



# **PAMAHALAANG BAYAN NG TAYTAY TANGGAPAN NG SANGGUNIANG BAYAN**

**EXCERPT FROM THE MINUTES OF THE 98<sup>th</sup> REGULAR SESSION OF THE 11<sup>th</sup>  
SANGGUNIANG BAYAN, TAYTAY, RIZAL, HELD ON JULY 13, 2021, 1:18 PM AT  
THE SESSION HALL OF THE MUNICIPAL BUILDING, TAYTAY, RIZAL**

## **PRESENT:**

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

## **ABSENT:**

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

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## **ORDINANCE NO. 711 series of 2021**

**AN ORDINANCE AMENDING "SECTION 5. NATURE OF PROCEEDING" OF  
ORDINANCE NO. 697 SERIES OF 2021 ENTITLED "AN ORDINANCE  
PROVIDING RULES OF PROCEDURE FOR THE PROPER, SPEEDY AND  
JUDICIOUS DISPOSITION OF DISCIPLINARY ADMINISTRATIVE CASES  
INVOLVING ELECTED AND APPOINTED BARANGAY OFFICIAL IN THE  
MUNICIPALITY OF TAYTAY, RIZAL"**

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

WHEREAS, to hold elected and appointed Barangay Officials accountability for their actions and omissions, the Sangguniang Bayan enacted Ordinance No. 697 series of 2021 entitled "An Ordinance providing rules of procedure for the proper, speedy and judicious disposition of disciplinary administrative cases involving Elected and Appointed Barangay Officials in the Municipality of Taytay, Rizal" dated March 9, 2021;

WHEREAS, there is a need to amend certain provisions of Ordinance No. 697 series of 2021 to better suite its purpose;

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

**Section 1.** The amended Section 5 of Ordinance No. 697series of 2021 shall read as follows:

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

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

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

1. Whether the parties desire a formal investigation or are willing to submit the case for resolution *after submission of position paper/s, within fifteen (15) days from termination of the preliminary conference, and/or on the basis of the evidence on record; and*
2. If the parties desire a formal investigation, to consider the simplification of issue, the possibility of obtaining stipulation or admission of facts and of documents, specifically affidavits and depositions, to avoid necessary proof, the limitation of number of witnesses, and their names, schedule of formal investigation and such other matters as may aid the prompt disposition of the case.

The Sangguniang Bayan, as Committee En Banc shall encourage the parties and their counsels to enter at any stage of the proceedings, into amicable settlement, compromise and arbitration, the terms and conditions of which shall subject to the approval of the Sangguniang Bayan, as Committee En Banc. After the preliminary conference, the Sangguniang Bayan, as Committee En Banc shall issue an order reciting the matters taken up there on, including the facts stipulated and the

evidences marked, if any. Such order shall limit the issues for hearing to those not disposed of by agreement or admission of the parties, and shall schedule the formal investigation within ten (10) days from its issuance, unless a later date is mutually agreed in writing by the parties concerned.

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

- b. **Notice of Hearing** – Based on in Section 62 of RA 7160, within seven (7) days after the administrative complaint is filed, the Sangguniang concerned shall require the respondent to submit his verified answer within fifteen (15) days from receipt thereof, and commence **the determination of prima facie case** within ten (10) days after receipt of such answer of the respondent. The venue shall be the place where the Sanggunian is located.

However, no investigation shall be held within ninety (90) days immediately prior to any local election.

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

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

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

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

salary or compensation, including such emoluments accruing during such suspension.

- d. Procedural Due Process** – As stated in Section 65 of RA 7160, the respondent shall be accorded full opportunity to appear and defend himself in person or by counsel, to confront and cross-examine the witnesses against him, and to require the attendance of witnesses and the production of documentary evidence in his favor through the compulsory process of subpoena or *deuces tecum*.

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

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

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

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

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

transcript of the proceedings shall be made and duly certified by the Secretary of the Sangguniang Bayan.

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

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

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

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

- a. Direct examination by the proponent;
- b. Cross examination by the opponent;
- c. Re-direct examination by the proponent; and
- d. Re-cross examination by the opponent.

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

**e. Termination of Investigation and Decision – Based on in Section 66 of RA 7160: “Form and Notice of Decision - (a) The *formal* investigation of the case shall be terminated within ninety (90) days from the start thereof. Within thirty (30) days after the end of the investigation, the Sanggunian concerned shall render a decision in writing stating clearly and distinctly the facts and the reasons for such decision. Copies of said decision shall immediately be furnished the respondent and all interested parties. (b) The penalty of suspension shall not exceed the unexpired term of the respondent or a period of six (6) months for every administrative offense, nor shall said penalty be a bar to the candidacy of the respondent so suspended as long as he meets the qualifications required for the office. (c) The penalty of removal from office as a result of an administrative investigation shall be considered a bar to the candidacy of the respondent for any elective position.”**

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

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

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

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

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**Section 2. Separability Clause** - If, for any reason, any provision, section or part of this Ordinance is declared invalid or unconstitutional by a Court of competent jurisdiction/authority, or suspended or revoked by the authorities concerned, such judgment shall not affect or impair the remaining provisions, sections or parts which shall constitute to be in full force and effect.

**Section 3. Supplementary Rule** - In case of conflict between this Ordinance and The Local Government Code, the latter shall prevail. All other pertinent laws shall apply suppletorily.

**Section 4. Repealing Clause** - All Ordinances and administrative regulations or part thereof which is inconsistent with any provision of this Ordinance are hereby repealed or modified accordingly.

**Section 5. Effectivity** - This Ordinance shall take effect immediately upon its approval.

ENACTED, this 13<sup>th</sup> day of July, 2021, 2:43 PM at the Session Hall of the Municipal Building, Taytay, Rizal.

I HEREBY CERTIFY, to the correctness of the foregoing Ordinance which was duly enacted by the Sangguniang Bayan of Taytay on second reading on July 13, 2021 and was passed on third and final reading on July 13, 2021, during the 98<sup>th</sup> Regular Session held on the 13<sup>th</sup> day of July, 2021.


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

ATTESTED AND CERTIFIED TO BE DULY  
ADOPTED BY HER HONOR



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

APPROVED BY HIS HONOR  
DATE 03 AUG 2021



**HON. GEORGE RICARDO R. GACULA II**  
Municipal Mayor