



PAMAHALAANG BAYAN NG TAYTAY TANGGAPAN NG SANGGUNIANG BAYAN

EXCERPT FROM THE MINUTES OF THE 80th REGULAR SESSION OF THE 11th
SANGGUNIANG BAYAN, TAYTAY, RIZAL, HELD ON MARCH 9, 2021, 1:25 PM AT
THE SESSION HALL OF THE MUNICIPAL BUILDING, TAYTAY, RIZAL

PRESENT:

Hon. Michell B. Bermundo	-	Vice Mayor/Presiding Officer
Hon. Sophia Priscilla L. Cabral	-	Councilor
Hon. Ma. Jeca B. Villanueva	-	“
Hon. Patrick John P. Alcantara	-	“
Hon. Joanne Marie P. Calderon	-	“
Hon. Kyle Georic Y. Gacula	-	“
Hon. Ma. Elaine T. Leonardo	-	“
Hon. Philip Jeison J. Cruz	-	“
Hon. Frank Luster L. Santos	-	LnB President
Hon. Roda May A. Diño	-	SK Federation President

ABSENT:

Hon. Ceferino R. Resurreccion Jr. - Councilor

Authored & Sponsored by: Coun. Kyle Georic Y. Gacula
Co-Sponsored by: Vice Mayor Michell B. Bermundo
Coun. Sophia Priscilla L. Cabral
Coun. Ma. Jeca B. Villanueva
Coun. Patrick John P. Alcantara
Coun. Joanne Marie P. Calderon
Coun. Ceferino R. Resurreccion Jr.
Coun. Ma. Elaine T. Leonardo
Coun. Philip Jeison J. Cruz
LnB Pres. Frank Luster L. Santos
SK Fed. Pres. Roda May A. Diño

ORDINANCE NO. 697 series of 2021

**AN ORDINANCE PROVIDING RULES OF PROCEDURE FOR THE
PROPER, SPEEDY AND JUDICIOUS DISPOSITION OF DISCIPLINARY
ADMINISTRATIVE CASES INVOLVING ELECTED AND APPOINTED
BARANGAY OFFICIAL IN THE MUNICIPALITY OF TAYTAY, RIZAL**

RULES AND INTERNAL GOVERNMENT

Quasi - Judicial Powers of Sangguniang Bayan

WHEREAS, pursuant to the provisions of RA 7160 otherwise known as the Local Government Code of 1991, which expressly confers to the Sangguniang Bayan the power to investigate complaints against erring elected and appointed Barangay Officials in the municipality;

WHEREAS, recently, two administrative complaints were filed before this Sangguniang Bayan involving certain elected and appointed Barangay Officials in this municipality, seeking investigation and accountability for their conduct as public officials in their locality;

WHEREAS, to hold elected and appointed Barangay Officials accountability for their actions and omissions, the Sangguniang Bayan hereby adopts its internal rules of procedure in the conduct of administrative hearing;

WHEREAS, it is necessary to formulate and adopt internal rules of procedure by the Sangguniang Bayan to ensure fair, speedy, inexpensive and judicious disposition of such cases.

NOW THEREFORE, BE IT ENACTED, as it is hereby enacted, by the Sangguniang Bayan of Taytay, Rizal, in session duly assembled, that:

Section 1. Definition of Terms - For purposes of this Ordinance the following terms are hereby defined as:

- a. Quasi - Judicial Power - refers to incidental power of the Sangguniang Bayan to hear, determine and decide administrative case/s brought against elected and appointed Barangay Officials. It is exercised by the Sangguniang Bayan sitting as the quasi-judicial body whose findings and decisions shall be concurred by the Sangguniang Bayan *En banc*.
- b. Composition - the quasi-judicial body as the investigating authority shall be composed of the Sangguniang Bayan *En Banc*. The place of investigation shall be in the Municipality of Taytay only and must be within the legislative building of the municipality should there be any, or within the building where the Sangguniang Bayan is housed.
- c. Committee En Banc - The Sangguniang Bayan of Taytay acting as the Quasi-Judicial Body or the Committee of the Whole.
- d. Verified Complaint - refers to verified written statement subscribed under oath by a person who has personal knowledge of the facts complained of therein, alleging the complainants' cause of action against any elected and appointed barangay official and shall include the names and addresses of the parties to the case.
- e. Subpoena - refers to an order of the quasi-judicial body requiring a certain individual to appear and testify before it, in which case it is known as subpoena *ad testificandum*. It may also require a certain individual to appear before the said body to produce relevant material documents, in which case it is known as subpoena *duces tecum*.
- f. Due Process - requires notice and opportunity to be heard and adduce evidence upon which judgment is rendered.
- g. Prima facie evidence - refers to such evidence which is sufficient to establish a given fact, or the group or chain of facts constituting the party's claim or defense, and which if not rebutted or contradicted, will remain sufficient (G.R. No. 164575).
- h. Motu proprio - refers to the Sanggunian Bayan's action/ order by its own instance.
- i. Substantial Evidence - refers to such evidence as a reasonable mind might accept as adequate to support a conclusion.
- j. Disciplinary Action - is a mode of correction or punishment for certain unlawful conduct, behavior or actuations of elected and appointed barangay officials in

connection with the performance of their powers, functions and duties, as prescribed by law, or in relation to their public office, based on grounds specified therein.

- k. Abuse of Authority - exercise or use of power or authority unbecoming of a public official; acts committed in excess of one's power or authority as conferred on him / her by law or outside of one's duties and functions. It includes the use of such discretion in a way as to deprive a person of his / her right or of the remedy to protect or enforce such right.
- l. Culpable Violation of The Constitution - a deliberate or willful or intentional violation of the Constitution of the Republic of the Philippines.
- m. Dishonesty - concealment of truth in a matter of fact relevant to one's office or connected with the performance of his / her duties.
- n. Oppression - means an act of cruelty, severity, unlawful exaction, domination or excessive use of authority.
- o. Misconduct in Office - means maladministration or willful, intentional neglect and failure to discharge the duties of the office. It is transgression of some established and definite rule of conduct, more particularly unlawful behavior or gross negligence by the public officer. Misconduct, whether involving dishonesty, oppression or any form of misdeeds must comprehend a wrongful intention and not a mere error of judgment. It must be misconduct that effects the performance of duties as a public officer and not as a private individual,
- p. Gross Neglect of Duty - there is gross neglect of duty when omission or refusal, without sufficient excuse, to perform an act or duty, when it was the officer's legal obligation to perform, is flagrant and palpable.
- q. Dereliction of Duty - means deliberate, conscious or willful neglect of duty
- r. Disloyalty to the Republic of the Philippines - an act seeking to remove allegiance from the Republic of the Philippines such as for instance, rebellion or insurrection.
- s. Acts Involving Moral Turpitude - these are acts considered immoral in themselves as contra distinguished from acts which are considered wrong because they are prohibited by law.
- t. Public Official - is any person who, by direct provision of law, popular election or appointment by competent authority, takes part in the performance of public functions in the government as an employee, agent or subordinate official, or any rank or class,
- u. Preventive Suspension - is a disciplinary sanction imposed by the Municipal Mayor upon the recommendation of the quasi-judicial body and concurred by the Sangguniang Bayan *en banc*. It is a temporary withdrawal or separation from office of the elected and appointed barangay official, who is subject of the administrative complaint, after the issues in the said complaint has been joined when the evidence of guilt is strong, and given the gravity of the offense, there is great probability that the continuance of office of the respondent could influence the witnesses or pose a threat to the safety and integrity of the records and evidence. This should not be construed as a penalty.
- v. Punitive Suspension - is a penalty recommend by the quasi-judicial body, concurred by the Sangguniang Bayan *en banc* and enforced by the City / Municipal Mayor. It is a temporary withdrawal or separation from office of the elected and appointed barangay official, who is the subject of an administrative complaint, after the investigation of his / her case.

- w. Censure / Reprimand - means severe disapproval, criticism or condemnation of an official action of an elective barangay official.

Section 2. Coverage - These rules shall apply only to administrative complaint against any elected and appointed barangay official that may be filed with the Sangguniang Bayan.

Section 3. Legal Basis of The Quasi - Judicial Power of The Sangguniang Bayan - the quasi - judicial power of the Sangguniang Bayan is based on the Local Government Code of 1991 (RA 7160) Section 61 (c) which provides that a complaint against any elected and appointed barangay official shall be filed before the Sangguniang Bayan whose decision shall be final and executory, subject to Section 67 (Administrative Appeals) which provides that the decision of the Sangguniang Bayan may be appealed to the Sangguniang Panlalawigan.

Section 60 of RA 7160 provides that the Ground for Disciplinary Actions of an elected and appointed official shall be as follows, to wit;

- a. Disloyalty to the Republic of the Philippines;
- b. Culpable violation of the Constitution;
- c. Dishonesty, oppression, misconduct in office, gross negligence, or dereliction of duty;
- d. Commission of any offense involving moral turpitude or an offense punishable by at least prison mayor;
- e. Abuse of authority;
- f. Unauthorized absence for fifteen (15) consecutive working days, except in the case of members of the Sangguniang Panlalawigan, Sangguniang Panlungsod, Sangguniang Bayan, and Sangguniang Barangay;
- g. Application for, or acquisition of, foreign citizenship or residence or the status of an immigrant of another country; and
- h. Such other grounds as may be provided in this Code and other laws. An elective local official may be removed from office on the grounds enumerated above by order of the proper court.

Section 4. Filing of Complaint

- a. **Verified Complaint** - An administrative case may be initiated by any private individual or any government officer or employee by filing a verified complaint against any elected and appointed Barangay Official with the corresponding affidavit or affidavits to support complaints and documents. It shall be filed with the Sangguniang Bayan (SB), through the Secretary to the SB. The Secretary shall see to it that there are sufficient numbers of copies of the complaint. A copy of the complaint shall be furnished to respondent, Municipal Mayor, Municipal Local Government Operation Officer, the Presiding Officer of the Sangguniang Bayan, the members of the Sangguniang Bayan and the Secretary of the Sangguniang Bayan.

The complaint, accompanied by affidavits of witness or evidences in support of the charge, shall be addressed to the Sangguniang Bayan thru the Presiding Officer. It shall be drawn in clear, simple and concise language in the methodical manner as to apprise the respondent of the nature of the charge against him and to enable him to prepare his defense. The party filing the complaint shall be called the "complainant", while the official against whom the complaint is filed shall be called the "respondent".

The complaint shall contain the following:

1. full name and address of the complainant;
2. full name and address of the person/s complained of as well as his/ her/their position/s and office/s;

3. a narration of the relevant and material facts which shows the acts or omissions allegedly committed;
4. certified true copies of documentary evidence and affidavits of his/ her witnesses, if any; and
5. verification. The absence of any of the aforementioned requirements may cause the dismissal of the complaint without prejudice to its refiling upon compliance with the above requirements.

b. Anonymous complaint - No action shall be taken on anonymous complaint for non-compliance of the requirements.

Section 5. Nature of Proceedings - the proceedings conducted by the quasi-judicial body shall be governed by this Ordinance and the pertinent provisions of the Local Government Code of 1991 (R.A. 7160). It is summary in nature and shall not be bound by the rules on evidence which may be applied suppletorily.

a. Determination of Prima Facie Case - The Sangguniang Bayan, as Committee En Banc, shall determine whether or not there is a prima facie case to warrant the commencement of the investigation with or without the respondent filing his answer. If no prima facie case exists, the Sangguniang Bayan shall, motu proprio, dismiss the case.

Within ten (10) days from receipt of the complaint and answer, the Sangguniang Bayan, as Committee En Banc, shall determine whether there is a prima facie case to warrant the institution of formal administrative proceedings. If a prima facie case exists, the Sangguniang Bayan shall calendar the case for a preliminary conference. It shall within twenty (20) days, summon the parties to a preliminary conference to answer the following:

1. Whether the parties desire a formal investigation or are willing to submit the case for resolution on the basis of the evidence on record; and
2. If the parties desire a formal investigation, to consider the simplification of issue, the possibility of obtaining stipulation or admission of facts and of documents, specifically affidavits and depositions, to avoid necessary proof, the limitation of number of witnesses, and their names, schedule of formal investigation and such other matters as may aid the prompt disposition of the case.

The Sangguniang Bayan, as Committee En Banc shall encourage the parties and their counsels to enter at any stage of the proceedings, into amicable settlement, compromise and arbitration, the terms and conditions of which shall subject to the approval of the Sangguniang Bayan, as Committee En Banc. After the preliminary conference, the Sangguniang Bayan, as Committee En Banc shall issue an order reciting the matters taken up there on, including the facts stipulated and the evidences marked, if any. Such order shall limit the issues for hearing to those not disposed of by agreement or admission of the parties, and shall schedule the formal investigation within ten (10) days from its issuance, unless a later date is mutually agreed in writing by the parties concerned.

The failure of the respondent to attend the preliminary conference constitutes a waiver to participate in the pre-hearing conference but may still participate in the formal investigation upon appropriate motion. No preliminary conference shall be conducted within ninety (90) days immediately prior to any local election.

b. Notice of Hearing – As stated in Section 62 of RA 7160, within seven (7) days after the administrative complaint is filed, the Sangguniang concerned shall require the respondent to submit his verified answer within fifteen (15) days from receipt thereof,

and commence the investigation of the case within ten (10) days after receipt of such answer of the respondent. The venue shall be the place where the Sanggunian is located.

However, no investigation shall be held within ninety (90) days immediately prior to any local election, and no preventive suspension shall be imposed within the said period. If preventive suspension has been imposed prior to the 90-day period immediately preceding local election, it shall be deemed automatically lifted upon the start of aforesaid period.

c. Preventive Suspension – As stated in Section 63 of RA 7160 par. a subpar. 3, pars. b, c and d; preventive suspension may be imposed by the Municipal Mayor upon the recommendation of the Sangguniang Bayan at any time after the issues are joined, that is, after respondent has answered the complaint, when the evidence to guilt is strong and given the gravity of offense, there is a 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 record and other evidence.

No preventive suspension shall be imposed within ninety (90) days immediately prior to any local election. If the preventive suspension has been imposed prior to the (90) day period immediately preceding a local election, it shall be deemed automatically lifted upon the start of aforesaid period. Any single preventive suspension of barangay elected and appointed officials shall not extend beyond sixty (60) days; provided that, in the event that several administrative cases are filed against an elected and appointed barangay official, he cannot be preventively suspended 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.

Upon expiration of the prevention suspension, the suspended elected and appointed barangay official shall be deemed reinstated in office without prejudice to the continuation of the proceedings against him, which shall be terminated within one hundred twenty (120) days from the time he is formally notified of the case against him. However, if the delay in the proceeding of the case is due to his fault, or request, other than the appeal duly filed, the duration of such delay shall not be included in computing the time of termination of the case.

c.1 Salary of respondent pending suspension - Based on Section 64 of RA 7160, the respondent official, who is preventively suspended from office, shall not receive salary or compensation during suspension, but upon subsequent exoneration and reinstatement, he shall be paid full salary or compensation, including such emoluments accruing during such suspension.

d. Procedural Due Process – As stated in Section 65 of RA 7160, 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 *deuces tecum*.

At the start of the hearing, the Presiding officer shall note the appearances of the parties and shall proceed with the reception of evidence for the complainant. If after being apprised of the right to counsel, respondent appears without the aid of a counsel, he/she shall be deemed to have waived his/her right thereto. Before taking the testimony of a witness, the Presiding officer shall place him/ her under oath and then take his/her name, address, civil status, age, and complete name and address of employment.

d.1 Power to take testimony – The Sangguniang Bayan, as Committee En Banc is hereby authorized to take testimony or receive evidence relevant to the administrative proceedings, which authority shall include the power to administer oaths, summon witnesses, and require the production of documents by *subpoena deuces tecum* pursuant to Book I, Chapter 9, Section 37 of the Administrative Code of 1987. Anyone who, without lawful excuse, fails to appear upon summons issued under authority or the preceding paragraph or who, appearing before the Sangguniang Bayan, as Committee En Banc exercising the power therein defined, refuses to make oath, give testimony or produce documents for inspection, when lawfully required shall be subject to discipline as in case of contempt of court and, upon application by the Sangguniang Bayan, as Committee En Banc, shall be dealt with by the judge of the proper Regional Trial Court in the manner provided for under Book VII, Chapter 3 Section 13, in relation to Chapter 1 Section 2(1), of the Administrative Code of 1987.



The parties and their witnesses shall be notified by subpoena of the scheduled hearing at least five (5) days before the date thereof, stating the date, time and place of the hearing. If a party desires the attendance of a witness or the production of documents, he shall make formal request for the issuance of the necessary subpoena or subpoena deuces tecum at least three (3) days before the scheduled hearing.

A sworn statement of the witness/es properly identified and affirmed shall constitute direct testimony, copy furnished the other party. The affidavits submitted by the complainant shall serve as the testimony on direct examination subject to the cross-examination by the respondent and clarificatory questions by the Sangguniang Bayan.

The counter-affidavits submitted by the respondent shall serve as his testimony on direct examination subject to the cross-examination by the complainant and clarificatory question by the members of the Sangguniang Bayan. The failure of the parties to submit affidavits and counter affidavits shall be considered a waiver to present evidence in their behalf. The testimony of each witnesses and the manifestation of the parties and counsels during an investigation shall be taken. A transcript of the proceedings shall be made and duly certified by the Secretary of the Sangguniang Bayan.



d.2 Markings - All documentary evidence or exhibits shall be properly marked by letters (A,B,C, etc.) if presented by the Complainant and by numbers (1,2,3, etc.) if presented by the respondent. These shall form part of the complete records of the case. The Numbering of the Administrative Case and issuance of Subpoena shall be handled by the Secretary of the Sangguniang Bayan.

d.3 Order of hearing - Unless otherwise directed by the Sangguniang Bayan, as Committee En Banc, the order of a hearing shall be as follows:

- a. The complaint shall produce the evidence of his part;
- b. The respondent shall then offer evidence in support of his defense; and
- c. The parties may then respectively offer rebutting evidence, unless the Investigating Authority, for good reasons and in the furtherance of justice, permits them to offer evidence upon their original case.

d.4 Order of examination -The order in which a witness may be examined shall be as follow:

- a. Direct examination by the proponent;
- b. Cross examination by the opponent;



- c. Re-direct examination by the proponent; and
- d. Re-cross examination by the opponent.

d.5 Memoranda -The Sangguniang Bayan, as Committee En Banc may allow the parties to submit their respective memoranda, together with their respective draft resolutions and orders for the consideration of the Sangguniang Bayan, as Committee En Banc, within fifteen (15) days of the termination of the formal investigation.

- e. **Termination of Investigation and Decision** - As stated in Section 66 of RA 7160: "Form and Notice of Decision - (a) The investigation of the case shall be terminated within ninety (90) days from the start thereof. Within thirty (30) days after the end of the investigation, the Sanggunian concerned shall render a decision in writing stating clearly and distinctly the facts and the reasons for such decision. Copies of said decision shall immediately be furnished the respondent and all interested parties. (b) 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 qualifications required for the office. (c) 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."

Within thirty (30) days after the end of the investigation or after the lapse of the period of submission of memoranda or position papers by the parties, the Sangguniang Bayan concerned in a regular session, shall render a decision in writing stating clearly and distinctly the facts and reasons for such decision. Copies of such decision shall immediately be furnished to the respondent and all interested parties.

In case the complainant does not appear in the first call of hearing, he or she shall be made to explain in writing for his failure of attendance. If the Committee is satisfied with the justification given, the investigation shall go on. However, if the second call of investigation is made and again the complainant does not make it, the Presiding officer shall outrightly declare the case dismissed. Furthermore, if the Sangguniang Bayan is not satisfied with the reason given by the complainant for his failure to appear on two consecutive hearing calls, the Presiding officer shall outrightly declare the "CASE DISMISSED".

e.1 Records Classification - Records in administrative disciplinary cases are classified as confidential in nature and any information as to the charges, accusation, or facts adduced may not be released, and such records shall be under the jurisdiction of the Sangguniang Secretary.

e.2 Votes and Voting of the Sangguniang Bayan - Votes and Voting of the Sangguniang Bayan Internal Rules and Procedures shall apply in the rendition of decisions of all administrative cases. Decisions and voting made by the Sangguniang Bayan shall be done in close doors. The decision of Sangguniang Bayan shall become final and executory after the lapse of thirty (30) days from the receipt of a copy thereof by the complainant or the respondent.

e.3 Appeal, where made - Decisions of the Sanggunian may, within thirty (30) days from receipt thereof, be appealed to the Sangguniang Panlalawigan then to the Office of the President. Decisions of the Office of the President shall be final and executory. An appeal shall not prevent a decision from becoming final or executory. The respondent shall be considered as having been placed under preventive suspension during the pendency of an appeal. In the event the appeal

results to exoneration, the respondent shall be paid his salary and such other emoluments accruing during the pendency of the appeal.

Section 6. Separability Clause - If, for any reason, any provision, section or part of this Ordinance is declared invalid or unconstitutional by a Court of competent jurisdiction/authority, or suspended or revoked by the authorities concerned, such judgment shall not affect or impair the remaining provisions, sections or parts which shall constitute to be in full force and effect.


Section 7. Supplementary Rule - In case of conflict between this Ordinance and The Local Government Code, the latter shall prevail. All other pertinent laws shall apply suppletorily.

Section 8. Repealing Clause - All Ordinances and administrative regulations or part thereof which is inconsistent with any provision of this Ordinance are hereby repealed or modified accordingly.


Section 9. Effectivity - This Ordinance shall take effect fifteen (15) days upon its approval and posting in conspicuous places in the municipality.

ENACTED, this 9th day of March, 2021, 2:08 PM at the Session Hall of the Municipal Building, Taytay, Rizal.

I HEREBY CERTIFY, to the correctness of the foregoing Ordinance which was duly enacted by the Sangguniang Bayan of Taytay on second reading on March 2, 2021 and was passed on third and final reading on March 9, 2021, during the 80th Regular Session held on the 9th day of March, 2021.


SONIA C. SAMSON
Secretary to the Sanggunian
Officer-in-Charge

ATTESTED AND CERTIFIED TO BE DULY
ADOPTED BY HER HONOR


HON. MICHELLE B. BERMUNDO
Municipal Vice Mayor/Presiding Officer

APPROVED BY HIS HONOR
DATE 22 MAR 2021


HON. GEORGE RICARDO R. GACULA II
Municipal Mayor