

Republic of the Philippines
PROVINCE OF ZAMBOANGA DEL NORTE
Municipality of Siayan

OFFICE OF THE SANGGUNIANG BAYAN

EXCERPT FROM THE MINUTES OF THE REGULAR SESSION OF THE SANGGUNIANG BAYAN OF
SIAYAN, ZAMBOANGA DEL NORTE HELD AT THE MUNICIPAL SESSION HALL ON THE
12nd DAY OF NOVEMBER, 2018.

PRESENT:

Hon. Daisy A. Limbang, Presiding Officer,	Municipal Vice Mayor
Hon. Raul P. Dominise, Presiding Officer Pro-Tempore,	Sangguniang Bayan Member
Hon. Emelyn P. Alumbre, Majority Floor Leader,	-do-
Hon. Nadine R. Pollescas, Minority Floor Leader,	-do-
Hon. Norma R. Labastida,	-do-
Hon. Ma. Roselyn G. Secretario,	-do-
Hon. Oliver A. Romero,	-do-
Hon. Vanessa Lyn B. Atuy,	-do-
Hon. Johnny C. Anugon, Sr., IPMR,	-do-
Hon. Phil A. Saraga, SK Fed. President,	-do-
ABSENT:	
Hon. Primitiva D. Castillo, Asst. Majority Floor Leader,	-do-
Hon. Josecor S. Gepolongca, LIGA President,	-do-

"MUNICIPAL ORDINANCE NO. 18-07
Series of 2018

**MUNICIPAL ORDINANCE PRESCRIBING THE RULES ON QUASI-JUDICIAL POWER AND
LEGISLATIVE INQUIRY OF SANGGUNIANG BAYAN OF SIAYAN, ZAMBOANGA DEL
NORTE AND IMPOSING FILING FEES THEREFORE.**

PREFATORY STATEMENT

Chapter 4, of RA 7160, known as the Local Government Code of 1991 empower the Sangguniang Bayan to conduct hearing, investigate whatever administrative complaint filed against erring elective barangay officials and impose appropriate penalty as a form of disciplinary actions if found guilty which decision is final and executory.

This rules on quasi-judicial power of the Sangguniang Bayan is hereby prescribed in line with the provisions stipulated under RA 7160 to make it easier, specific, and understandable for the complainants and the respondents in the mobilization of the hearing and investigations, consequently in its implementation.

Theoretically, the Sangguniang Bayan in the delivery of its powers, duties and functions shall at all times sanctioned a legislative inquiry in aid of legislation.

BE IT ORDAINED by the Sangguniang Bayan in session assembled:

CHAPTER I

RULE I

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 and determine controversies outside of its legislative duty or power, as the power to hear and determine or ascertain facts and decide cases by the application of the rules of the law in the enforcement and administration of justice. It is different from the investigation in aid of legislation. It is exercised by the Sangguniang Bayan thru its Committee as a whole whose findings and decisions shall be final and executory.
- b. **VERIFIED COMPLAINT** – refers to a verified written statement under oath by a person

who has personal knowledge of the facts complained of therein, alleging the complainants' cause of action against any elective barangay official and shall include the names and addresses of the parties to the case.

- c. **SUBPOENA** – is an order of the Sangguniang Bayan 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 committee to produce relevant material documents, in which case it is known as subpoena *duces tecum*.
- d. **DUE PROCESS** – is that which hears before it condemns, which proceeds upon inquiry and renders judgment only after trial. It requires notice and opportunity to be heard before judgment is rendered.
- e. **SUBSTANTIAL EVIDENCE** – refers to such evidence as a reasonable mind might accept as adequate to support as conclusion.
- f. **DISCIPLINARY ACTION** – is a mode of correction or punishment for certain unlawful conduct, behavior or actuations of elective barangay officials in connection with the performance of their powers, functions and duties, as prescribed by law, in relation to their public office, based on grounds specified therein. Elective barangay officials are also subject to disciplinary action even if their unlawful conduct was committed in private capacity in express violation of "Code of Conduct and Ethical Standards for Public Officials and Employees"¹ and other existing laws, rules and regulations.
- g. **ABUSE OF AUTHORITY** – exercise use of power or authority unbefitting 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 such a way as to deprive a person of his/her right or of the remedy to protect or enforce such right.
- h. **CULPABLE VIOLATION OF THE CONSTITUTION** – a deliberate or wilful or intentional violation of the Constitution of the Republic of the Philippines.
- i. **DISHONESTY** – concealment of truth in a matter of fact relevant to one's office or connected with the performance of his/her duties.
- j. **OPPRESSION** – means an act of cruelty, severity, unlawful exaction, domination or excessive use of authority.
- k. **MISCONDUCT IN OFFICE** – means maladministration or wilful, intentional neglect and failure to discharge the duties of the office. It is a 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 a misconduct that effects the performance of duties as a public officer and not as a private individual.
- l. **GROSS NEGLIGENCE OF DUTY** - there is gross neglect of duty when the 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.
- m. **DERELICTION OF DUTY** – means deliberate, conscious or wilful neglect of duty.
- n. **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.
- o. **ACTS INVOLVING MORAL TURPITUDE** – these are acts considered immoral in themselves as contra distinguished from acts which are considered wrong because

¹ R.A. 6713

they are prohibited by law.

- p. **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.
- q. **PREVENTIVE SUSPENSION** – is a disciplinary sanction imposed by the Municipal Mayor upon the recommendation by the Sangguniang Bayan. It is a temporary withdrawal or separation from office of the elective barangay official, who is the 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 in 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.
- r. **PUNITIVE SUSPENSION** – is a penalty recommended by the Sangguniang Bayan and enforced by the Municipal Mayor. It is a temporary withdrawal or separation from office of the elective barangay official, who is the subject of an administrative complaint, after the investigation of his/her case.
- s. **CENSURE**- means severe disapproval, criticism or condemnation of an official action of an elective barangay official.
- t. **REPRIMAND** – is almost synonymous with censure. It is a formal and public censure, or severe reproof, administered to a respondent elective barangay official by the Sangguniang Panglungsod.
- u. **SANGGUNIANG BAYAN EN BANC** – refers to this Sanggunian at least with majority of all its members assembled as one whole body;
- v. **COMMITTEE** – means any of the regular committees of the Sangguniang Bayan or any of the special committees that it may create;
- w. **ADVERSARIAL COMPLAINT** - is a complaint wherein the complainant is claiming for awards either monetary or otherwise or is asking that the respondent be sanctioned for the acts complained of;
- x. **INVESTIGATION IN AID OF LEGISLATION** - means an inquiry the purpose of which is to determine whether or not there is a need to pass legislative measures to correct the acts subject of the said inquiry.

RULE II

SECTION 2. COVERAGE. - These rules shall apply only to administrative complaint against any elective barangay official that filed before the Office of 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 Section 61, par(c) of RA 7160 which provides that a complaint against any elective barangay official shall be filed before the Sangguniang Panlungsod or Sangguniang Bayan concerned whose decision shall be final and executory.

SECTION 4. NATURE OF PROCEEDINGS - the proceedings that may be conducted by the Sangguniang Bayan 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. It is a must, however, that due process of law must be observed.

SECTION 5. GROUNDS FOR DISCIPLINARY ACTIONS. – 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 an offense punishable by at least 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 the Punong Barangay, and four (4) consecutive sessions for the other members of the Sangguniang Barangay;
- (7) application for, or acquisition of, foreign citizenship or residence or the status of an immigrant of another country; and
- (8) such other ground as may be provided by R.A. 7160; R.A. 6713; R.A. 3019; Administrative Order of 1987; Revised Penal Code and all other general and special laws.

An elective barangay official may be removed from office on the grounds enumerated above by order of the proper court or by the Municipal Mayor and recommended by the Sangguniang Bayan as the disciplining authority whichever first acquires jurisdiction to the exclusion of the other.

RULE III

SECTION 6. FORM AND FILING OF ADMINISTRATIVE COMPLAINT AND RULES OF PROCEDURE IN THE CONDUCT OF INVESTIGATION.

- (a) A verified complaint with the copies of the affidavits of witnesses and other supporting documents against any elective barangay official may be filed by any person or entity before the Sangguniang Bayan. The complainant shall furnish the Department of Interior and Local Government (DILG) thru its office in the Municipality a copy of the complaint.
- (b) Within seven (7) days after the administrative complaint is filed, the Sangguniang Bayan thru its Presiding Officer shall notify the respondent about it. Attached to the notice is a copy of the verified complaint together with its Annexes if there will be any. The notice shall require the respondent to file his/her answer with the copy of the witnesses and supporting documents within fifteen (15) days from receipt thereof;
- (c) The unreasonable failure of the respondent to file his/her verified answer with the copies of the witnesses and other supporting documents within fifteen (15) days from receipt of the notice for him/her to file his/her answer shall be considered a waiver of his/her right to present evidence in his/her behalf. The complainant may file a motion to declare respondent in default or the Sangguniang Bayan, by a majority vote, may *moto proprio* declare respondent in default;
- (d) The Sangguniang Bayan shall commence the investigation within ten (10) days from the date of receipt of the answer of respondent. Should there be no answer, the investigation shall proceed without the evidence and presence of the respondent. If the investigation is suspended within the period of ninety (90) days immediately prior to any local election, the same shall resume after said period;
- (e) The investigation shall be terminated within ninety (90) days from the start thereof, after which it shall be decided within thirty (30) days;
- (f) The complainant shall be the first one to present his/her evidence. This shall be followed by

the presentation of the evidence of the respondent. Any witness who may be presented in the proceedings shall be under oath. Any party may ask the Sangguniang Bayan for the issuance of a subpoena *ad testificandum* for a witness to appear and testify in the proceedings. If the complainant fails or refuses to present his/her evidence, the complaint shall be dismissed. If the respondent fails or refuses to present his/her evidence, the case shall be decided on the basis of the evidence presented by the complainant;

- (g) Only the original or certified true copy of a document shall be admitted as documentary evidence. Any party to the administrative case may ask the committee to issue a subpoena *duces tecum* for the production of relevant document;
- (h) Any party who asks the Sangguniang Bayan for the issuance of a subpoena *ad testificandum* or subpoena *duces tecum* shall first show to the committee the relevance and materiality of the testimony of the person to testify and/or of the document he/she wishes to be produced;
- (i) In case of disobedience of any subpoena of the Sangguniang Bayan, the said committee may seek, thru a proper petition, the aid of MUNICIPAL CIRCUIT TRIAL COURT in Sindangan, Zamboanga del Norte to cite the disobedient person in indirect contempt of court.

RULE IV

SECTION 7. FILING FEE – The complainant shall pay in the amount of Three Thousand Pesos (P3,000.00) as filing fee for every complaint except if the Complainant is indigent duly certified by the proper authority.

RULE V

SECTION 8. VENUE. – The place of the investigation shall be only in Siayan, Zamboanga del Norte and must be within the legislative building of the Municipality of Siayan, or within the building where the Sangguniang Bayan is housed.

SECTION 9. COMPULSORY APPEARANCE - That both parties to the administrative case shall be accorded the opportunity to appear in person or by counsel.

SECTION 10. MOTION TO DISMISS NOT ALLOWED; EXCEPTION – except on the ground of lack of jurisdiction on the part of the Sangguniang Bayan, no motion to dismiss shall be entertained.

SECTION 11. QUANTUM OF EVIDENCE. – The quantum (amount) of evidence to sustain culpability of the respondent must be substantial.

SECTION 12. PREVENTIVE SUSPENSION. – Preventive Suspension may be imposed by the Municipal Mayor upon the recommendation of the Sangguniang Bayan. It may be recommended by the Sangguniang Bayan subject to following guidelines:

- (a) Preventive suspension may be imposed at any time after the issue of the case are joined, 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 evidence;
- (b) Any single preventive suspension of 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/she 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;
- (d) 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/her, which shall be terminated and decided within one hundred twenty (120) days from the start thereof. If the delay in the proceedings is due to respondent's fault, neglect or request, other than the appeal duly filed, the duration of such delay shall be counted in computing the time of the termination of the case;

- (e) Any abuse in the exercise of the power of preventive suspension shall be considered as abuse of authority;
- (f) The respondent elective official shall receive no compensation during his/her preventive suspension. Upon exoneration and reinstatement, however, he/she shall be paid his/her full compensation including other emoluments accruing during his/her said period of suspension.

RULE VI

SECTION 13. FORM, SUBSTANCE AND NOTICE OF DECISION. -

- (a) Within thirty (30) days after the end of the investigation, the Sangguniang Bayan shall render a decision in writing stating clearly and distinctly the facts and the reasons for such decision;
- (b) The decision shall clearly state the penalty/sanction which may be censure, reprimand, suspension or removal from office;
- (c) To enforce a sanction/penalty of censure, it is enough that it is stated in the decision, copy furnished the parties;
- (d) To enforce a sanction/penalty of reprimand, the respondent must be required to appear before the Sangguniang Bayan where he/she should be reprimanded only after the decision has become final and executory, that is, it is not appealed within the reglamentary period, or appealed but the penalty has been affirmed;
- (e) Only the Municipal Mayor can enforce the sanction/penalty of suspension (punitive suspension) from office or removal from the office;
- (f) The penalty of suspension shall not exceed the unexpired term of the respondent or a period of six (6) months for every administrative offense;
- (g) The penalty of suspension (punitive suspension) shall not be a bar to the candidacy of the respondent so suspended as long as he/she meets the qualifications required for the office;
- (h) During the period of the punitive suspension, respondent so suspended shall not receive any compensation. Upon the expiration of the period of such suspension, he/she shall resume receiving compensation attached to his/her position; and
- (i) The penalty of removal from office shall be considered a bar to the candidacy of the respondent so removed from any elective position.

SECTION 14. MOTION FOR RECONSIDERATION NOT ALLOWED – No motion for reconsideration of any order or decision of the Sangguniang Bayan relative to the administrative case of the parties shall be allowed. The immediate and proper remedy of the parties is to appeal as herein provided and as provided in the Local Government Code of 1991 (R.A. 7160).

RULE VII

SECTION 15. APPEAL.

(a) Either party or both parties to the case may, within thirty (30) days from receipt of the decision, appeal the said decision to the Sangguniang Panlalawigan. The decision of the Sangguniang Panlalawigan is appealable to Office of the President and latter's decision shall be final and executory.

b) If no appeal is made within thirty (30) days from receipt of the decision, the decision shall become final and executory.

(c) The appeal must be filed with the Office of the Sangguniang Panlalawigan by personal filing or by registered mail. In case of filing by mail, the date of mailing shall be considered the date of filing. The appellant shall furnish a copy each of the appeal with the appellee, the Sangguniang Bayan and the Department of Interior and Local Government through its office in Municipal Hall, Poblacion, Siayan, Zamboanga del Norte.

SECTION 16. EXECUTION PENDING APPEAL.

(a) An appeal shall not prevent the decision from becoming final and executory. The respondent shall be considered as having placed under preventive suspension during the pendency of the appeal. In the event the appeal results in exoneration, he/she shall be paid his/her compensation and such other emoluments accruing during the pendency of the appeal.

(b) Notwithstanding the immediate preceding paragraph, the penalty of censure or reprimand shall not be enforced during the pendency of the appeal.

CHAPTER II

RULE I

SECTION 17. LEGISLATIVE INQUIRY - There shall be defined the powers of the Sangguniang Bayan *En Banc* or through its committee to conduct investigation in aid of legislation, to wit:

- a) to gather documents;
- b) to subject the case to a committee hearing;
- c) to cross examine the parties and hear their testimonies;
- d) to recommend for the passage of certain legislative measure in relation to the case/complaint submitted.

SECTION 18. Coverage. - This ordinance shall govern the conduct of investigation in aid of legislation that may be conducted by the Sangguniang Bayan *en banc* or through its committees on non-adversarial complaints or matters which in its own initiative be inquired into for the purpose of possible adoption of some measures which are believed to be beneficial to the constituents of the Municipality of Siayan in particular or the people of the country in general. Adversarial matters or matters which are still pending for litigation and/or investigation with the court, Office of the Ombudsman and/or other agencies of the government shall not be a subject of investigation in aid of legislation.

RULE II

SECTION 19. AUTHORITY. - No investigation in aid of legislation shall be conducted without the prior authority from the Sangguniang Bayan *en banc* through a Resolution to that effect.

SECTION 20. PROCEDURE - INVESTIGATION UPON OWN INITIATIVE

(a) Any member of the Sangguniang Bayan may introduce/sponsor a resolution calling for an investigation in aid of legislation by the Sangguniang Bayan *en banc* or through its committees on the subject matter of the resolution;

(b) In case of an *en banc* investigation, the same shall be presided by the Vice- Mayor or in his/her absence or valid inhibition, by the President Pro Tempore, or in the absence of valid inhibitions of both Vice Mayor and President Pro Tempore, by any member of the Sangguniang

Bayan who is chosen by the majority of the members present;

(c) In case of investigation by one committee of the Sangguniang Bayan, the same shall be presided by the chairman of the committee concerned. If there are two (2) or more committees tasked to conduct joint investigation, the members of the said committees shall choose from among their respective chairmen present to preside the hearing. In the absence or valid inhibitions of all the vice-chairmen, the members present shall choose from among themselves to do the presiding.

SECTION 21. UPON COMPLAINT

(a) Should there be complaint filed with the Sangguniang Bayan by any person or entity asking for an investigation in aid of legislation of a particular matter/controversy, the same shall be referred by the Vice-Mayor to determine whether or not the complaint is adversarial or is still pending for investigation with the court, Office of the Ombudsman and/or other agencies of the government.

(b) Should the Vice-Mayor finds that the complaint is adversarial or the subject matter therein is still pending with the court, Office of the Ombudsman and/or other agencies of the government, the same shall be returned to the complainant with the explanation of the reason of the return. Should he/she finds that the complaint is non-adversarial or still pending for investigation with the court, Office of the Ombudsman and/or any other agencies of the government, the Vice-Mayor shall refer the matter to the Committee on Rules who shall sponsor a resolution calling for an investigation in aid of legislation on matters subject of the complaint. If the resolution is approved by the majority of the members present of the Sangguniang Bayan en banc, the committee or committees concerned shall proceed with the investigation. If the said resolution is not approved by the majority of the members present en banc, the investigation shall not proceed. Instead, the complaint shall be returned to the complainant with explanation stating therein the fact that the resolution has been disapproved.

(c) The complaint must be verified and attached to it are the affidavits/sworn statements of witness or witnesses, otherwise, it shall be returned to the complainant with the explanation that it is not verified and without the attachment of the affidavits/sworn statements of the witnesses.

RULE III

SECTION 22. FILING FEE - The filing fee is THREE THOUSAND PESOS (P3,000.00) per Complaint except if the Complainant is indigent duly certified by the proper authority.

RULE IV

SECTION 23. INHIBITION. - Any member of the Sangguniang Bayan shall inhibit himself/herself from participating in the investigation only on the grounds of:

1. conflict of interest
2. pecuniary interest
3. delicadeza

RULE V

SECTION 24. RECORD OF PROCEEDINGS. - All proceedings of the investigation in aid of legislation shall be reflected in its minutes.

SECTION 25. COMMITTEE REPORT. - If the investigation in aid of legislation is done through any of the committee of the Sangguniang Bayan, the committee concerned shall submit a report of its proceedings to the Sangguniang Bayan en banc for approval.

RULE VI

SECTION 26. EVIDENCE.

- (a) The technical rules on evidence shall not apply in an investigation in aid of legislation. However, the Rules of Court shall have suppletory application;
- (b) The investigating body shall consider only such evidence that may be submitted during the investigation. It may consist of documentary or testimonial evidence;
- (c) Only witnesses with affidavits/sworn statements shall be allowed to testify;
- (d) All witnesses shall testify under oath;
- (e) All statements/testimonies given by any witness during the investigation shall be considered privileged communication.

CHAPTER III

RULE I


SECTION 27. SEPARABILITY CLAUSE. — Should any provisions of this Ordinance be found unconstitutional by a court of law, such provisions shall be severed from the remainder of the Ordinance, and such action shall not affect the enforceability of the remaining provisions of this Ordinance.

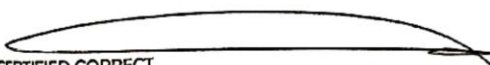
SECTION 28. REPEALING CLAUSE. — All Ordinances, Resolutions, Executive Orders and rules and regulations inconsistent with the provisions of this Ordinance are hereby repealed or modified accordingly.

SECTION 29. EFFECTIVITY. — This Ordinance shall take effect fifteen (15) days after its posting in Legislative Building and two (2) conspicuous and publicly accessible places within the jurisdiction of the Municipality of Siayan, Province of Zamboanga del Norte, Island of Mindanao, Philippines.

ENACTED this 12th day of November 2018.

I HEREBY CERTIFY to the correctness of the above-quoted Ordinance.


WILFREDO O. DONPALES
Secretary to the Sanggunian


CERTIFIED CORRECT
AS TO ITS PASSAGE:

DAISY A. LIMBANG
Municipal Vice Mayor
(Presiding Officer)