



Republic of the Philippines
Province of Iloilo
MUNICIPALITY OF BINGAWAN



SANGGUNIANG BAYAN

EXCERPT FROM THE MINUTES OF THE 9th REGULAR SESSION OF THE 13th SANGGUNIANG BAYAN OF THE MUNICIPALITY OF BINGAWAN, PROVINCE OF ILOILO, HELD AT THE SESSION HALL ON SEPTEMBER 1, 2016.

Present:	Hon. Matt P. Palabrica, Ph.D.	Vice Mayor/ Presiding Officer
	Hon. Joy L. Quimba	SB Member
	Hon. Jose C. Rabago, Jr.	SB Member
	Hon. Lorens M. Belloga	SB Member
	Hon. Ted Peter P. Plagata	SB Member
	Hon. Nemesio A. Cachite	SB Member
	Hon. Jofe C. Celeste	SB Member
	Hon. Eduardo A. Dalipe	SB Member
	Hon. Leovy C. Simora	SB Member
	Hon. Perceval T. Girao	SB Member/Liga President

Absent: None

**MUNICIPAL ORDINANCE NO. 223
(Series of 2016)**

AN ORDINANCE PRESCRIBING THE RULES AND PROCEDURES ON ADMINISTRATIVE DISCIPLINARY CASES AGAINST ELECTIVE BARANGAY OFFICIALS IN THE MUNICIPALITY OF BINGAWAN, PROVINCE OF ILOILO.

WHEREAS, in deference to the provisions of the Local Government Code of 1991, the Sangguniang Bayan of the Municipality of Bingawan, Province of Iloilo, by virtue of the powers vested in it by law, do hereby prescribe the rules and procedures governing investigation of administrative disciplinary cases against elective barangay officials in the Municipality of Bingawan, Province of Iloilo, pursuant to Section 60 to 66 of Republic Act 7160, otherwise known as the Local Government Code of 1991 and other related laws rules and regulations covering the same.

NOW, THEREFORE:

ON MOTION of Hon. Leovy C. Simora, duly seconded by Hon. Percval T. Girao;

BE IT RESOLVED by the Sangguniang Bayan of Bingawan, assembled, that:

TITLE

Section 1. Title. This ordinance shall be known as “**AN ORDINANCE PRESCRIBING THE RULES AND PROCEDURES ON ADMINISTRATIVE DISCIPLINARY CASES AGAINST ELECTIVE BARANGAY OFFICIALS IN THE MUNICIPALITY OF BINGAWAN, PROVINCE OF ILOILO**”.

Rule I

PRELIMINARY PROVISIONS

Section 1. Coverage. These rules and procedures shall apply to administrative disciplinary cases against Elective Barangay Officials in the Municipality of Bingawan, Province of Iloilo.

Section 2. Disciplinary Authority. All administrative complaints duly verified, against elective barangay officials shall be acted upon by the Sangguniang Bayan which shall be hereinafter be referred to as the Disciplining Authority.

Section 3. Investigating Authority. The Municipal Vice Mayor or Presiding Officer of the Sangguniang Bayan is hereby designated as the Investigating Authority. He may constitute an Investigating Committee for the purpose.

Rule 2

GROUNDS FOR ADMINISTRATIVE DISCIPLINARY ACTION

Section 1. Grounds. An elective barangay official may be disciplined, suspended, or removed from office on any of the following grounds:

- 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 offenses involving moral turpitude or an offense punishable by at least prison mayor, which is from six (6) years and one (1) day to twelve (12) years' imprisonment;
- e) Abuse of authority;
- f) Unauthorized absences for fifteen (15) consecutive working days in case of Punong Barangay and four (4) consecutive sessions in case of the members of the Sangguniang Barangay;
- g) Application for, or acquisition of, foreign citizenship or residence of the status of an immigrant of another country; and
- h) Such other grounds as may be provided by the Local Government Code of 1991; Republic Act No. 6713; Republic Act No. 3019; Administrative Code of 1987; Revised Penal Code; and all other applicable general and special laws.

Rule 3

COMPLAINT

Section 1. How Initiated. An administrative case may be initiated by any private individual or any government officer or employee by filing a sworn statement complaint against any elective barangay official. It may also be initiated motupropio by the Office of the Sangguniang Bayan or any government agency duly authorized by law to ensure that Sangguniang Barangays act within their prescribed powers and functions.

Section 2. Form of Complaint. The complaint, accompanied by affidavits of witnesses or evidences in support of the charge, shall be addressed to the Vice Mayor or Presiding Officer. It shall be drawn in clear, simple, and concise language and in 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.



Section 3. Where Filed. The complaint shall be filed with the Office of the Vice Mayor or Presiding Officer who shall submit the same to the Sangguniang Bayan within two (2) working days from receipt thereof. In this regard, Vice Mayor or Presiding Officer, together with the Sangguniang Bayan Committee concerned shall authenticate all the pertinent documents presented by the complainant.

A copy of the complaint shall be furnished each of the following:

- a) The Respondent;
- b) Municipal Mayor; and
- c) The MLGOO.

Section 4. Filing Fee. A fee of Two Hundred Pesos (P 200.00) shall be charged for every complaint filed with the Office of the Sangguniang Bayan, payable to the Office of the Municipal Treasurer.

Pauper complaints duly certified as such in accordance with the Rules of court shall be exempted from the payment of the filing fee.

Rule 4

ANSWER

Section 1. Notice. Within seven (7) working days after the complaint is filed, the Disciplining Authority shall issue an order requiring the respondent to submit his verified answer within fifteen (15) working days from his receipt thereof.

Section 2. Form of Answer. The answer, accompanied by affidavits of witnesses or evidences in support of the defense, shall be addressed to the Sangguniang Bayan, through the Office of the Vice Mayor or Presiding Officer. In this regard, the Office of the Vice Mayor or Presiding Officer, together with the committee concerned shall authenticate all the pertinent documents presented by the respondent.

A copy of the answer shall be furnished each of the following:

- a) The Complainant;
- b) Municipal Mayor; and
- c) The MLGOO.

Section 3. Failure to Answer. Unreasonable failure of respondent to file his verified answer within fifteen (15) working days from receipt of the complaint against him, shall be considered as waiver of his right to present evidence in his behalf.

Rule 5

PRELIMINARY INVESTIGATION

Section 1. Commencement. Within two (2) working days from receipt of the answer, the Disciplining Authority/Sangguniang Bayan shall refer the complaint and answer, together with their attachments and other relevant papers to the Office of the Vice Mayor/Presiding officer (Investigating Authority) who shall commence the investigation of the case within ten (10) working days from receipt thereof.



Section 2. Failure to Commence Preliminary Investigation. Unreasonable failure to commence the preliminary investigation within the prescribed period by the person or persons assigned to investigate shall be a ground for administrative disciplinary action.

Section 3. Evaluation. Within twenty (20) working days from receipt of the complaint and answer, the Investigating Authority together with the Committee concerned, shall determine whether there is a prima facie case to warrant the institution of formal administrative proceedings.

Section 4. Dismissal motu proprio. If the Investigating Authority (Office of the Vice Mayor/Presiding officer together with the Sangguniang Bayan committee concerned) determines that there is no prima facie case to warrant the institution of formal administrative proceedings, it shall, within the same period prescribed under the preceding Section, submit its recommendation to the Disciplining Authority (Sangguniang Bayan) for the motu proprio dismissal of the case, together with the recommended decision, resolution, and others.

Section 5. Preliminary conference. If the Investigating Authority determines that there is a prima facie case to warrant the institution of formal administrative proceedings, it shall, within the same period prescribed under the preceding Section, summon the parties to a preliminary conference to answer the following:

a) 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

b) If the parties desire a formal investigation, to consider the simplification of issues, the possibility of obtaining stipulation or admission of facts and of documents, specifically affidavits and depositions, to avoid unnecessary proof, the limitation of number of witnesses, and such other matters as may aid the prompt disposition of the case.

The Investigating Authority 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 be subject to the approval of the Disciplining Authority.

After the preliminary conference, the Investigating Authority shall issue an order reciting the matters taken up thereon, 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) working days from its issuance, unless a later date is mutually agreed in writing by the parties concerned.

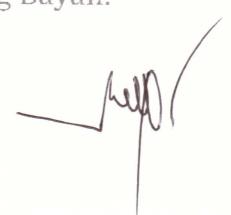
Section 6. Venue of Hearing. The venue of hearing (s) of administrative complaints against elective barangay officials shall be the Session Hall of the Sangguniang Bayan of the Municipality of Bingawan, Province of Iloilo.

Section 7. 90-day Ban. No preliminary investigation shall be imposed within ninety (90) days immediately prior to any election.

Rule 6

PREVENTIVE SUSPENSION

Section 1. Power to Suspend. Preventive suspension may be directly imposed by the Disciplining Authority (Sangguniang Bayan); or the Municipal Mayor shall, upon the direct order of the Disciplining Authority (Sangguniang Bayan), preventively suspend an elective barangay official who is under formal administrative investigation by the Office of the Sangguniang Bayan.



Section 2. 90-day Ban. No preventive suspension shall be imposed within ninety (90) days immediately prior to any election. If the preventive suspension has been imposed prior to the ninety (90) day period immediately preceding a election, it shall be deemed automatically lifted upon the start of aforesaid period.

Section 3. Grounds. Preventive suspension may be imposed at any time after the issues are joined, that is, after respondent has answered the complaint, when the evidence of guilt is strong and, given the gravity of the 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 records and other evidence.

Section 4. Duration. Any single preventive suspension of elective barangay official shall not extend beyond sixty (60) working days; provided that, in the event that several administrative cases are filed against an elective barangay official, he cannot be preventively suspended for more than ninety (90) working days within a single year on the same ground or grounds existing and known at the time of the first suspension.

Section 5. Automatic Reinstatement. Upon the expiration of the preventive suspension, the suspended elective 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) working days from the time he was 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 counted in computing the time of the termination of the case.

Section 6. Salary of Respondent Pending Suspension. The respondent, who is preventively suspended from office, shall receive no salary or compensation during such suspension; but upon subsequent exoneration and reinstatement, he shall be paid his full salary or compensation, including such emoluments accruing during such suspension.

Rule 7

FORMAL INVESTIGATION

Section 1. Procedural Due Process. 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 documents through the compulsory process of subpoena or ducestecum.

Section 2. Who Conducts the Hearing. The formal administrative investigation shall be conducted by the Investigating Authority.

Section 3. Failure to Commence Formal Investigation. Unreasonable failure to commence the formal investigation within the prescribed period in the preliminary conference order by the person or persons assigned to investigate shall be a ground for administrative disciplinary action.

Section 4. Power to Take Testimony or Receive Evidence. The Investigating Authority 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 ducestecum pursuant to Book 1, Chapter 9, Section 37 of the Administrative Code of 1987.

A handwritten signature in black ink, consisting of a stylized, cursive script, located in the bottom right corner of the page.

Section 12. Termination of Formal Investigation. The formal investigation of the case shall be terminated by the Investigating Authority within ninety (90) working days from the start thereof. Unreasonable failure to complete the formal investigation after the said period by the person or persons assigned to investigate shall be a ground for disciplinary action.

Section 13. Memoranda. The Investigating Authority may allow the parties to submit their respective memoranda, together with their respective draft resolutions and orders for the consideration of the Investigating Authority, within fifteen (15) working days after the termination of the formal investigation.

Rule 8

EVIDENCE

Section 1. Rules of Evidence. In administrative proceedings –

a) The Investigating Authority may admit and give probative value to evidence commonly accepted by reasonably prudent men in the conduct of their affairs;

b) Documentary evidence may be received in the form of copies 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; and

c) The Investigating Authority may take notice of judicially cognizable facts and of generally technical or scientific facts within its specialized knowledge. The parties shall be notified and afforded an opportunity to contest the facts so noticed.

Section 2. Marking. All documentary evidence or exhibits shall be properly marked by letter (A, B, C, etc.), if presented by the respondent. They shall be attached to the records or, if voluminous, kept in a separate folder marked "Folder of Exhibits", which shall also be attached to the records.

Rule 9

REPORT OF INVESTIGATING AUTHORITY AND TRANSMISSION OF RECORDS

Section 1. Transmission of Records to Disciplining Authority. The Investigating Authority shall forward to the Disciplining Authority its findings and recommendations, together with the following:

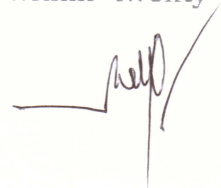
a) the draft decision, resolution and order;

b) the complete records with each page consecutively numbered and initialed by the custodian of the records;

c) a summary of proceedings thereon from the filing of the complaint to the transmittal of the records in chronological order indicating the action taken on the incidents involved; and

d) a list of all pleadings, motions, manifestations, annexes, exhibits, and other papers or documents filed by the contending parties, as well as the corresponding orders of resolutions.

Such documents shall be forwarded to the Disciplining Authority within twenty (20) working days –



a) from receipt of the last pleading and evidence, if any, in case the respondent does not elect a formal investigation;

b) after the expiration of the period within which to submit the same; or after the termination of the formal investigation; and

c) after the parties have submitted their respective Memoranda if so allowed.

The transcript of the proceedings shall be paged consecutively and in chronological order, sewed in the left-hand side, or properly indexed, showing the page on which the testimony of each witness begins.

Section 2. Records Classification. Records in 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 may not be made available, except to the proper authorities and, upon request, to the party-in-interest or their authorized representatives on the "need-to-know" basis.

Rule 10

DECISION

Section 1. Rendition of Decision. Within thirty (30) working days of receipt of report of the Investigating Authority and the transmittal of records, the *Disciplining Committee* shall render a decision in writing stating clearly and distinctly the facts and reasons for such decision and shall immediately be furnished the respondent and all interested parties.

Section 2. Finality of Decision. The decision of the Disciplining Authority shall become final and executory after the lapse of thirty (30) working days from receipt of the copy thereof by the complainant or the respondent as the case may be, unless a motion for reconsideration is filed within such period. Save in exceptionally meritorious cases, only one motion for reconsideration by any one party shall be allowed, which shall suspend the running of the 30-day reglamentary period.

Section 3. Execution 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 the appeal results in an exoneration, the respondent shall be paid his salary and such other emoluments accruing during the pendency of the appeal.

Rule 11

PENALTIES

Section 1. Suspension or Removal. A respondent found guilty of any of the offenses enumerated in Rule 2 hereof may be meted the penalty of suspension or removal depending on the evidence presented and the aggravating or mitigating circumstances that may be considered by the Disciplining Authority.

Section 2. 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 qualifications required for the office.



Section 3. Removal. An elective barangay official may be removed from office on the grounds enumerated in Rule 2 hereof by order of the proper court through the recommendation of the Disciplining Authority.

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.

Rule 12

CLEMENCY OF HIGHER SANGGUNIAN

Section 1. Removal of Administrative Penalties or Disabilities. In meritorious cases, the higher sanggunian may, after its decision upon appeal, has become final and executory, commute or remove administrative penalties or disabilities imposed upon elective barangay official (s) in administrative disciplinary cases, subject to such terms and conditions as it may impose in the interest of the service.

Rule 13

MISCELLANEOUS PROVISIONS

Section 1. Effects and Application of Relevant Laws. This ordinance implements the Local Government Code of 1991 and its Implementing Rules and Regulations approved and adopted under Administrative Order No. 270 dated February 21, 1992; Book VI Chapter 3, Sections 10-16 of the Administrative Code of 1993; and Executive Order No. 26 dated October 7, 1992. In all matters not provided in this ordinance shall apply in a suppletory character.

Section 2. Separability Clause. If, for any reason or reasons, any part or provision of this ordinance shall be held to be unconstitutional or invalid, other parts or provisions hereof which are not affected thereby shall continue to be in full force and effect.

Section 3. Effectivity. This ordinance shall take effect fifteen (15) days after its approval and publication

UNANIMOUSLY APPROVED:

I HEREBY CERTIFY to the veracity of the above-quoted ordinance.

CERTIFIED CORRECT:


JULIO C. CASTIGADOR
SB Secretary

ATTESTED:


MATT P. PALABRICA, Ph.D.
Vice Mayor/ Presiding Officer

APPROVED:


MARK P. PALABRICA
Municipal Mayor