

Republic of the Philippines
Province of Davao del Norte
City of Tagum

BEFORE THE 'SANGGUNIANG PANLUNGSOD'

EXCERPT FROM THE MINUTES OF THE 76th REGULAR SESSION OF THE 3rd COUNCIL OF THE CITY OF TAGUM, PROVINCE OF DAVAO DEL NORTE HELD AT THE NEW SP SESSION HALL FEBRUARY 06, 2006.

PRESENT:

Hon. ALLAN L. RELLON, MPA,	City Vice Mayor (Presiding Officer)
Hon. MARIA LINA F. BAURA,	Member
Hon. GETERITO T. GEMENTIZA,	Member
Hon. AGRIPINO G. COQUILLA, JR.,	Member
Hon. RAYMOND JOEY D. MILLAN,	Member
Hon. ROBERT L. SO,	Member
Hon. OSCAR M. BERMUDEZ,	Member
Hon. ROGELIO E. ISRAEL, MPA,	Member
Hon. VICENTE C. ELIOT, SR.,	Member
Hon. JOEDEL T. CAASI,	Member
Hon. ERNESTO Y. OBERO,	Member (ABC Representative)

ON LEAVE:

Hon. TRISTAN ROYCE R. AALA,	Member
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ON VACATION LEAVE:

Hon. BRYAN KIM SAMUEL L. ANGOY,	Member (SKF Representative)
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CITY ORDINANCE NO. 156, s-2006

AN ORDINANCE DEFINING THE QUASI-JUDICIAL POWERS OF THE SANGGUNIANG PANLUNGSOD OF TAGUM CITY AND PRESCRIBING RULES AND PROCEDURE IN THE ADMINISTRATION OF COMPLAINTS AGAINST ELECTIVE BARANGAY OFFICIALS.

**RULE I
DEFINITION OF TERMS**

- a. Quasi-Judicial Power – The incidental power of an officer or body to hear and determine controversies outside of its administrative or legislative duty or power; is the power to hear and determine or ascertain facts and decide cases by the application of the rules of law in the enforcement and administration of justice ; is exercised by the Sangguniang Panlungsod through its Committee on Good Government, Public Ethics and Investigation.
- b. Abuse of Authority – Excessive use of power or authority unbecoming of a public official. Acts committed in excess of one's power or authority as conferred on him by law or outside of one's duties and function.
- c. Culpable Violation of the Constitution – A deliberate or willful, not unintentional, violation of the fundamental law.
- d. Dishonesty – Lack of honesty or integrity or disposition; to deceive or defraud, such as for instance, malversation, falsification, bribery, etc. Concealment or distortion of truth in a matter of fact relevant to one's office or connected with the performance of his duties.
- e. Disloyalty to the Republic of the Philippines – An act announcing or seeking to remove allegiance from the Republic such as for instance, rebellion or insurrection.
- f. Misconduct in office – 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 misconduct that affects the performance of duties as a public officer and not as a private individual.

- g. Neglect of Duty – The omission or refusal, without sufficient excuse, to perform an act of duty when it was the officer's legal obligation to perform. The disregard of some duty imposed by law.
- h. Moral Turpitude – These are acts considered to be immoral in itself. Most of these acts are those classified as "mala en se" (meaning "acts wrong in themselves") as contra distinguished from "mala prohibita" (meaning "acts which are considered wrong because they are prohibited by law").
- i. Oppression – An act of cruelty, severity, unlawful exaction, domination, or excessive use of authority.
- j. Preventive Suspension – Is a disciplinary sanction imposed by the Mayor upon the recommendation of the Committee and concurred by the Sangguniang Panlungsod.
- k. Punitive Suspension – Is a penalty recommended by the Committee, concurred by the Sangguniang Panlungsod and enforced by the Mayor.
- l. Public Official – Is any person who, by direct provisions of Law, popular election or appointment by competent authority, takes part in the performance of public functions in the government, duties as an employee, agent or subordinate official, or any rank or class.
- m. Committee – refers to the Committee on Good Government, Public Ethics and Investigation of the Sangguniang Pangunsod.

RULE II

LEGAL BASIS OF QUASI-JUDICIAL POWER

The quasi-judicial power and function of the Sanggunian is anchored on Sec. 61 of the Local Government Code which states that , "a complaint against any elective official of a municipality shall be filed before the Sangguniang Panlalawigan whose decision may be appealed to the Office of the President. The complaint against any barangay official shall be filed before the Sangguniang Panlungsod or Sangguniang Bayan concerned whose decision shall be final and executory. "

Section 1. NATURE OF PROCEEDINGS

- a. The environment in quasi-judicial bodies is one of expeditiousness and expertness. Liberally conceived remedies are generally unrestricted or not bound by the technical rules of evidence and procedures which govern trials before a court.
- b. The Revised Administrative Code does not require that the investigation of the quasi-judicial body be in the nature of a court trial. In deciding administrative cases in the exercise of their quasi-judicial power, the bodies or officials tasked to do so generally enjoy wide discretion. Technical rules of procedures are not strictly enforced and due process of law in the strict judicial sense is not indispensable. It is sufficient that substantive due process requirement of fairness and reasonableness are observed.

Section 2. CONCEPT OF INVESTIGATION/HEARING

Investigation or hearing is conducted to look into the facts of each alleged violation, and then the law involved is applied to the facts of the case by the investigator or hearing officer.

Section 3. RULES OF PROCEDURE AND EVIDENCE

- a. The general rule is the quasi-judicial bodies are not bound by the strict or technical rules of evidence governing court proceedings. They are given macro leeway in hearing and considering a variety of material evidence and the receipt and consideration of incompetent evidence do not constitute a denial of due process of law.
- b. The quantum of evidence must be "substantial", i.e., such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.

- c. The quasi-judicial body may admit and give probative value to evidence commonly accepted by reasonable, prudent men in the conduct of their affairs.
 1. Documentary evidence may be received in the form of copies of 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.
 2. The quasi-judicial body 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.
- d. In any contested case, the quasi-judicial body shall have the power to require the attendance of witnesses or the production of books, papers, documents and other pertinent data, upon request of any party before or during the hearing upon showing of general relevance. Unless otherwise provided by law, the Committee may, in case of disobedience, invoke the aid of the Regional Trial Court (RTC) within whose jurisdiction the contested case being heard falls. The court may punish contumacy or refusal as contempt. (Sec. 13, Chapter 3, Book VII , E. O. No. 292)

Section 4. DUE PROCESS IN QUASI-JUDICIAL PROCEEDINGS

- a. Procedural due process is that which hears before it condemns, which proceeds upon inquiry and renders judgment only after trial. It contemplates notice and opportunity to be heard before judgment affecting one's person or property is rendered.
- b. In proceedings of quasi-judicial character, the liberty and property of the citizen must be protected by the observance of the rudimentary requirements of fair play. The safeguards which the due process clause assures in the exercise of a quasi-judicial power are:
 1. that the trier of the facts shall be an impartial tribunal legally constituted to determine the rights involved;
 2. that no judgment should be made except upon due notice and opportunity to be heard; and
 3. that it shall be conducted in such a way that there will be opportunity for a court to determine whether the applicable rules of law and procedure were observed.
- c. The Supreme Court laid down the cardinal rights which must be respected in trials and investigations of an administrative character. The court in its ruling noted the following "cardinal primary rights":
 1. The right to a hearing, which includes the right of the party interested or affected to present his own case and submit evidence presented;
 2. The tribunal or committee must consider the evidence presented;
 3. The decision must have something to support itself;
 4. The evidence must be substantial;
 5. The decision must be rendered on the evidence presented at the hearing , or at a least contained in the record and disclosed to the parties affected;
 6. The tribunal or the committee or any of its judges, therefore, must act on its or his own independent consideration of the law and facts of the controversy, and not simply accept the views of a subordinate in arriving at a decision; and
 7. The tribunal or the committee should in all controversial questions, render its decisions in such a manner that the parties to the proceedings can determine the various issues involved and the reasons for the decision rendered.

Section 5. GROUNDS FOR DISCIPLINARY ACTIONS

Disciplinary actions against barangay officials as contained in this ordinance constitute the administrative punishment of admonition, reprimand or censure, withholding of privileges , suspension , forfeiture of salary , demotion or removal from office for commission of the following acts:

- a. Disloyalty to the Republic of the Philippines , to wit:
 1. espionage
 2. treason
 3. conspiracy and proposal to commit treason
 4. inciting to war or giving motives to reprisals
 5. correspondence with hostile country
 6. piracy and mutiny on the high seas
 7. qualified piracy
- b. Culpable violation of the Constitution, to wit:
 1. arbitrary detention or expulsion
 2. delay in the delivery of detained person
 3. violation of domicile
 4. searching domicile without witnesses
 5. interruption of religious worship
 6. offending the religious feelings
 7. prohibition, interruption and dissolution of peaceful meetings
- c. Dishonesty , Oppression , Misconduct in Office, Gross Negligence or Dereliction of duty ,to wit;
 1. bribery
 2. malversation
 3. conniving with or consenting to evasion
 4. removal, concealment, or destruction of documents
 5. open disobedience
 6. refusal of assistance
 7. usurpation of powers
 8. abuses against chastity
 9. simulation of birth and usurpation of civil status
 10. fraud
- d. Abuse of authority, which may include, but not limited to insubordination, frequent absences or tardiness, habitual drunkenness, and gambling prohibited by law.
- e. Unauthorized absence for fifteen (15) consecutive working days, except in the case of local chief executives, and four (4) consecutive sessions in case of members of the Sangguniang Panlalawigan, Sangguniang Bayan and Sangguniang Barangay.
- f. Application for, or acquisition of, foreign citizenship, or residence or the status of an immigrant of another country; and
- g. Such other grounds as may be provided under R. A. 7160 and other laws. (Sec. 60, R.A. 7160)(Art. 124 IRR of R.A. 7160)

RULE III

FILING OF ADMINISTRATIVE COMPLAINTS AND PROCEDURAL RULES IN CONDUCTING AN ADMINISTRATIVE INVESTIGATION

Section 6. FILING OF COMPLAINT

No complaint shall be docketed by the Secretariat of the Sangguniang Panlungsod unless it is duly verified by the complaint.

Section 7. WHO MAY FILE COMPLAINT

Any person may file a verified complaint with the Sangguniang Panlungsod either Personally or through counsel.

Section 8. CONTENTS OF THE COMPLAINT

A verified complaint against any erring elective barangay official shall state the following:

-over-

- 3.1 Name, capacity to sue and address of complainant/s;
- 3.2 Name, position and address of respondent/s;
- 3.3 A clear and concise statement of the cause or causes of action; (refer to Section 5)
- 3.4 Other jurisdictional facts.

Section 9. NUMBER OF COPIES OF COMPLAINT

The complainant/s shall submit fifteen (15) clear and eligible copies of the complaint, including annexes, if any.

Section 10. SUMMONS

Upon filing of the complaint, the Sangguniang Panlungsod through the Secretary to the Sangguniang Panlungsod shall issue the corresponding summons to the respondent with a copy of the complaint.

Section 11. SERVICE OF SUMMONS.

- a. **Personal Service** – The summons shall be served within seven (7) days after the complaint is filed by handing a copy thereof to the respondent in person, or, if he refuses to receive it, by tendering it to him.
- b. **Substituted service** – If the respondent cannot be served within a reasonable time as provided in the preceding paragraph, service may be effected:
 1. by leaving copies of the summons at the respondent's residence or dwelling with some person of suitable age and discretion then living or residing therein; and
 2. by leaving copies of the summons at the respondent's office with some competent person in charge thereof.

Section 12. PROOF OF SERVICE

The proof of service of summons shall be made in writing by the assigned employee of the Sangguniang Panlungsod and shall set forth the manner, place, and date of service; shall specify any papers which have been served with the process and the name of the person who received the same.

Section 13. ANSWER

Within fifteen (15) calendar days from service of summons and receipt of a copy of the complaint, the respondent shall file his verified answer and serve a copy thereof upon the complainant. Extensions shall be looked upon with disfavor.

Before an answer is filed, the respondent may file a motion to dismiss or any pleading within the same period, and such motion shall interrupt the time for filing the answer.

Upon its denial, the respondent shall have what remains of the original period within which to file the verified answer.

Section 14. DEFAULT OR WAIVER

If the respondent fails to answer within the time prescribed under the preceding section, the Sangguniang Panlungsod may, upon motion of the complainant or **motu proprio** declare the respondent in default and be deemed to have waived his right to present evidence in his behalf, and the Sangguniang Panlungsod shall forthwith proceed to receive the complainant's evidence **ex parte** and thereafter resolve the case on the basis of the evidence on record.

Section 15. APPEARANCES

An attorney appearing for a party is presumed to be properly authorized for that purpose. Appearance may be made orally or in writing. In both cases, the complete office

address shall be made on record and the adverse party or his counsel properly advised thereof. Any change in the address of counsel should be filed with the record of the case and furnished to the adverse party or counsel.

Section 16. AUTHORITY TO BIND PARTY

Attorneys of parties shall have authority to bind their client in all matters of procedure.

RULE IV JURISDICTION OF THE SANGGUNIANG PANLUNGSOD

Section 17. JURISDICTION.

All verified complaint against elective barangay official within the City shall be cognizable by the Sangguniang Panlungsod.

RULE V VENUE AND TIME OF HEARING

Section 18. VENUE AND TIME

All complaints shall be heard in the Session Hall of the Sangguniang Panlungsod at the 3rd Floor SP Building, Bonifacio St., Tagum City. Hearing will be from Monday to Friday at regular business hours.

Section 19. CHANGE OF VENUE

The Sangguniang Panlungsod, upon motion of a party or motu proprio transfer on meritorious grounds the venue of the hearing of the case from the Session Hall of the Sangguniang Panlungsod to any appropriate place in the City.

RULE VI PROCEEDINGS BEFORE THE SANGGUNIANG PANLUNGSOD

Section 20. PRE-TRIAL CONFERENCE

Within ten (10) days after the answer is filed, the Sangguniang Panlungsod, upon motion of any interested party or on its own, direct the parties and their attorneys to appear before it for a conference to consider:

- a. Simplification of the issue;
- b. Advisability of amendment to the pleading;
- c. Possibility of stipulation of facts;
- d. Possible limitation of the number of witnesses to be presented;
- e. Such other matters as may aid in the speedy disposition of the case.

Section 21. SUMMARY JUDGEMENT OR RESOLUTION

If the complaint and the answer do not raise a question of fact and involves purely question of law, the Sangguniang Panlungsod may dispose of the case based on the pleadings and documents, submitted and on existing applicable jurisprudence or previous decisions. In cases of first impression, the parties, aside from the pleading filed, may be required to submit their respective position paper or memoranda. However, the Sangguniang Panlungsod may call the parties to answer clarificatory questions after submission of their respective position paper or memoranda.

Section 22. OATHS, AFFIRMATIONS, WITNESSES AND PRODUCTION OF RECORDS

In all cases pending before it, the Sangguniang Panlungsod shall have the power to issue subpoena ad testificandum and subpoena duces tecum to compel the person to testify and to produce books, papers and other records deemed necessary as evidence. Any person who, without lawful excuse, shall fail or refuse to make oath, give testimony or produce documentary evidence shall be dealt with in accordance with existing laws.

The Sangguniang Panlungsod shall have the power to administer oaths or affirmations in all matters pending before it.

Section 23. SUBMISSION OF POSITION PAPERS

During the pre-trial conference, or immediately thereafter, the Sangguniang Panlungsod shall require the parties to simultaneously submit their respective verified position papers, which shall cover only the issues raised in the pleadings, accompanied by all supporting documents then available to them and the affidavits of their witnesses which shall take place of their direct testimony. The parties shall thereafter not be allowed to allege, or present evidence to prove facts not referred to and any cause or causes of action not included in their pleadings or position papers, affidavits and other documents. The parties shall furnish each other with copies of the position papers, together with the supporting documents submitted to them.

Section 24. DETERMINATION OF NECESSITY OF HEARING

Immediately after the submission by the parties of their position papers and supporting proofs, the Sangguniang Panlungsod shall determine whether there is a need for a formal hearing or investigation. The Sangguniang Panlungsod may elicit pertinent facts or information, including documentary evidence, if any, from any party or witness to complete the facts of the case. Facts or information so elicited may serve as basis for clarification, simplification of the issues in the case, encouraging for this purpose the submission by the parties of admissions and stipulations of fact to abbreviate the proceedings.

Section 25. ROLE OF THE SANGGUNIANG PANLUNGSOD

The Sangguniang Panlungsod shall personally conduct the hearing. The Sangguniang Panlungsod shall take full control of the proceedings, examine the parties and their witnesses to satisfy themselves with respect to the matters at issue and may allow the parties or their counsel to ask question only for the purpose of clarifying points of law or fact involved in the case. They shall limit the presentation of evidence o matters relevant to the issue before them and necessary for a just and speedy disposition of the case.

Section 26. PRESENTATION OF THE EVIDENCE

As a general rule, the complainant shall be the first to present the evidence to support his case.

Section 27. EXTENT OF CROSS-EXAMINATION

In the cross examination of witnesses, only relevant, pertinent and material questions necessary to enlighten the Sangguniang Panlungsod shall be allowed.

Section 28. TRANSCRIPT

All hearings of the Sangguniang Panlungsod shall be attended by stenographer/s who shall take down notes of the proceedings therein. At the end of each hearing, it shall be the duty of the stenographer/s to immediately transcribe all the notes taken thereat and deliver said notes as well as the transaction thereof to the Secretary to the Sanggunian to be attached to the records of the case. All members of the Sangguniang Panlungsod shall be furnished a copy of the transcript of the proceedings at least one (1) day before the hearing.

Section 29. DURATION OF INVESTIGATION

The investigation of the case shall be terminated within ninety (90) days from the start thereof. However, if the delay in the proceedings of the case is due to fault, neglect or request, other than the appeal duly filed of the respondent, the duration of such delay shall not be counted in computing the time of termination of the case. Further, no investigation shall be held within ninety (90)days immediately prior to any local elections.

**RULE VII
DISCIPLINARY SANCTIONS FOR ERRING BARANGAY OFFICIAL**

Section 30. DISCIPLINARY SANCTIONS FOR ERRING BARANGAY OFFICIAL

As enumerated in Section 5 of this ordinance, offenses found to have been committed by any elective barangay official, after due notice and summary hearings, shall impose the following sanctions, to wit;

- a. Immediate removal or dismissal from office for actions of disloyalty to the Republic of the Philippines or any combination of such acts as enumerated in Section 5.a of this ordinance.
- b. Imposition of the disciplinary punishment of dismissal from office, suspension, or forfeiture of salary; or any combination thereof for a period not exceeding (180) days for culpable violation of the Constitution comprising, but not limited to acts enumerated in Section 5.b of this ordinance.
- c. Imposition of administrative punishment of admonition or reprimand; withholding or privileges, suspension or forfeiture of salary; demotion ; or any combination of the foregoing, provided that in all cases, the total period shall not exceed sixty (60) days for acts of dishonesty, oppression, misconduct in office, gross negligence or dereliction of duty and any or combination of the acts enumerated under Section 5.c of this ordinance.
- d. Crimes involving moral turpitude and is not linked with the performance of official duties, conviction by final judgment is required as a condition precedent to administrative action.
- e. Crimes involving moral turpitude committed within the purview of official duties shall have the penalty of immediate removal or dismissal from office.
- f. Censure, reprimand, suspension or removal from the office for abuse of authority comprising but not limited to acts enumerated in Section 5. d, 5.e, 5.f, and 5.g of this ordinance.

**RULE VIII
RIGHTS OF RESPONDENT(S)**

Section 31. RIGHTS OF RESPONDENT

Respondent shall be accorded full opportunity to appear and defend himself **in person** or by **counsel** to **confront** and **cross-examine the witness** against him, and to require the attendance of witnesses and the production of documentary evidence in his favor through the compulsory process of subpoena. (Sec. 65, RA 7160)

**RULE IX
FORM AND NOTICE OF DECISION**

Section 32. FORM AND NOTICE OF DECISION

- a. Investigation of the case shall be terminated within (90) days from the start thereof. Within (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. A final hearing shall be called for the sole purpose of promulgating the decision reached by the Sangguniang Panlungsod.
- c. A motion for reconsideration of the order for decision may be filed by the concerned party at least ten (10) days from receipt of the order. The motion for reconsideration which in itself is a form of an appeal does not prevent the decision from becoming final and executory.

- d. 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 the penalty be a bar to the candidacy of the respondent for any elective position. (Sec. 66, RA 7160)

**RULE X
PREVENTIVE AND PUNITIVE SUSPENSION AND REINSTATEMENT**

Section 33. PREVENTIVE AND PUNITIVE SUSPENSION AND REINSTATEMENT

- a. Preventive suspension is imposed by the Mayor upon the recommendation by the Committee on Good Government, Public Ethics and Investigation as concurred by the Sanggunian; while suspension as a penalty is a decision arrived at by the Sanggunian and enforced by the Mayor.
- b. Requirements in issuing a preventive Suspension
 1. A Preventive Suspension Order may be issued by the authorized official concerned at any time after the issues are joined subject to the following requisite:
 - i. 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.
 - ii. Any single preventive suspension of local elective 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.
 - iii. Upon the expiration of the preventive suspension, suspended elective official (s) 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 was formally notified of the case against him.
 - iv. However, if delay in the proceedings of the case is due to respondent's fault , neglect, or request, other than the appeal duly filed, the duration of such delay shall not be counted in computing the time of termination of the case.
 - v. Respondent elective official preventively suspended from office shall not receive salary or compensation during the period of suspension, but upon subsequent exoneration and reinstatement, shall be paid full salary or compensation including such emoluments accruing during the suspension. (Sec. 64 , RA 7160)
- c. Punitive Suspension

The Penalty of suspension shall not exceed the un expired term of the respondent of 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.

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, RA 7160)

**RULE XI
ADMINISTRATIVE APPEAL**

Section 34. ADMINISTRATIVE APPEAL

- a. Decisions in administrative cases may, within (30) days from receipt thereof, be appealed to the following:
 1. The Sangguniang Panlalawigan, in the case of decisions of the Sangguniang Panlungsod of component cities and the Sangguniang Bayan.

- b. 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 period of an appeal. In the event the appeal results in exoneration, he shall be paid his salary and such other emoluments during the period of the appeal. (Sec. 68, RA, 7160)

**RULE XII
EFFECTIVITY**

Section 35. EFFECTIVITY – These rules shall take effect after approval by the Sangguniang Panlungsod in Session Assembled and after publication in at least two (2) newspapers of general circulation in the city.

CARRIED AND APPROVED.

ENACTED AND PASSED this 6th day of February, 2006

I HEREBY CERTIFY to the correctness of the foregoing.

(SGD) REY A. BUHION
Secretary to the Sanggunian

ATTESTED:

(SGD) ALLAN L. RELLON, MPA
City Vice Mayor
(Presiding Officer)

APPROVED:

(SGD) REY T. UY
City Mayor

FNAME: CO15606
*Fjm***