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Republic of the Philippines  
City of Davao 760

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# Office of the City Legal Officer

Ref. NO. 1131-13 \_\_\_\_\_

1st INDORSEMENT  
FEBRUARY 11, 2013

**LEGAL OPINION**  
No. 66 Series of 2013

Respectfully forwarded to the Office of the City Mayor, through the Office of the City Administrator, both this City, the herein Ordinance No. 0417-12, Series of 2012 entitled "AN ORDINANCE DECLARING UNLAWFUL, ACTS AND CONDUCT OF DISCRIMINATION BASED ON SEX, GENDER INDENTITY, SEXUAL ORIENTATION, RACE, COLOR, DESCENT, NATIONAL OR ETHNIC ORIGIN AND RELIGIOUS AFFILIATION OR BELIEFS AND PENALIZING THE SAME", informing your end that this office finds no legal infirmity therein.

IN VIEW OF THE FOREGOING, this office recommends the approval of the same.

RESPECTFULLY SUBMITTED.

*[Signature]*  
Atty. Marlisa A. Gallo  
Attorney IV

Approved:

*[Signature]*  
Atty. Osmando B. Villanueva, Jr.  
Acting City Legal Officer  
Date approved: February 12, 2013

Date received: February 5, 2013  
Date referred to lawyer: January 6, 2013



Republika ng Filipinas  
SANGGUNIANG PANLUNGSOD  
Lungsod ng Dabaw

PRESENT:

Vice-Mayor	Rodrigo R. Duterte	- Presiding Officer
Councilor	Victorio U. Advincula Jr.	
Councilor	Bernard E. Al-ag	
Councilor	Dante L. Apostol Sr.	
Councilor	Conrado C. Bahuran	
Councilor	Karlo S. Bello	
Councilor	Joanne M. Bonguyan	
Councilor	Louie John J. Bonguyan	
Councilor	Arnolfo Ricardo B. Cabling	
Councilor	April Marie C. Dayap	
Councilor	Jimmy G. Dureza	
Councilor	Emmanuel D. Galicia Sr.	
Councilor	Jashera L. Gonzales	
Councilor	Edgar R. Ibuyan	
Councilor	Leah A. Librado-Yap	
Councilor	Rene Elias C. Lopez	
Councilor	Tomas J. Monteverde IV	
Councilor	Myrna G. LDalodo-Ortiz	
Councilor	J. Melchor V. Quitain	
Councilor	Jackson V. Reyes	
Councilor	Jose Louie P. Villafuerte	
Councilor	Rachel P. Zozobrado	

ON OFFICIAL BUSINESS:

Councilor	Al Ryan S. Alejandro
Councilor	Pilar C. Braga
Councilor	Berino L. Mambo-o Sr.
Councilor	Marissa P. Salvador-Abella

ABSENT:

Councilor	Nilo M. Abellera Jr.	- On Sick Leave
Councilor	Paolo Z. Duterte	- On Vacation Leave

ORDINANCE NO. 0417-12  
Series of 2012

**AN ORDINANCE DECLARING UNLAWFUL, ACTS AND CONDUCT OF DISCRIMINATION BASED ON SEX, GENDER IDENTITY, SEXUAL ORIENTATION, RACE, COLOR, DESCENT, NATIONAL OR ETHNIC ORIGIN AND RELIGIOUS AFFILIATION OR BELIEFS AND PENALIZING THE SAME**

Be it ordained by the Sangguniang Panlungsod of Davao City in session assembled that:

**SECTION I. TITLE** - This Ordinance shall be known as "Anti-Discrimination Ordinance of Davao City";

**SECTION II. AUTHORITY AND BASES** - This Ordinance is enacted pursuant to the provisions of the 1987 Philippine Constitution particularly:

- Article II, Section 10 thereof which reads:

*"Section 10. The State shall promote social justice in all phases of national development."*

- Article II, Section 11 thereof which reads:

*"Section 11. The state values the dignity of every human person and guarantees full respect for human rights."*

- Article II, Section 22 thereof which reads:

*"Section 22. The state recognizes and promotes the rights of indigenous cultural communities within the framework of National unity and development."*

- Article III, Section I thereof, which reads:

*"Section I. No person shall be deprived of life, liberty and property without due process of law, nor shall any person be denied the equal protection of the laws."*

- Article XIII, Section 3 thereof which, in part, reads:

*"Section 3. The state shall afford full protection to labor, local and overseas, organized and unorganized, and promote full employment and full equality of employment opportunities for all.*

x	x	x	x	x
x	x	x	x	x

as well as the generally accepted principles of international law such as those but not limited to the 1981 Declaration On the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief, the 1993 UN General Assembly Resolution on Elimination of All Forms of Religious Intolerance and the International Convention on the Elimination of All Forms of Racial Discrimination;

### **SECTION III. DEFINITION OF TERMS**

1. *Discrimination* - any act, or conduct which withholds, excludes, restricts, curtails, demeans human dignity, or otherwise impairs the recognition, enjoyment and exercise of human rights and basic freedoms in the economic, labor, social, cultural, educational or any other field of public life based on sex, gender identity, sexual orientation, race, color, descent, national or ethnic origin, religious affiliation or beliefs;
2. *Gender Identity* - refers to a person having the emotional and psychological characteristics of the opposite sex as shown by, among others, his/her behavior and sexual attraction to members of his/her own sex, or to both sexes, whether he/she be a gay, lesbian, transsexual or bisexual;
3. *Sexual Orientation* - refers to the emotional or sexual attraction or inclination of a person towards persons of his/her own sex, or both masculine and feminine sexes;

**SECTION IV. ACT OF DISCRIMINATION, HOW COMMITTED-**

Discrimination is committed when a person withholds from, excludes, restricts, curtails, demeans human dignity or otherwise impairs the recognition, enjoyment and/or exercise of a right or basic freedom, of another, to which others similarly situated or circumstanced are extended or which they are allowed to enjoy or exercise, in employment, education, shelter and delivery of basic goods and services, on the basis of national or ethnic origin, religious affiliation or belief, sex, gender identity, sexual orientation, descent, race, or color of the skin, and that the following constitute acts of discrimination and are therefore punishable:

1. By refusing employment to a job applicant or imposing onerous or additional terms or conditions which are not imposed on another similarly situated or circumstanced, on the basis of ethnic origin, religious affiliation or belief, sex, gender identity, sexual orientation, descent, race or color of the skin; by denying or limiting access to an employee, opportunities for promotion, transfer, training, schooling or to any other benefit which are otherwise granted to other employees similarly situated or circumstanced, on the basis of national or ethnic origin, religious affiliation or belief, sex, gender identity, sexual orientation, descent, race or color of the skin;
2. By refusing or failing to accept any person for admission as a student in any public or private educational and/or vocational institution, or by subjecting said person to terms and conditions for his acceptance in the said institution which are not imposed on applicants or students similarly circumstanced as him, or limiting the access of a student to any benefit or privilege provided by said educational or vocational institution, by reason of ethnic origin, religious affiliation or belief, sex, gender identity, sexual orientation, race and color of the skin;
3. By refusing to provide goods or services and/or imposing onerous terms or conditions as a requisite for providing goods or services to a person which are not refused or subjected to such onerous terms or conditions when extended to others similarly circumstanced, by reason of ethnic origin, religious affiliation or belief, sex, gender identity, sexual orientation, race and color of skin;
4. By refusing or failing to allow any person, by reason of his ethnic origin, religious affiliation or belief, sex, gender identity, sexual orientation race, or color of the skin to avail of quarters or accommodation in a house, apartment condominium, townhouse, flat, hotel, inn, dormitory or any other places of dwelling being rented out or offered to the public for a fee, rental or other forms of compensation;
5. By subjecting either by verbal or written word or publication, to ridicule or insult or attributing despicable behavior and habits or associating with violence and criminal activities, any person or group of persons by reason of his ethnic origin, religious affiliation or belief, sex, gender identity, sexual orientation, race or color of the skin;
6. By refusing entry into restaurants, bars, stores, movie houses, malls and other places of entertainment and businesses which are open to the general public, or refusing or failing to attend to or serve the orders for food, drinks, beverages and other goods, consumable and non-consumable, to any person, by reason of his national or ethnic origin, religious affiliation or belief, gender identity, sexual orientation, race or color of his skin;

7. By doing any other analogous act which demeans the dignity and self-respect of a person or impairs, mars, reduces or nullifies the recognition, enjoyment or exercise of his human and legal rights and basic freedoms in the political, labor economic, social, cultural and educational spheres on the basis of ethnic origin, religious affiliation or belief, sex, gender identity, sexual orientation, race and color of his skin;

**SECTION V. PERSONS LIABLE** - Any person, natural or juridical, who commits any of the acts herein prohibited and enumerated in the immediately preceding section shall be criminally liable therefore, and penalized accordingly, provided that in the case of a juridical person such as, but not limited to, corporations, associations, partnerships, educational and vocational institutions, whether public or private, the manager, head and the officers thereof shall also be criminally accountable and responsible;

**SECTION VI. PENALTIES** - Except for violations of the Labor Code of the Philippines involving the rights of women workers and employees which shall be punishable under the said Code, and for violations under Republic Act 7610, otherwise known as "Special Protection of Children Against Abuse, Exploitation and Discrimination Act", involving rights of children of Indigenous Communities which are punishable under said act, the following penalties for violations of any provisions of this Ordinance are hereby imposed as follows:

1. Any person liable under this Ordinance shall be punished by admonition and a fine of One Thousand Pesos (P1,000.00);
2. A second conviction, for any of the acts punishable under this Ordinance, shall be penalized by a fine of Two Thousand Pesos (P2,000.00) and imprisonment for a period of not more than ten (10) days at the discretion of the court;
3. A third conviction or any conviction after two (2) previous convictions, shall be penalized by a fine of Five Thousand Pesos (P5,000.00) and imprisonment of fifteen (15) days;

**SECTION VII. ANTI-DISCRIMINATION MEDIATION AND CONCILIATION BOARD**

There is hereby created the Anti-Discrimination Mediation and Conciliation Board, otherwise known as the BOARD, composed of the following, namely:

1. City Mayor or his duly authorized permanent representative;
2. City Legal Officer or his duly authorized permanent representative;
3. Chairperson of the Committee on Civil, Political and Human Rights of the Sangguniang Panlungsod or his duly-authorized permanent representative;
4. Chairperson of the Committee on Labor and Employment Opportunities of the Sangguniang Panlungsod or his duly authorized permanent representative;
5. Chairperson of the Committee on Education, Science & Technology, Arts & Culture of the Sangguniang Panlungsod or his duly authorized permanent representative;
6. City Superintendent of City Schools of the Department of Education or his duly authorized permanent representative;

7. Head of the Commission on Higher Education in Region XI or his duly authorized permanent representative;
8. Indigenous People's Representative in the Sangguniang Panlungsod;
9. Head of the Office of Muslim Affairs of Davao City or his duly authorized permanent representative;
10. Head of the Department of Labor and Employment of Davao City or his duly authorized permanent representative;
11. President of the Davao City Chamber of Commerce and Industry or his duly authorized permanent representative;
12. Head of the Bishops-Ulama Conference or his duly authorized permanent representative;
13. President of the Davao Colleges and Universities Network in Davao City or his duly authorized permanent representative;
14. Head of the Coordinating Council of Private Education Association, Region XI or his duly authorized permanent representative.

**SECTION VIII. SUB-BOARD TO BE CREATED BY THE ANTI-DISCRIMINATION MEDIATION AND CONCILIATION BOARD** - The Anti-Discrimination Mediation and Conciliation Board is hereby authorized and empowered to create such number of Sub-Boards as it deems necessary and proper to be composed of five (5) members with the City Mayor or his duly authorized permanent representative as chairperson and the City Legal Officer or his duly authorized permanent representative as Vice-Chairperson of each sub-board, with the three (3) remaining members to be chosen from the foregoing list in consonance with the nature or character of the complaint or issue to be subjected to mediation and conciliation proceedings;

**SECTION IX. MAIN/PRINCIPAL FUNCTION OF THE ANTI-DISCRIMINATION MEDIATION AND CONCILIATION BOARD AND SUB-BOARD** - The Anti-Discrimination Mediation and Conciliation Board and Sub-Board are tasked to receive complaints concerning violations of any provision of this Ordinance, notify the parties concerned of the same, and mediate or conciliate the parties' differences to the end that judicial, quasi-judicial, prosecutorial and administrative action is AVOIDED;

**SECTION X. EXHAUSTION OF ADMINISTRATIVE REMEDY** - Unless the Anti-Discrimination Mediation and Conciliation Board certifies in writing that a complaint for violation of any of the provisions of this Ordinance has been brought to its jurisdiction for mediation and conciliation purposes and that the same failed despite all diligent efforts, NO complaint or action of whatever kind - civil, criminal, labor or administrative - shall be deemed actionable and proper for judicial, quasi-judicial, prosecutorial or administrative determination, except when the matter involves the rights of women workers and employees contained in the Labor Code of the Philippines, in which case the provisions of the said Code shall apply, or unless the case falls within the coverage of Republic Act 7610, otherwise known as "Special Protection of Children Against Abuse, Exploitation and Discrimination Act", particularly those involving the rights of Children of Indigenous Cultural Communities, in which case, said Republic Act shall apply;

**SECTION XI. IMPLEMENTING RULES AND REGULATIONS** - Within sixty (60) days from the approval of this Ordinance, the City Legal Office, this City, shall promulgate the Implementing Rules and Regulations which shall govern the Mediation and Conciliation Proceedings from filing of the complaint up to the issuance of the certificate mentioned in the immediately preceding section which Implementing Rules and Regulations shall be submitted to the Sangguniang Panlungsod for approval;

**SECTION XII. INFORMATION CAMPAIGN** - Within thirty (30) days from the approval of this Ordinance, the City Information Office shall conduct an information campaign to apprise the public of the provisions of this ordinance;

**SECTION XIII. SEPARABILITY CLAUSE** - If any portion or provision of this Ordinance is declared void or unconstitutional, the remaining portions thereof shall not be affected thereby and shall remain in full force and effect;

**SECTION XIV. EFFECTIVITY CLAUSE** - This Ordinance shall take effect ten (10) days after its publication in a local newspaper of general circulation in the city and its posting in the Bulletin Board at the entrance of the City Hall and in two (2) other conspicuous places in the city, whichever comes later, either the publication or the posting;

ENACTED, December 12, 2012, by a unanimous vote of all the Members of the Sanggunian present.

CERTIFIED CORRECT:

"For and in the absence of the Acting Secretary"

*nomacy*  
**NILDA C. MAGNO**  
Acting Assistant Secretary  
(Local Legislative Staff Officer IV)

ATTESTED:

*[Signature]*  
**RODRIGO R. DUTERTE**  
Vice Mayor  
*cnz/mbk*

**LAPSED**  
DEEMED APPROVED AFTER THE LAPSED OF TEN  
(10) DAYS, PER SEC. 54, R.A. 7160

APPROVED: \_\_\_\_\_, 2013

**SARA Z. DUTERTE**  
City Mayor *[Signature]*

ATTESTED:

**ATTY. ZULEIKA T. LOPEZ**  
Acting City Administrator *[Signature]*