



Republic of the Philippines
Province of Ilocos Norte
SOLSONA

OFFICE OF THE SANGGUNIANG BAYAN

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RECEIVED
DATE **DEC 03 2009**
TIME **10:25 am**
SIGNATURE *J. J.*

EXCERPTS FROM THE MINUTES OF THE 77TH REGULAR SESSION OF THE 7TH SANGGUNIANG BAYAN OF SOLSONA, ILOCOS NORTE HELD IN ITS SESSION HALL ON OCTOBER 26, 2009 AT NINE O'CLOCK IN THE MORNING

PRESENT:

Hon. Ismael L. Agulay,	Acting Vice Mayor/Presiding Officer,
Hon. Christopher A. Curameng, Jr.,	Member,
Hon. Jose A. Martin,	Member,
Hon. Bob G. Sacro,	Member,
HON. Francis Gerald L. Ganotisi,	Member,
Hon. Dixie C. Miguel,	Member,
Hon. Andresito A. Luis,	Member,
Hon. Lorenzo M. Pascua,	Member,
Hon. Jovencio M. Pascua,	ABC President/Member,
Hon. Joselito T. Cabang,	SK President/Member.

ABSENT:

None.

MUNICIPAL ORDINANCE NO. 2009-576

AN ORDINANCE PRESCRIBING THE RULES OF PROCEDURE IN THE ADMINISTRATION OF ADMINISTRATIVE DISCIPLINARY CASES AGAINST ELECTIVE BARANGAY OFFICIALS IN THE MUNICIPALITY OF SOLSONA, ILOCOS NORTE.

On motion of Hon. Lorenzo M. Pascua, duly seconded by Hon. Jose A. Martin and Hon. Jovencio M. Pascua, be it

ORDAINED, by the Sangguniang Bayan of Solsona, Ilocos Norte, in session assembled that:

**RULE 1
COVERAGE**

SECTION 1. COVERAGE. - The coverage of this Ordinance shall apply to administrative disciplinary cases filed against elective Barangay Officials within the territorial jurisdiction of Solsona, Ilocos Norte.

**RULE 2
PRELIMINARY PROVISIONS**

SECTION 1. INVESTIGATING AUTHORITY. - All verified administrative complaints against elective Barangay Officials shall be acted upon by the Sangguniang Bayan herein referred to as the investigating authority.

SECTION 2. IMPLEMENTING AUTHORITY. - The Local Chief Executive shall be referred to as the implementing authority.

SECTION 3. PREVENTIVE SUSPENSION. - Shall be determined by the Sangguniang Bayan and endorse to the Local Chief Executive for imposition.

SECTION 4. PENALTY. - Shall be determined by the Sangguniang Bayan and endorse to the Local Chief Executive for implementation.

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RULE 3 DEFINITION OF TERMS

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 functions.

CULPABLE VIOLATION OF THE CONSTITUTION – A deliberate or willful, not unintentional, violation of the fundamental law.

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.

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.

MISCONDUCT IN OFFICE – A transgression of some established and definite rule of conduct, more particularly unlawful behavior or gross negligence by the public officer.

NEGLECT OF DUTY – The omission or refusal, without sufficient excuse, to perform an act or duty which it was the officer's legal obligation to perform; the disregard of some duties imposed by law.

MORAL TORPITUDE – 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").

OPPRESSION – An act of cruelty, severity, unlawful exaction, domination or excessive use of authority.

PREVENTIVE SUSPENSION – is a disciplinary sanction imposed by the Mayor upon the recommendation of the Sangguniang Bayan.

SUSPENSION – is a penalty recommended by the hearing committee, concurred by the Sangguniang Bayan and enforced by the Mayor.

PUBLIC OFFICER – 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.

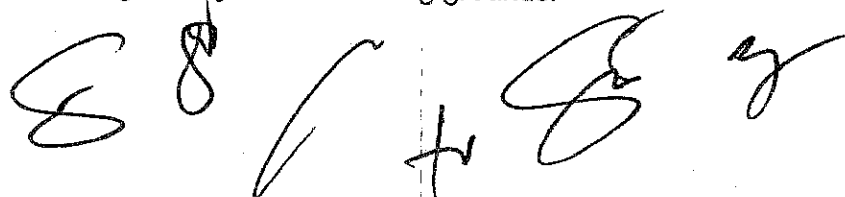
COMMITTEE – refers to a standing committee or Ad Hoc committee created for a specific purpose in the Sangguniang Bayan.

DISCIPLINING AUTHORITY – refers to the person, body or tribunal duly authorized to suspend, discipline or dismiss elective Barangay Officials.

RESPONDENT – refers to the person who is formally charged by the disciplining authority.

RULE 4 GROUNDS FOR ADMINISTRATIVE DISCIPLINARY ACTION

SECTION 1. *An elective Barangay Official maybe censured, reprimanded, suspended or removed from office after due notice of hearing on any of the following grounds:*



1. DISLOYALTY TO THE REPUBLIC OF THE PHILIPPINES:

- espionage; treason; conspiracy and proposal to commit treason; inciting to war or
- giving motives to reprisals; correspondence with hostile country, piracy and mutiny in the high seas; and qualified piracy.

2. CULPABLE VIOLATION OF THE CONSTITUTION:

- arbitrary detention or expulsion; delay in the delivery of detained person; violation of domicile; searching domicile without witnesses; interruption of religious worship; offending the religious feelings; and prohibition, interruption and dissolution of peaceful meetings;

3. DISHONESTY, OPPRESSION, MISCONDUCT IN OFFICE, GROSS NEGLIGENCE OR DERELICTION OF DUTY:

- bribery; malversation; conniving with or consenting to evasion; removal, concealment, or destruction of documents; open disobedience; refusal of assistance; usurpation of powers; abuses against chastity; simulation of birth and usurpation of civil status; and fraud.

4. COMMISSION OF ANY OFFENSE INVOLVING MORAL TORPIDITY OR ANY OFFENSE PUNISHABLE BY AT LEAST PRISON MAYOR:

- rape; adultery or concubinage; act of lasciviousness; and seduction, corruption of minors and white slavery.

5. ABUSE OF AUTHORITY;

6. UNAUTHORIZED ABSENCES FOR FOUR (4) CONSECUTIVE SESSIONS;

7. APPLICATION FOR OR ACQUISITION OF FOREIGN CITIZENSHIP OR RESIDENCE OR THE STATUS OF AN IMMIGRANT OF ANOTHER COUNTRY; AND

8. SUCH OTHER GROUNDS AS MAYBE PROVIDED UNDER R.A. 7160 AND OTHER LAWS.

**RULE 5
COMPLAINT**

SECTION 1. FILING OF COMPLAINT. – An administrative case may be initiated against any elective Barangay Official by any private individual or any government official or employee on the ground/s enumerated in Rule 4 of this Ordinance by filing a sworn statement complaint.

SECTION 2. FORM OF COMPLAINT. – The complaint, accompanied by Affidavits of witness/s or evidences in support of the charge, shall be addressed to the Sangguniang Bayan thru the Presiding Officer.

No complaint against any elective Barangay Official shall be given due course unless the same is in writing and verified under oath, stating therein the following:

1. Full name and address of the complainant;
2. Full name and address of the respondent and position in the Barangay where elected;
3. Statement of the cause of action, including the narration of the relevant and material facts which shows the acts or omission allegedly committed by the Barangay Official;

4. Certified true copies of documentary evidences and affidavits of witnesses, if any, to be attached as annexes to the complaint; and
5. Certification or statement of non-shopping forum.

SECTION 3. PARTIES OF THE CASE. – The party or individual filing the administrative complaint shall be called the “complainant” and the Barangay Official against whom the complaint is filed shall be called the “respondent”.

SECTION 4. – NUMBER OF COPIES OF COMPLAINT. – The complainant shall submit three (3) clear and legible copies of the complaint including annexes plus additional copies corresponding to the number of respondent/s.

SECTION 5. – WHERE TO FILE THE COMPLAINT. – An administrative complaint against any elective Barangay Official shall be filed with the Sangguniang Bayan Legislative Staff. A copy of the complaint shall be furnished the Office of the Mayor and the Office of the Municipal Local Government Operations Officer of the Department of the Interior and Local Government.

SECTION 6. – REFFERAL TO COMMITTEE/S. – The Sangguniang Bayan Secretary or Staff of the Sangguniang Bayan upon receipt of the complaint against any elective Barangay Official shall include the same in the agenda of the Sangguniang Bayan for proper committee referral, evaluation and hearing. Within seven days after the administrative case is filed, the Office of the Sangguniang Bayan 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.

SECTION 7. – ASSIGNING OF COMMITTEE TO EVALUATE THE COMPLAINT. – The committee assigned to hear and try the administrative complaint shall be assigned thru a resolution of authorization by the Sangguniang Bayan.

RULE 6 ANSWER

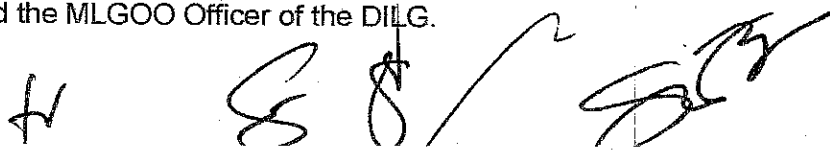
SECTION 1. – NOTICE/SUMMON. – The Hearing Committee of the Sangguniang Bayan through the Secretary to the Sangguniang Bayan shall issue the corresponding notices or summons to the respondent with a copy of the complaint.

SECTION 2. – DELIVERY OF NOTICE/SUMMON

1. **PERSONAL DELIVERY** – The notice/summon shall be served within seven (7) days after the complaint is filed by handing a copy thereof to the respondent in person.
2. **SUBSTITUTED DELIVERY** – If the respondent cannot be reached within a reasonable time, delivery may be done as follows:
 - by leaving copies of the notice/summon at the respondent’s residence with some person of reasonable age and discretion living or residing therein; and
 - by leaving copies of the notice/summon at the respondent’s office with some competent person who shall receive the same.

SECTION 3. PROOF OF DELIVERY. – The proof of delivery shall be made in writing by the assigned employee of the Sangguniang Bayan. it shall contain the manner, place, date and time of service and specify the documents that have been served and the name of the receiving person.

SECTION 4. – FORM OF VERIFIED ANSWER. – The answer accompanied by the affidavits of witnesses or evidences in support of defense shall be addressed to the Sangguniang Bayan thru the Presiding Officer. A copy of the verified answer shall be furnished the complainant, Office of the Municipal Mayor and the MLGOO Officer of the DILG.



Within fifteen (15) calendar days from receipt of a copy of the complaint, the respondent shall file his verified answer to the Office of the Sangguniang Bayan. The request of extension to file the answer shall not be entertained.

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 5. FAILURE TO ANSWER. – If the respondent fails to answer within the time prescribed in the preceding section, the Sangguniang Bayan may declare the respondent in default and be deemed to have waived his right to present evidence in his behalf, and the Sangguniang Bayan shall continue to receive the complainant's evidence and thereafter resolve the case on basis of the evidence of the record.

RULE 7 EVALUATION

SECTION 1. ASSESSMENT OF COMPLAINT AND ANSWER. – Within fifteen (15) days from receipt of the answer, the investigating authority or hearing committee shall evaluate whether there is a prima facie case to warrant the institution of administrative proceedings.

Should probable cause exist, the investigating authority or hearing committee shall set the case for preliminary hearing. If warranted, the imposition of preventive suspension on the respondent shall be recommended to the Sangguniang Bayan.

In case the investigating authority found that there is no probable cause, the same may recommend to the Sangguniang Bayan for the dismissal of the case.

RULE 8 VENUE AND TIME OF HEARING

SECTION 1. VENUE AND TIME OF HEARING. – The preliminary hearing as contemplated in this rule shall be conducted in the Sangguniang Bayan Session Hall at the second floor of the Solsona Municipal Hall. Hearing will be from Monday to Friday at regular business hours.

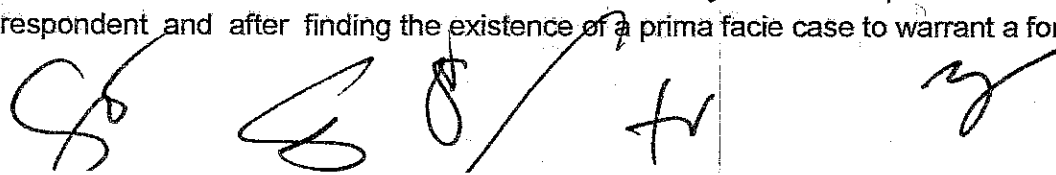
SECTION 2. CHANGE OF VENUE. – Upon motion of a party, the Sangguniang Bayan may upon meritorious grounds transfer the venue of the hearing of the case from the Sangguniang Bayan Session Hall to any appropriate place in the municipality.

RULE 9 JURISDICTION OF THE SANGGUNIANG BAYAN

SECTION 1. JURISDICTION. – All verified complaints against elective Barangay Official shall be cognizable by the Sangguniang Bayan.

RULE 10 PRELIMINARY HEARING

SECTION 1. PRE-TRIAL CONFERENCE. – Within fifteen days from receipt of the verified answer by the respondent and after finding the existence of a prima facie case to warrant a formal



Investigation, the investigating authority or hearing committee shall summon the parties to appear before it for a preliminary hearing for the purpose of determining the following:

1. whether the parties desire a formal investigation;
2. whether parties are willing to submit the case for resolution on the basis of the evidence;
3. simplification of the issues and stipulation of facts;
4. limitation/determination of the number of witnesses to be presented;
5. possibility of an amicable settlement, compromise and arbitration, the terms and conditions shall be subject to the approval of the Sangguniang Bayan; and
6. such other matters as may aid in the speedy disposition of the case.

SECTION 2. SUBMISSION FOR RESOLUTION BASED ON PRE-TRIAL CONFERENCE. –

The parties may agree to submit for resolution based on the result of the pre-trial conference without need for further hearing.

If a prima facie case is established during the pre-trial conference, a formal charge shall then be recommended by the investigating authority to the Sangguniang Bayan. A formal investigation shall follow.

In the absence of a prima facie case, the complaint shall be dismissed.

SECTION 3. PRESENCE OF PARTIES. – The parties are required to appear personally with or without the assistance of a counsel during the pre-trial conference.

SECTION 4. FAILURE OF COMPLAINANT TO APPEAR. – Failure of the complainant to appear during the pre-trial conference of the case shall be a ground for the dismissal of the case for lack of interest.

SECTION 5. FAILURE OF RESPONDENT TO APPEAR. – Failure of the respondent to appear in the pre-trial conference shall be deemed a waiver of his right to present evidence in his behalf and the proceedings may precede ex parte.

SECTION 6. 90-DAY BAN. – No preliminary investigation shall be conducted within ninety (90) days immediately prior to any local election.

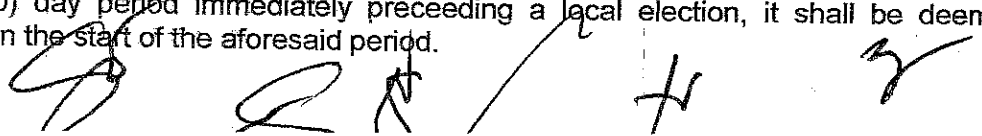
**RULE 11
PREVENTIVE SUSPENSION**

SECTION 1. GROUNDS FOR PREVENTIVE SUSPENSION. – After issues are joined, preventive suspension maybe imposed when the evidence of guilt is strong. Given the gravity of the offense, there is a probability that the continuance of the respondent in office could influence the witnesses or pause threat to the safety and integrity of the records and other evidence.

SECTION 2. MANNER OF IMPOSITION. – Preventive suspension is imposed by the Municipal Mayor upon the recommendation of the investigating authority duly concurred by the Sangguniang Bayan thru a resolution.

SECTION 3. DURATION. – Any single preventive suspension of an elective Barangay Official shall not extend beyond sixty (60) 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) days within a single year on the same ground or grounds and known at the time of the first suspension.

SECTION 4. NINETY (90) DAY BAN. – 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 ninety (90) day period immediately preceding a local election, it shall be deemed automatically lifted upon the start of the aforesaid period.



SECTION 5. AUTOMATIC REINSTATEMENT. – Upon expiration of the preventive suspension, the suspended Barangay Official shall be deemed reinstated in office without prejudice to the continuation of the hearings 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 in computing the time of termination of the case.

SECTION 6. HONORARIUM AND CASH GIFT. – Respondent preventively suspended from office shall receive no honorarium and cash gift including other emoluments during the suspension, but upon subsequent exoneration and reinstatement, he shall be paid his full honorarium, cash gift including such emoluments accruing during such suspension.

RULE 12 FORMAL HEARING

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 documentary evidence in his favor through the compulsory process of subpoena or subpoena duces tecum.

SECTION 2. CONDUCT OF HEARING. – The formal administrative investigation shall be conducted by the investigating authority.

SECTION 3. FAILURE TO COMMENCE FORMAL INVESTIGATION. – Unreasonable failure to conduct formal investigation by the investigating authority within the prescribed period by the person or persons assigned to investigate shall be a ground for disciplinary action.

SECTION 4. POSTPONEMENT OF INVESTIGATION. - Postponement shall be discouraged and shall be allowed only in meritorious cases, like illness of the parties or counsels and other similar cases. No postponement for a period longer than seven (7) days shall be allowed, and in no case shall the total number of postponements for one (1) party be more than twenty (20) days.

SECTION 5. REQUEST FOR SUBPOENA. – If a party desires the attendance of a witness or the production of documents, he shall make a request for the issuance of the necessary subpoena ad testificandum and or subpoena duces tecum at least three (3) days before the scheduled hearing.

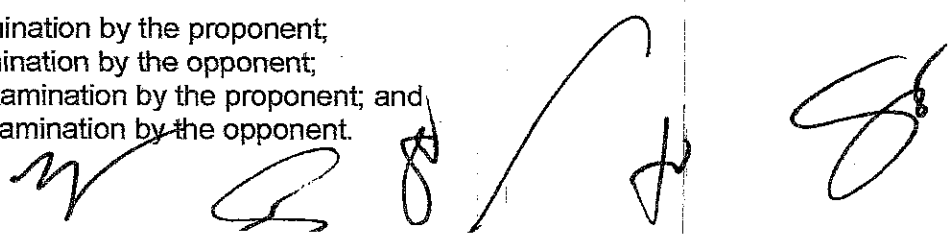
SECTION 6. RECORDS OF PROCEEDING. – Records of the investigation during the formal hearing maybe taken by the Sangguniang Bayan Secretary in shorthand or stenotype or any other means of recording.

SECTION 7. ORDER OF HEARING. – The order of hearing shall be as follows:

1. the complainant shall present his evidence in support of his case;
2. the respondent shall then offer evidence in support of his defense; and
3. rebuttal evidence may then be presented by the respective parties, however, the investigating authority, for good reasons and in the furtherance of justice, permits them to offer evidence upon their original case.

SECTION 8. ORDER OF EXAMINATION. – The examination of witnesses shall be in accordance with the following order.

1. direct examination by the proponent;
2. cross examination by the opponent;
3. re-direct examination by the proponent; and
4. re-cross examination by the opponent.

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SECTION 9. MEMORANDA. – After submission by the parties of its case for resolution, they shall file their respective memorandum within fifteen (15) days from the termination of the formal hearing, after which, the case shall be deemed submitted for resolution.

RULE 13 EVIDENCE

SECTION 1. ADMISSIBILITY OF EVIDENCE. – The evidence of the administrative case against or in defense of the elected Barangay Official may either be testimonial or documentary.

Only testimonial or documentary evidence that is relevant and competent to prove the existence or non-existence of a fact shall be admissible in evidence, provided, that oral or testimonial evidence of a witness must come from his own or personal knowledge, otherwise, they shall not be admissible.

Documents attached must be original, certified true copy or certified photocopies of the original.

SECTION 2. ORAL OR TESTIMONIAL EVIDENCE. – All oral testimonies of complainant or witnesses under this ordinance shall be limited to facts as alleged in the complaint or as stated in the affidavit of witnesses.

SECTION 3. DOCUMENTARY EVIDENCE. – Documentary evidence submitted or presented by the parties in support or defense of their cases shall be the original or certified true copies of the original, provided, however, in the latter case, all parties or the investigating authority shall be given the authority to compare the copy with the original for the purpose of determining the truthful reproduction thereof.

SECTION 4. MARKINGS. – All documentary evidence or exhibits shall be properly marked by letters (a, b, c, d, etc...) if presented by the complainant and by numbers (1, 2, 3, 4, etc...) if presented by the respondent, these shall form part of the complete records of the case.

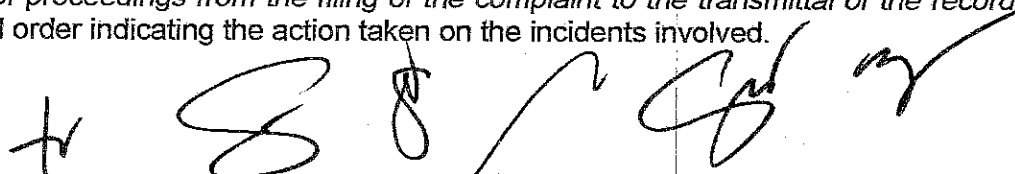
SECTION 5. OBJECTIONS. – Objections to all evidences offered shall be made immediately after the presentation is made except when the offer of evidence is in writing, in which case, objections shall be made within three (3) days after notice of the offer unless a different period is allowed by the investigating authority.

Objections made during the hearing shall be resolved by the hearing panel, provided, in case of doubt, the investigating authority/hearing committee shall allow the admission of evidence of the witness to answer subject to the objection interposed against its admission.

RULE 14 REPORT

SECTION 1. REPORT OF THE INVESTIGATING AUTHORITY/HEARING COMMITTEE. – After the termination of the investigation period, the investigating authority shall prepare the following:

1. the draft decision, resolution and order;
2. the complete records with the page consecutively numbered and initialed by the custodian of the records; and
3. a summary of proceedings from the filing of the complaint to the transmittal of the records in chronological order indicating the action taken on the incidents involved.

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SECTION 2. RECORDS. – All records in administrative disciplinary cases are classified as confidential in nature and any information as to the charges, accusations, or facts adduced may not be released, and such records may not be available, except to the proper authorities and upon request to the parties in interest or their authorized representatives on the need-to-know basis.

RULE 15 DECISION/RESOLUTION

SECTION 1. RENDITION OF DECISION. – Immediately upon receipt of report from the investigating authority, within thirty (30) days the Sangguniang Bayan shall convene en banc, to deliberate on the case, after which, the same shall be assigned to a member as ponente (speaker or presentor), to write and sign his signature in the decision.

The decision shall state clearly in writing the facts and evidence supporting the decision.

SECTION 2. VOTING. – The decision or resolution of a case against any elective Barangay Official shall be concurred by at least the majority members of the Sangguniang Bayan.

SECTION 2. FINALITY OF DECISION. –The decision of the disciplining authority shall become final and executory after the lapse of thirty (30) days from the receipt of a copy thereof by the complainant or respondent, as the case maybe, unless a motion for reconsideration is filed within the said period by any one party which shall suspend the running of the thirty (30) days reglamentary period.

Only one (1) motion for reconsideration maybe filed to the Sangguniang Bayan and shall be entertained only on the following grounds:

1. newly discovered evidence; and
2. errors of law.

RULE 16 PENALTIES

SECTION 1. SUSPENSION OR REMOVAL. – The respondent, if found guilty of any offense enumerated in Rule 4 hereof maybe penalized by suspension or removal from office depending on the gravity of offense and other attending circumstances.

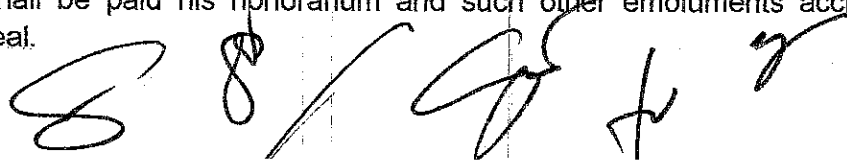
The penalty of removal from office as a result of an administrative investigation shall be considered a bar to the candidacy of the respondent for any elective position.

SECTION 2. LIMITATIONS. – Any order of suspension from office of any elective Barangay Official shall not exceed the unexpired portion of the term or a period of six (6) months for every administrative offense.

RULE 17 EXECUTION OF DECISION

SECTION 1. EXECUTION. – The Municipal Mayor shall execute all final and executory decision of the Sangguniang Bayan by issuing an order implementing said decision.

SECTION 2. EXECUTION PENDING APPEAL. – 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 in exoneration, the respondent shall be paid his honorarium and such other emoluments accruing during the pendency of the appeal.



**RULE 18
APPEALS**

SECTION 1. APPEAL. – An appeal to the final order of the Sangguniang Bayan shall be taken within thirty (30) days from receipt thereof by the parties aggrieved by said decision to the Sangguniang Panlalawigan subject to such rules promulgated by said office.

**RULE 19
MISCELLANEOUS PROVISIONS**

SECTION 1. SUPPLEMENTARY RULE. – The provisions of the local government code of 1991 and administrative code of 1987 shall apply to all matters not provided in this ordinance.

SECTION 2. TRANSITORY PROVISION. – All pending administrative cases not yet decided upon the effectivity of this Ordinance shall be heard by the hearing committee.

**RULE 20
EFFECTIVITY**

SECTION 1. EFFECTIVITY. – These rules shall take effect after approval by the Sangguniang Bayan in session assembled and after posting copies hereof in at least three (3) conspicuous places in the Municipal Hall.

Copies of this Municipal Ordinance be forwarded to the Sangguniang Panlalawigan, Provincial Capitol, Laoag City for their review and other offices and authorities concern for their information, favorable and appropriate action.

CARRIED UNANIMOUSLY, with the following votes:

Infavor - Hons. Curameng, Martin, Sacro, Ganotisi, Miguel, Luis, L. Pascua, J. Pascua & Cabang;

Against - None.

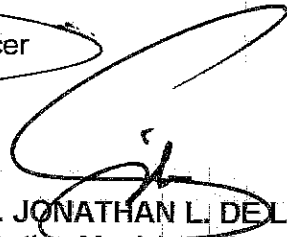
CERTIFIED TRUE & CORRECT:


GLORIA S. ESPIRITU
Administrative Assistant II

ATTESTED:


HON. ISMAEL L. AGULAY
Acting Vice Mayor/Presiding Officer

APPROVED:


HON. JONATHAN L. DE LARA
Acting Municipal Mayor
Date 11-16-09