grounds existing and known at the time of the first suspension. (Sec. 63 (a) and (b), RA 7160 and Art. 127(d), IRR of RA 7160).

Section 20. Reinstatement. Upon expiration of the preventive suspension, the suspended elective Barangay Official shall be deemed reinstated in office without prejudice to the continuance of the proceedings against him, which shall be terminated within one hundred and twenty (120) days from the time he was formally notified of the case against him. However, if the delay in the proceedings of the case against him is due to his fault, neglect, or request other than the appeal duly

RULE V - DECISION

Section 21. Rendition of Decision. Within thirty (30) days after the end of the investigation, the Sangguniang Bayan shall render a decision in writing. The decision shall state clearly and distinctly the facts and the reason for such decision. Copies of said decision shall be furnished the respondent and all interested parties. (Sec. 66 (a), RA 7160 and Art. 130 (b), IRR of RA 7160).

Section 22. Writing the Decision. After the Sangguniang Bayan had reached a decision or verdict, it may create a committee to prepare the draft of its decision or verdict, provided that the draft of the decision shall still be subject to the consideration and concurrence of the body. (Estoesta vs. Mayor of Agoo, 8 SCRA 438).

RULE VI - PENALTIES

Section 23. Extent of Punitive Suspension. The penalty of suspension shall not exceed the unexpired term of the respondent or a period of six (6) months for every administrative offense, nor shall said penalty be a bar to the candidacy of the respondent so suspended as long as he meets the qualification required for the office. (Sec. 66 (b), RA 7160 and Art. 160 (c), IRR of RA 7160).

Section 24. Removal from Office. The penalty of removal from office as a result of an administrative investigation shall be considered a bar to the candidacy of the respondent for any elective position. (Sec. 66 (c), RA 7160 and Art. 160 (d), IRR of RA 7160).

RULE VII - ADMINISTRATIVE APPEALS

Section 25. Where and When to Appeal. The decision by the Sangguniang Bayan in administrative cases may, within thirty (30) days from receipt thereof, be appealed to the Sangguniang Panlalawigan. (Sec. 67 (a), RA 7160)

Section 26. Execution of Decision Pending Appeal. An appeal shall not prevent a decision from becoming final and executory. The respondent shall be considered as having been placed under preventive suspension during the pendency of an appeal in the event he wins such appeal. In the event the appeal results in exoneration he shall be paid his salary and such other emoluments during the pendency of the appeal. (Sec. 68, RA 7160 and Art. 132, IRR of RA 7160).

RULE VIII - COMMON PROVISION

Section 27. Separability Clause. If, for any reason or reason, any section or provision of these Rules shall be declared by the court as invalid, illegal or unconstitutional, other sections or provisions not affected thereby shall continue to be in full force and effect.

Section. 28. Repealing Clause. All ordinances and resolutions inconsistent with the provision of this ordinance are hereby repealed.

Section 29. Effectivity Clause. This Ordinance shall take effect after the approval of the Sangguniang Panlalawigan and fifteen (15) days from the date copy of this ordinance is posted in the Bulletin Board at the entrance of the Municipal Hall and at least two (2) conspicuous places in the Poblacion and its publication of newspaper of general circulation in the province.

APPROVED UNANIMOUSLY.
Enacted: October 15, 2007

JESSYL B. PALON
Secretary to the Sanggunian



ATTESTED AND CERTIFIED
TO BE DULY ADOPTED:

MICHAEL F. MORPOS
Municipal Vice Mayor/Presiding Officer

OCT 20 2007
APPROVED: 2007

NACIANCENO M. PACALIOGA, JR.
Municipal Mayor