



EXCERPT FROM THE MINUTES OF THE 18TH REGULAR SESSION OF THE 18TH SANGGUNIANG PANLUNGSOD, CITY OF GENERAL SANTOS, HELD AT THE SANGGUNIANG PANLUNGSOD SESSION HALL ON TUESDAY, NOVEMBER 29, 2016.

PRESENT:

Hon. Elizabeth B. Bagonoc	Acting Vice-Mayor & Presiding Officer
Hon. Alberto D. Pacquiao	City Councilor
Hon. Rosalita T. Nuñez	City Councilor
Hon. Jose Orlando R. Acharon	City Councilor
Hon. Dominador S. Lagare, Jr.	City Councilor
Hon. Franklin M. Gacal, Jr.	City Councilor
Hon. Shandee Theresa O. Llido-Pestaño	City Councilor
Hon. Jose Edmar J. Yumang	City Councilor
Hon. Vandyke B. Congson	City Councilor
Hon. Lourdes F. Casabuena	City Councilor
Hon. Ramon R. Melliza	City Councilor
Hon. Brix T. Tan	City Councilor

ABSENT:

Hon. Shirlyn L. Bañas-Nogralas	City Vice-Mayor (OL)
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WHEREAS, Article XIII, Section 1 (a) of the 1987 Philippine Constitution states that the enactment of measures that protect and enhance the right of the people to human dignity, reduce social, economic, and political inequalities, and remove cultural inequalities shall be given highest priority;

WHEREAS, Article II, Section 11 of the 1987 Philippine Constitution states that the State values the dignity of every human person and guarantees full respect for human rights. Furthermore, Article III, Section 1 of the Philippine Constitution guarantees that "no person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the law";

WHEREAS, the Philippines is a state party to several international agreements as the Universal Declaration of Human Rights (UDHR), International Covenant on Economic, Social and Cultural Rights (ICESCR), the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Elimination of all Forms of Racial Discrimination (CERD), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) under the Millennium Goals, Magna Carta of Women, the Convention Against Torture (CAT), the Convention on the Rights of the Child (CRC), the International Convention on the Protection of the Rights of all Migrant Workers and Members of Their Families (ICPRMW), and the Convention on the Rights of Persons with Disabilities (CRPD) that seek to eliminate all forms of discrimination and abuse;

WHEREAS, pursuant to the democratic precept which places high premium on the importance of fundamental human rights and entitlements, every person must be given equal access to opportunities in all fields of human endeavors and to equitable sharing of social and economic benefits for them to freely exercise the rights to which they are rightfully entitled, free from any prejudice and discrimination;

WHEREAS, promoting and upholding their rights will not only enhance their freedom, welfare, and dignity as humans, but will also promote social justice as a whole and will contribute in the development of the culture of human rights in the country;

WHEREAS, stigma and discrimination still pervades especially against persons with disability, the senior citizens and elderly, children and youth, people living with HIV/AIDS, women, lesbians, gays, bisexuals, transgender (LGBT), people with different religious persuasion, and Moro Indigenous Peoples;

WHEREAS, General Santos City in particular has cases of discrimination, humiliation, embarrassment, harassment, and violence against the aforementioned sectors - worst, cases are mostly unrecorded and unreported;

NOW, THEREFORE, on the motion of City Councilor Shandee Theresa O. Llido-Pestaño, duly seconded by City Councilors Alberto D. Pacquiao, Jose Orlando R. Acharon, Jose Edmar J. Yumang and Lourdes F. Casabuena, be it -

RESOLVED, as it is hereby resolved to enact the following Ordinance:

ORDINANCE NO. 28

Series of 2016

AN ORDINANCE PROHIBITING DISCRIMINATION OF PERSONS IN THE CITY OF GENERAL SANTOS ON THE BASIS OF THEIR DISABILITY, AGE, HEALTH STATUS, SEXUAL ORIENTATION AND GENDER IDENTITY, ETHNICITY, AND RELIGION

Hon. Shandee Theresa O. Llido-Pestaño – Author
Hon. Alberto D. Pacquiao, Hon. Ramon R. Melliza, Hon. Lourdes F. Casabuena,
Hon. Jose Edmar J. Yumang, Hon. Elizabeth B. Bagonoc,
Hon. Dominador S. Lagare, Jr. & Hon. Brix T. Tan- Co- Authors

Be it ordained by the Sangguniang Panlungsod, General Santos City, that:

SECTION 1. TITLE. – This Ordinance shall be known and cited as the “General Santos City Anti-Discrimination Ordinance”. (ADO)

SECTION 2. DECLARATION OF POLICY. – It is hereby declared the policy of the City of General Santos to promote equality and to effectively eliminate all forms of discrimination that violate and offend the guarantee of equal protection of Human Rights as enshrined in the Bill of Rights and other existing laws as well as on the various international conventions and obligations to which the country adheres.

SECTION 3. DEFINITION OF TERMS. – For purposes of this Ordinance, the following terms shall be defined as follows:

- a) *Disability* - refers to an individual with "1) a physical or mental impairment that substantially limits one or more psychological, physiological, or anatomical function or activities of such individual; 2) a record of such impairment; or 3) being regarded as having such impairment;
- b) *Age* - refers to the person's time of existence or duration of life. This is in reference to ageism where one is discriminated on the basis of age;
- c) *Health status* - refers to both physical, social and mental health of an individual, group or population as perceived by the individual or as diagnosed by a competent medical health officer. In particular, HIV/AIDS status of a person and health conditions such as but not limited to leprosy, hepatitis, and tuberculosis among others, that subject them to social stigma;
- d) *Sexual Orientation* - refers to the direction of an emotional and sexual attraction or conduct. This can be towards people of the same sex (homosexual orientation) or towards people of both sexes (bisexual orientation) or towards people of the opposite sex (heterosexual orientation);
- e) *Gender identity*- refers to the personal sense of identity as characterized, among others, by manners of clothing, inclinations, and behavior in relation to masculine or feminine conventions. A person may have male or female identity with the physiological characteristics of the opposite sex, as in the case of:
 - i. *Transvestite* - a person and especially a male who adopts the dress and often the behavior typical of the opposite sex especially for purposes of emotional or sexual gratification.
 - ii. *Transgender* - a person whose self-identity does not conform unambiguously to conventional notions of male or female gender.
 - iii. *Transsexual* - a person who psychologically identifies with the opposite sex and may seek to live as a member of this sex especially by undergoing surgery and hormone therapy to obtain the necessary physical appearance (as by changing the external sex organs)
- f) *Ethnicity*- refers to the characteristics of a person or group of persons sharing a common and distinct racial, national, religious, linguistic, cultural, and indigenous heritage;
- g) *Religion*- refers to a set of beliefs concerning the cause, nature, and purpose of the universe, especially when considered as the creation of a superhuman agency or agencies, usually involving devotional and ritual observances, and often containing a moral code governing the conduct of human affairs;
- h) *Discrimination* - for purposes of giving effect to this ordinance, it shall mean any act or action committed to manifest prejudice, bigotry, unequal treatment, exclusion, restriction, preference, humiliation, and vilification towards any individual or group by reason of their disability, age, health status, sexual orientation, gender identity, ethnicity, and religion and which has the purpose or effect of nullifying or impairing the recognition, enjoyment, or exercise by all persons of an equal footing for all rights and freedoms;




- i) *GAD Focal Point System* – means a mechanism dedicated in developing programs into mainstreaming to the community. It also serves as a monitoring entity to come up with point system wherein all the agencies will be able to comply with a certain standard as gender-sensitive establishment or institution.

SECTION 4. PROHIBITED ACTS. – It is hereby prohibited to discriminate any person and/or group of persons on the basis of their disability, age, health status, sexual orientation, gender identity, ethnicity and religion. It is unlawful for any person, natural or juridical, to:

- a) Refuse admission to or expel or dismiss a person from educational institutions on the basis of disability, age, health status, sexual orientation, gender identity, ethnicity, and religion without prejudice to the right of educational institutions to determine the academic qualifications of their students;
- b) Refuse or revoke the accreditation, formal recognition, and/or registration of any organization, group, institution, or establishment, in educational institutions, workplaces, communities, and similar settings, solely on the basis of the disability, age, health status, sexual orientation, gender identity, ethnicity, and religion of their members or of their target constituencies;
- c) Deny a person's access to medical and other health services and benefits as provided for under the law on the basis of disability, age, health status, sexual orientation, gender identity, ethnicity, and religion;
- d) Deny a person's access to private and public establishments, health and medical services, facilities, utilities, transportation or services, including housing, that are open to the general public on the basis of disability, age, health status, sexual orientation, gender identity, ethnicity, and religion notwithstanding the existence of the person's capacity to comply or their actual compliance with the requirements set forth in order to access or enter such establishments;

There is a denial when, among others:

- i. a person is given discriminatory accommodations or services; and
 - ii. rejection of any application, entry and participation solely on the basis of disability, age, health status, sexual orientation, gender identity, ethnicity, and religion.
- e) By refusing employment to a job applicant or imposing onerous or additional items or conditions not imposed on another similarly situated or circumstanced, on the basis of disability, age, health status, sexual orientation, gender identity, ethnicity, and religion;
 - f) By terminating , 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 disability, age, health status, sexual orientation, gender identity, ethnicity, and religion;



- g) 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 their acceptance in the said institution which are not imposed on applications or students similarly circumstanced as them, or limiting the access of a student to any benefit or privilege provided by said educational or vocational institution by reason of disability, age, health status pregnancy, sexual orientation, gender identity, ethnicity and religion;
- h) By subjecting either by verbal or non-verbal, written or publication, through social media, to ridicule or insult or attributing despicable behavior, habits or associating them with violence or criminal activities, any person or group of persons by reason of their disability, age, health status, sexual orientation, gender identity, ethnicity and religion;
- i) 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 disability, age, health status, sexual orientation, gender identity, ethnicity and religion;

SECTION 5. PERSON LIABLE. -Any person, natural or juridical, who commits any of the acts herein prohibited and enumerated in the immediately preceding section shall be liable therefore, and penalized accordingly, provided that in the case of a juridical person such as, but not limited to, whether public or private, the manager, head and the officers thereof shall also be accountable and responsible.

SECTION 6. ANTI-DISCRIMINATION PROGRAMS. – The General Santos City Government shall endeavor to ensure that discrimination is prevented and effectively addressed through Capacity Building, Information Campaign, Discrimination Stigma Studies and Databanking, Discrimination and Stigma Monitoring, Policy Review and Conducting Anti-Discrimination Seminars.

SECTION 7. IMPLEMENTATION. -

- 1) The General Santos City Government through the City Population Management Office with the City Social Welfare and Development Office (CSWDO) and City Health Office, in coordination with the Office of the Senior Citizens Affairs, the GAD Focal Point System, and the Local Council for the Protection of Children, Philippine National Police, Civil Society Organizations, Youth-led Organizations, shall primarily be responsible for the implementation of the provisions of this Ordinance. It shall be the duty of the CPMO to coordinate with the appropriate agencies and offices to implement the programs provided under Section 5 hereof and to monitor or take action on any complaint.

SECTION 8. PENALTIES. – Except for the violation 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 violation under Republic Act 7610, otherwise known as the Special Protection of Children against abuse, exploitation and discrimination act, involving the rights of children of Indigenous Communities which are punishable under the said act, the following penalties for violations of nay provisions of this ordinance are hereby imposed as follows:

1. First offense: The offender violating the Ordinance shall be penalized with a fine of One Thousand Pesos (Php 1,000.00) and undergo a mandatory Anti-Discriminatory Seminar.
2. Second offense: The offender violating the Ordinance shall be penalized with a fine of Three Thousand Pesos (Php 3,000.00) and undergo a mandatory Anti-Discriminatory Seminar.
3. Third offense: The offender violating the Ordinance shall be penalized with a fine of Five Thousand Pesos (Php 5,000.00) and undergo a mandatory Anti-Discriminatory Seminar.

SECTION 9. 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 Labor and Employment Opportunities of the *Sangguniang Panlungsod* or his duly-authorized permanent representative;
4. Chairperson of the Committee on Education, Science & Technology, Arts & Culture of the *Sangguniang Panlungsod* or his duly authorized permanent representative;
5. City Superintendent of City Schools of the Department of Education or his duly authorized representative;
6. Head of the Commission on Higher Education in Region XII or his duly authorized permanent representative;
7. Indigenous People's Representative to the *Sangguniang Panlungsod*;
8. Head of the office of Muslim Affairs of General Santos City or his duly authorized permanent representative;
9. Head of the Department of Labor and Employment of General Santos City or his duly authorized permanent representative;
10. President of the General Santos Chamber of Commerce and industry or his duly authorized permanent representative;
11. President of Colleges and Universities Network in General Santos or his duly authorized permanent representative;
12. Head of the Coordinating Council of Private Education Association Region XII or his duly authorized permanent representative;
13. Persons with Disability;
14. Persons living with HIV;
15. Lesbian, Gay, Bisexual and Transgender (LGBT).

SECTION 10. 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-Board 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 11. 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 violation 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 12. EXHAUSTION OF ADMINISTRATIVE REMEDY. - Unless the anti-discrimination Mediation and Conciliation Board certifies in writing that a complaint for violation of any of the provision 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 determine, except when the matter involves 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 13. IMPLEMENTING RULES AND REGULATIONS. - Within sixty (60) days from the approval of this Ordinance, the City Population and Management Office (CPMO) 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 14. INFORMATION CAMPAIGN - Within thirty (30) days from the approval of this Ordinance, the City Population and Management Office in coordination with City Information Office shall conduct an information campaign to apprise the public of the provisions of this ordinance and to post Information Campaign materials in conspicuous places within the city.

SECTION 15. SEPARABILITY CLAUSE. - If any portion or provision of this Ordinance is declared void and unconstitutional, the remaining portions thereof shall remain in full force and effect;

SECTION 11. EFFECTIVITY. - This Ordinance shall take effect fifteen (15) days after its publication in a newspaper of general circulation.

Enacted by the 18th Sangguniang Panlungsod, City of General Santos on its 18th Regular Session held on November 29, 2016.

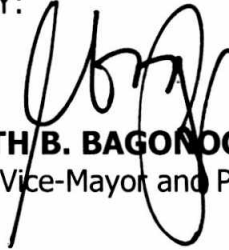


CERTIFIED CORRECT:



ATTY. ROSENDO A. ROQUE
Secretary to the Sanggunian

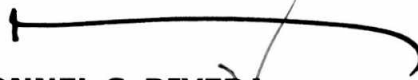
ATTESTED BY:



ELIZABETH B. BAGONOC, MDMG, DPA
Acting Vice-Mayor and Presiding Officer



Approved by His Honor, the City Mayor on DEC 15, 2016, 2016.



RONNEL C. RIVERA
City Mayor

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