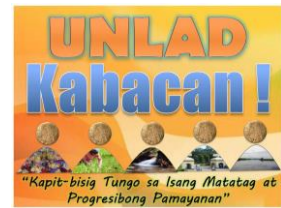




Republic of the Philippines
Region XII
Province of Cotabato
MUNICIPALITY OF KABACAN
LOCAL GOVERNMENT UNIT



EXCERPTS FROM THE MINUTES OF THE 36TH REGULAR SESSION OF THE 10TH SANGGUNIANG BAYAN OF KABACAN, COTABATO HELD ON JUNE 01, 2017 IN THE DATU BUNDAS L. MAMALUBA SESSION HALL.

The session was called to order by the Presiding Officer at 9:30 in the morning and the following were:

PRESENT: Hon. Myra Dulay-Bade, Vice-Mayor/Presiding Officer
Hon. Herlo C. Guzman, SB Member
Hon. Reyman L. Saldivar, SB Member
Hon. Manny K. Pedtamanan, SB Member
Hon. George E. Manuel, SB Member
Hon. Ayesha J. Quilban-Flores, SB Member
Hon. Datuan L. Macalipat, SB Member

ABSENT: Hon. Rhosman S. Mamaluba, SB Member
Hon. Romeo G. Mantawil, SB Member
Hon. Raymundo B. Gracia, SB Member (O.B.)

RESOLUTION NO. 2017-079

A RESOLUTION ENACTING AN ORDINANCE PRESCRIBING THE RULES AND PROCEDURES ON THE INVESTIGATION OF ADMINISTRATIVE DISCIPLINARY CASES AGAINST ELECTIVE BARANGAY OFFICIALS OF KABACAN, COTABATO AMENDING SOME PROVISIONS OF ORDINANCE NO. 99-012, S. OF 1999.

WHEREAS, pursuant to Section 61 of the Local Government Code of 1991, jurisdiction to hear and decide administrative cases against elective barangay officials has been vested to the Sangguniang Bayan of the Municipality;

WHEREAS, the Sangguniang Bayan, in the exercise of its quasi-judicial function, shall have set of rules and procedures to follow as provided for by R.A. 7160, its implementing Rules and Regulations as well as judicial decisions (jurisprudence) and legal opinion of the Department of the Interior and Local Government on administrative cases as a matter of due process and in order to inform and guide the parties (complainant and respondent) as to the manner and conduct of their respective cases.

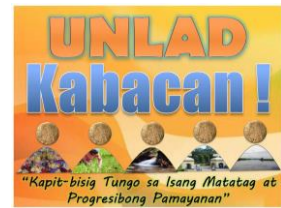
WHEREFORE, on motion of Hon. Datuan L. Macalipat, duly seconded by Hon. Manny K. Pedtaman, the Sangguniang Bayan has-

RESOLVED, as it hereby resolves, to enact, as it hereby enacts-

ORDINANCE NO. 033, S. 2017

AN ORDINANCE PRESCRIBING THE RULES AND PROCEDURES ON THE INVESTIGATION OF ADMINISTRATIVE DISCIPLINARY CASES AGAINST ELECTIVE BARANGAY OFFICIALS OF KABACAN, COTABATO AMENDING SOME PROVISIONS OF ORDINANCE NO. 99-012, S. OF 1999.

Be it ordained by the Sangguniang Bayan in a regular session assembled, that:



RULE I

PRELIMINARY PROVISIONS

SECTION 1. COVERAGE. These rules and procedures shall apply to administrative disciplinary cases filed against all elective barangay officials of Kabacan, Cotabato.

SECTION 2. DISCIPLINARY AUTHORITY. The Sangguniang Bayan, in the exercise of its quasi-judicial function, shall act on all administrative complaints filed against elective local officials mentioned in the preceding section and shall hereinafter be referred to as the "*Disciplinary Authority.*"

RULE II

GROUND FOR ADMINISTRATIVE DISCIPLINARY ACTION

SECTION 1. GROUNDS. All elected Barangay Officials of Kabacan, Cotabato may be disciplined, suspended or removed from the office on any from the following grounds.

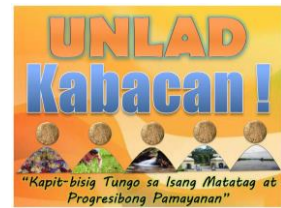
- a. Disloyalty to the Republic of the Philippines;
- b. Culpable violation of the Constitution;
- c. Dishonesty, oppression, misconduct in office, gross negligence or dereliction of duty;
- d. Commission of any offense involving moral turpitude or an offense punishable by at least prison mayor. The offense involving moral turpitude must be linked to the performance of official duties of respondent and conviction by final judgment shall be a condition precedent for the filing of any administrative case involving this ground. (Palma vs Fortich, 147 SCRA 397, Mondano vs Silvosa, 97 Phil. 144-145, DILG Opinion No. 11, s. 2006, February 20, 2006);
- e. Abuse of Authority. which may include insubordination, frequent absences or tardiness, habitual drunkenness and gambling prohibited by law;
- f. Unauthorized absence for Fifteen (15) consecutive working days;
- g. Application for, or acquisition of, foreign citizenship or residence or status of an immigrant of another country; and
- h. Such other grounds as may be provided in the Local Government Code of 1991.

SECTION 2. DEFINITION OF TERMS

1. **DISLOYALTY TO THE REPUBLIC OF THE PHILIPPINES**-Any act or omission which among others, maybe considered as crimes against national security.

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2. **CULPABLE VIOLATION OF THE CONSTITUTION**- It implies or covers acts of deliberate intent and to a certain degree of perversity so as to defy knowingly what the constitution provides. It includes a violation serious enough to warrant betrayal of public trust such as a violation of a constitutional oath of office.
3. **ADMINISTRATIVE OFFENSES**.-Every act or conduct or omission which amounts to, or constitutes any of the grounds for disciplinary action (Salalima vs Guingona, 257 SCRA 55). The grounds for administrative action under Sec. 60, R.A. 7160 may still be charged against a respondent even if committed during a prior term as re-election or election to another public office is not a mode of condoning an administrative offense. (Morales vs CA and Binay, G.R. No. 217126-27, Nov. 10, 2015).
4. **DISHONESTY**.-Any act related to or connected with the performance of public or official duties which has a disposition to lie, cheat or exhibit untrustworthiness or lack of integrity. (Black's Law Dictionary. 5th Ed.)
5. **OPPRESSION**- An act of cruelty, severity, unlawful exaction, domination, or excessive use of authority. (Ochate vs Deling, 105 Phil. 390).
6. **MISCONDUCT IN OFFICE**-One that affects the performance of duties as a public officer, and not such as affects his character as a private individual. (Lacson vs Roque 92 Phil 465).
7. **GROSS NEGLIGENCE**- The want of even slight care and diligence. Such entire want of care as to raise a presumption that the person in fault is conscious of the probable consequences of carelessness, and is indifferent, or worse, to the danger of injury to or property of others. Such as negligence as amounts to a reckless disregard of the safety of person or property. (Ameda vs Rio J Olabarrieta Inc. 95 Phil 37).
8. **DERELICTION OF DUTY**-It generally refers to a failure to conform to rules of one's job, which will vary by tasks involved. It is a failure or refusal to perform assigned task/job..
9. **ABUSE OF AUTHORITY**-It is a denial of justice when discretion, by virtue of one's position, has not been justly and properly exercised. It signifies the use of that discretion in such a way as to deprive a person of his right or of the remedy to protect or enforce such right. (DILG Opinion No. 11, s. 2006, Feb. 20, 2006).

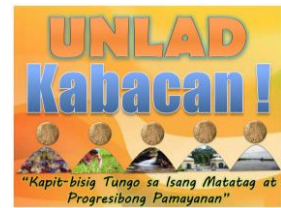
RULE III **COMPLAINT**

SECTION 1. HOW INITIATED-An Administrative complaint may be initiated by any private individual or any government officer or employee by filing a verified complaint against any elective local official enumerated pursuant to Section 1, Rule 1 hereof.

SECTION 2. FORM OF COMPLAINT- The complaint, accompanied by affidavit of witnesses or evidences in support of the charge shall be addressed to the Sangguniang Bayan. It shall be drawn in clear, simple and concise language and in methodical manner as to appraise the respondent of the nature of the charge filed against him and to enable him to prepare his defense. The party filing the complaint shall be called the *complainant*, while the official against whom the complaint is filed shall be called the *respondent*.

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SECTION 3. WHERE FILED- The complaint shall be filed with the Office of the Secretary to the Sanggunian.

SECTION 4. NUMBER OF COPIES- The complainant shall file not less than five original copies of the complaint and supporting affidavit and ten machine copies of the same. The number of annexes shall not be less than fifteen.

SECTION 5. FILING FEE- A fee of One Hundred (P100.00) Pesos shall be charged for every complaint filed with the office of the Secretary of the Sangguniang Bayan. Pauper complainants duly certified in accordance with the laws of court shall be exempted from the payment filing fee.

RULE IV ANSWER

SECTION 1. NOTICE- Within Seven (7) days after the complaint is filed, the Disciplinary Authority shall issue an order requiring the respondent to submit his verified answer to the complaint together with the supporting affidavits and annexes within Fifteen (15) days from his receipt thereof. The order shall be signed by the Presiding Officer of the Sangguniang Bayan and sent through by registered mail by the Secretary of the Sangguniang Bayan without need of referral to the body for such action.

SECTION 2. FORM OF ANSWER- The answer, accompanied by affidavit of witnesses or evidences in support of the defenses, shall be addressed to the Sangguniang Bayan.

SECTION 3. NUMBER OF COPIES- The Respondent shall file not less than five (5) original copies of his verified answer to the complaint and supporting affidavits and ten (10) machine copies of the same. The number of annexes shall not be less than Fifteen (15).

SECTION 4. FAILURE TO ANSWER- Unreasonable failure of respondent to file his verified answer within 15 days from receipt of the complaint against him shall be considered as waiver of his right to present evidence in his behalf.

RULE V PRELIMINARY INVESTIGATION

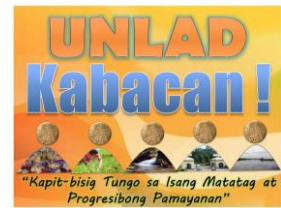
SECTION 1. COMMENCEMENT- Within Twenty (20) days from the receipt of the answer the Disciplinary Authority shall commence the investigation of the case.

SECTION 2. EVALUATION- Within the period mentioned in the preceding section, the Disciplinary Authority shall determine whether there is a prima facie case to warrant the institution of formal administrative proceedings, it shall immediately issue an order dismissing the complaint.

SECTION 3. DISMISSAL MOTU PROPIO- If the Disciplinary Authority determines that there is no prima facie case to warrant the institution of formal administrative proceedings, it shall immediately issue an order dismissing the complaint.

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SECTION 4. PRELIMINARY CONFERENCE-If the Disciplinary Authority determines that there is a prima facie case to warrant the institution of formal administrative proceedings, it shall within the same period prescribed under the preceding Section, summon the parties to a preliminary conference to answer the following:

- a. whether the parties desire a formal investigation or are willing to submit the case for resolution on the basis of the evidence on record,
- b. If the parties desire a formal investigation, to consider the simplification of issues, the possibility of obtaining stipulation or admission of facts and of documents, specifically affidavits and depositions, to avoid unnecessary proof, the limitation of number of witnesses, and such other matters as may aid the prompt disposition of the case.

The Disciplinary Authority shall encourage the parties and their counsels to enter in any stage of the proceedings, into amicable settlement, compromise and arbitration, the terms and conditions of which shall be subject to its approval.

After the preliminary conference, the Disciplinary Authority shall issue an order reciting the matters taken up thereon, including the facts stipulated and the evidences marked, if, any. Such order shall limit the issues for hearing to those not disposed of by agreement or admission of the parties, and shall schedule the formal investigation within Ten (10) days from its issuance, unless a later date is mutually agreed in writing by the parties concerned.

SECTION 5. VENUE OF HEARING-The preliminary investigation shall be conducted in the place where the Office of the Sangguniang Bayan is located.

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

RULE VI **PREVENTIVE SUSPENSION**

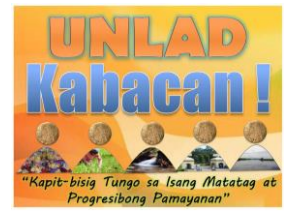
SECTION 1. POWER TO SUSPEND-Preventive suspension may be recommended by Disciplinary Authority to be imposed by the Municipal Mayor who shall immediately implement the preventive suspension upon actual receipt of the resolution recommending the preventive suspension.

SECTION 2. 90-DAY-BAN-No preventive suspension shall be imposed within 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.

SECTION 3. GROUNDS-Preventive suspension may be imposed at any time after the issues are joined, that is, after the respondent has answered the complaint when the evidence of guilt is strong and given the gravity of offense, there is a great probability that the continuance in office of the respondents could influence the witnesses or pose a threat to the safety and integrity of the records and other evidence.

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SECTION 4. DURATION. Any simple preventive suspension of local elective officials shall not extend beyond Sixty (60) days; provided that, in the event that several administrative cases are filed against an elective official, he can not 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.

SECTION 5. AUTOMATIC REINSTATEMENT-Upon the expiration of the preventive suspension the suspended elective local 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 was formally notified of the case against him. However, if the delay in the proceeding of the case is due to his fault, or request other than the appeal duly filed, the duration of such delay shall not be counted in computing the time termination of the proceedings.

RULE VII

FORMAL INVESTIGATION

SECTION 1. PROCEDURAL DUE PROCESS-The respondent shall be accorded full opportunity to appear and defend himself in person or by counsel, to confront and cross-examine the witnesses against him and to require the attendance of witnesses and the production of documents through the compulsory process of subpoena *ad testificandum* or *duces tecum*.

SECTION 2. WHO CONDUCTS THE HEARING. The formal administrative investigation shall be conducted by the Disciplinary Authority.

SECTION 3. POWER TO TAKE TESTIMONY OR RECEIVE EVIDENCE-The Disciplinary Authority is hereby authorized to take testimony or receive evidence relevant to the administrative proceedings, which authority shall include the power to administer oaths, summon witnesses, and require the production of documents by subpoena *duces tecum* pursuant to Book I, Chapter 37 of the Administrative Code of 1987.

Anyone who, without lawful excuse, fails to appear summons issued under authority of the preceding paragraph or who, appearing before the Disciplinary Authority exercising the power therein defined, refuses to take 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 Investigating Authority, 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.

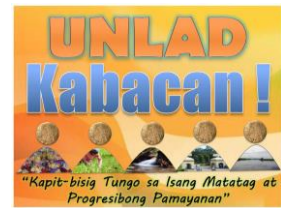
SECTION 4. VENUE OF HEARING-The formal investigation shall be conducted in the place where the Sangguniang Bayan is located.

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

SECTION 6. POSTPONEMENT. Postponement of investigation shall be discouraged and shall be allowed only in meritorious cases, like illness of the parties or counsels and other similar case. No postponement for a period longer than seven (7) days shall be allowed, and in no case shall the total number of postponement for one party be more than Twenty (20) days.

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SECTION 7. STENOGRAPHIC RECORD OF THE PROCEEDINGS-The testimony of each witnesses and the manifestation of the parties and counsels during investigation shall be taken in shorthand or stenotype. A transcript of proceedings made by the official stenographer or stenotypist and duly certified by him/her shall be prima facie a correct statement of such proceedings.

SECTION 8. ORDER OF HEARING- Unless otherwise directed by the Disciplinary Authority, the order of a hearing shall be as follows:

- a. The Complainant shall produce the evidence on 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 Disciplinary Authority for good reasons and in the furtherance of justice, permits them to offer evidence upon their original case.

SECTION 9. ORDER OF EXAMINATION-The order in which a witness may be examined shall be as follows:

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.

SECTION 10. TERMINATION OF FORMAL INVESTIGATION-The formal investigation of the case shall be terminated by the Disciplinary Authority within Ninety (90) days from the start thereof unless the delay is for causes beyond its control.

Unreasonable failure to complete the investigation after such period of Ninety (90) days by the Disciplinary Authority shall be ground for disciplinary action.

SECTION 11. MEMORANDA-The Disciplinary Authority may allow the parties to submit their respective memoranda, together with their respective draft resolution and orders for consideration of the Disciplinary Authority, within Fifteen (15) days after the termination of formal investigation.

RULE VIII EVIDENCES

SECTION 12. RULES OF EVIDENCE-In Administrative disciplinary proceedings.

1. The Disciplinary Authority may admit and give probative value or evidence commonly accepted by reasonably prudent men in the conduct of their affairs;
2. Documentary evidence may be received in the form of copies or excerpts if the original is not readily available. Upon request, the parties shall be given opportunity to compare the copy with the original. If the original is in the official custody of a public officer, a certified copy thereof may be accepted; and

Contact Information:



3. The Disciplinary Authority may take notice of judicially cognizable facts within its specialized knowledge. The parties shall be notified and afforded an opportunity to contest the facts so noticed.

SECTION 2. MARKING- All documentary evidences of exhibits shall be marked by letter (A,B,C, etc.) if presented by complainant, and by numbers (1,2,3,etc.) if presented by respondents.

RULE IX

REPORT OF THE SECRETARY TO THE SANGGUNIANG BAYAN

SECTION 1. TRANSMISSION OF RECORDS TO DISCIPLINING AUTHORITY-

The Secretary to the Sanggunian shall forward to the Disciplinary Authority the following documents:

- a. The complete record of each page consecutively numbered and initiated by the custodian of records;
- b. a summary of proceeding thereon from the filing of the complaint to the transmittal of the records in chronological order indicating the action taken on the incidents involved; and
- c. a list of all pleadings, motions, manifestations, annexes and other papers or documents filed by the contending parties, as well as the corresponding orders or resolutions.

Such documents shall be forwarded to the Disciplinary Authority within Twenty (20) days.

1. From the receipt of last pleading and evidence, if any, in case the respondent does not elect a formal investigation.
2. After the expiration of the period within which to submit the same or after the termination of the formal investigation; or
3. After parties have submitted their respective Memoranda if so allowed.

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

SECTION 2. RECORDS CLASSIFICATION. Records in administrative disciplinary case are classified as confidential in nature and any information as to the charges, accusation or facts adduced may not be released, and such records may not be available, except to the proper authorities and, upon request, to the parties-in-interest and or their authorized representatives on the need-to-know basis pursuant to Memorandum Circular No. 78 dated August 14, 1964, as amended by Memorandum Circular No. 196 dated July 19, 1968, prescribing rules governing security of classified matter in government offices.

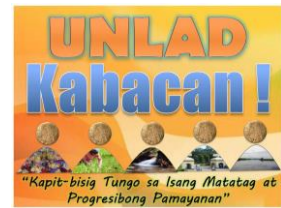
RULE X

DECISION

SECTION 1. RENDITION OF DECISION-Within Thirty (30) days of receipt of the report of the Secretary to the Sanggunian and the transmittal record, the Disciplinary Authority shall render a decision in writing stating clearly and distinctly the facts and reasons for such decision shall immediately be furnished both the respondent and the complainant and all interested parties.

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SECTION 2. FINALITY OF DECISION-The decision of the Disciplinary Authority shall become final and executory after the lapse of Thirty (30) days from the receipt of the copy thereof by the complainant or the respondent, as the case may be, unless a motion for reconsideration is filed within the said period. Save in exceptionally meritorious cases, only one motion for reconsideration by any party shall be allowed, which shall suspend the running of 30-day reglementary period.

SECTION 3. 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 an exoneration the respondent shall be paid his salary and such other emoluments accruing during the pendency of the appeal.

RULE XI PENALTY

SECTION 1. PENALTY-A respondent found guilty of any of the offenses enumerated in Rule 2 thereof may be meted the penalty of reprimand, suspension or removal depending on the gravity of evidence presented and the aggravating or mitigating circumstances that may be considered by the Disciplinary Authority.

SECTION 2. SUSPENSION-The penalty of suspension shall not exceed the unexpired term of the respondent, or a period of six (6) months for every administrative offense, nor shall said penalty be a bar to the candidacy of the respondent so suspended as long as he meets the qualifications required for the office.

SECTION 3. REMOVAL-An elective local officials may be removed from office on the grounds enumerated in Rule 2 hereof by order of the proper court or the Disciplinary Authority whichever first acquires jurisdiction to the exclusion of the other.

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

RULE XII APPEAL

SECTION 1. ADMINISTRATIVE APPEAL-The decision of the Disciplinary Authority may within Thirty (30) days from receipt thereof by the respondent, be appealed to the Sangguniang Panlalawigan.

SECTION 2. PERIOD OF APPEAL. Within Ten (10) days after the receipt of the notice of appeal filed by the respondent, the Secretary shall elevate the entire record of the case to the Sangguniang Panlalawigan without need of further orders from the Sangguniang Bayan.

RULE XIII MISCELLANEOUS AND FINAL PROVISIONS

SECTION 1. SEPARABILITY CLAUSE-If for any reason or reasons, any part or provision of the Ordinance is held to be unconstitutional or invalid, other parts or provisions hereof which are not affected thereby shall continue to be in full force and effect.

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LOCAL GOVERNMENT UNIT



Excerpts. Reso. No. 2017-079, embodying Ord. No. 033, s. 2017

page 10

SECTION 2. AMENDATORY CLAUSE.-This ordinance shall enact some provisions of Municipal Ordinance No. 99-012, s. 1999.

SECTION 3. EFFECTIVITY. This ordinance shall take effect Fifteen (15) days upon approval and after posting in the bulletin board at the entrance of the Municipal Hall and in the two (2) conspicuous places in the Municipality of Kabacan, Cotabato.

ENACTED. June 01, 2017.

CERTIFIED CORRECT:

SGD. BEATRIZ S. MADERAS
Secretary to the Sanggunian

ATTESTED TO BE DULY ENACTED/ADOPTED:

SGD. MYRA DULAY-BADE
Vice-Mayor /Presiding Officer

APPROVED.

SGD. HERLO P. GUZMAN, JR.
Municipal Mayor

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