

Office of the Provincial Secretary

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Benjamin D. Nepales
Provincial Secretary

November 18, 2015

The Honorable Governor
VILMA SANTOS-RECTO
Province of Batangas

Provincial Social Welfare and Development Office
Province of Batangas
RECEIVED
By: Indarhan
Date: 11-18-15
Time: 11:10 am

TRANSMITTAL NUMBER
jeftd-295
DATE: November 18, 2015
Gemma F. Dimaunahan
GEMMA F. DIMAUNAHAN
Administrative Officer I
(OPS Form 01- S.97 / Revised 2004)

Dear Sir / Madam:
Mahal na Ginoo / Binibini

Warmest greetings!
Maalala na pagbati!

We are cordially furnishing you, — for your information and/or appropriate action — copy of a passed /
Magaling po namin kayong pinahehatiran para sa inyong kabatiran o karampatang hekbang, ng sipi ng ipinasa /

enacted Sangguniang Panlalawigan Resolution/Ordinance numbered and titled:
isinabatas ng Sangguniang Panlalawigan na Kapasyahan/ Kautusang Pambayan na may bilang at paksa na:

PROVINCIAL ORDINANCE NO. 005
September 23, 2015

AN ORDINANCE PROHIBITING DISCRIMINATION ON SEXUAL ORIENTATION, GENDER IDENTITY AND GENDER EXPRESSION FOR LESBIAN, GAY, BI-SEXUAL, TRANSGENDER (LGBT) IN THE PROVINCE OF BATANGAS

Please acknowledge receipt of the same. Thank you.
Mangyari pong ipabalid ninyo sa amin ang pagkakatanggap nito. Salamal po.

One with you in the service of the people, I remain,
Kaisa ninyo sa paglilingkod sa mamamayan, ako'y nananatiling.

Very truly yours,
Lubos na sumasainyo,

Benjamin D. Nepales
BENJAMIN D.J. NEPALES
Provincial Secretary
(Panlalawigan Kalihim)

CF: (Binigyang sipi)

- PSWDO
- Provincial Administrator
- Provincial Library
- All of Capitol Hill, Batangas City
- All Secretaries of the Sangguniang of Municipalities and Cities
- All Mayors of the Municipalities and Cities

EXCERPT FROM THE MINUTES OF THE THIRTY SEVENTH REGULAR SESSION OF THE
SANGGUNIANG PANLALAWIGAN NG BATANGAS HELD ON WEDNESDAY,
SEPTEMBER 23, 2015, FROM 10:15 A.M. AT THE SALVADOR H. LAUREL
SESSION HALL, APOLINARIO M. MARINI LEGISLATIVE
BUILDING, CAPITOL SITE, BATANGAS CITY

PRESENT:

Hon. Amado Carlos A. Bolillo IV	Board Member- Fourth District Temporary Presiding Officer
Hon. Ramon J. Bausas	Board Member- First District
Hon. Roman H. Rosales	Board Member- First District
Hon. Mario Vittorio A. Marro	Board Member- Second District
Hon. Amelia E. Alvarez	Board Member- Second District
Hon. Katrin Erika A. Buted	Board Member- Second District
Hon. Divina G. Balbe	Board Member- Third District
Hon. Kathleen C. Briones	Board Member- President of Provincial Councilors League
Hon. Herminigildo J. Dalor	Board Member- ABC President

ON OFFICIAL BUSINESS:

Hon. Jose Antonio S. Leyviste II	Vice Governor
Hon. Alfredo C. Corona	Board Member- Third District

ON LEAVE:

Hon. Rowena S. Africa	Board Member- Fourth District
Hon. Mabelle D. Virsuiso	Board Member- Fourth District

PROVINCIAL ORDINANCE NO. 005
Year 2015

AN ORDINANCE PROHIBITING DISCRIMINATION ON SEXUAL ORIENTATION, GENDER IDENTITY AND GENDER EXPRESSION FOR LESBIAN, GAY, BI-SEXUAL, TRANSGENDER (LGBT) IN THE PROVINCE OF BATANGAS

Author : Hon. Divina G. Balbe
Board Member- 3rd District

Co-Authors : Hon. Rowena S. Africa
Board Member- 4th District
Hon. Amelia E. Alvarez
Board Member- 2nd District
Hon. Roman H. Rosales
Board Member- 1st District

WHEREAS, Article XIII, Section 1 (a) of 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 inequities shall be given highest priority;

WHEREAS, Article II, Section 11 of 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 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 such 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), 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 (ICRMW) 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 creation of a human rights culture in the country;

WHEREAS, stigma and discrimination still pervades especially lesbians, gay, bisexuals, transgender (LGBT) people with ~~different~~ sexual orientation, gender identity and expression;

NOW, THEREFORE, on motion of Honorable Board Member Divina G. Balba, duly seconded by Honorable Board Members Hermingildo J. Dolor, Amelia E. Alvarez, Katrin Erika A. Buted, Mario Vittorio A. Mariño, Ramon I. Bausas, Kathleen C. Briones and Roman H. Rosales,

BE IT ORDAINED by the Sangguniang Panlalawigan ng Batangas in session duly assembled:

SECTION 1. SHORT TITLE - This Ordinance shall be known and cited as "AN ORDINANCE PROHIBITING DISCRIMINATION ON SEXUAL ORIENTATION, GENDER IDENTITY AND GENDER EXPRESSION FOR LGBT".

SECTION 2. DECLARATION OF POLICY - It is hereby declared as a policy of the Province of Batangas 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 in 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. **Sexual Orientation** refers to the direction of emotional 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).

- b. **LGBT** stands for lesbian, gay, bisexual and transgender and along with heterosexual they describe people's sexual orientation or gender identity.
- c. **Lesbian** refers to a woman who is romantically, sexually and/or emotionally attracted to women.
- d. **Gay** refers to a man who is romantically, sexually and/or emotionally attracted to other men.
- e. **Bisexual** person is someone who is romantically, sexually and/or emotionally attracted to people of both sexes.
- f. **Transgender** or **Trans** is an umbrella term to describe people whose gender identity or (internal feeling of being male, female or transgender) and/or gender expression, differs from that usually associated with their birth sex. This includes transsexuals, cross-dressers, gender queer, drag king, drag queens, two spirit people and others. They are also people who felt that they exist not within one of the two standard gender categories, but rather somewhere between, beyond or outside of those genders.
- g. **Transsexual** is a person whose gender identity is different from their biological sex, who may undergo medical treatments to change their biological sex, often times to align it with their gender identity, or may live their lives as another sex.
- h. **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 a male or female identity with the physiological characteristics of the opposite sex, as in the case of transsexuals and transvestites.
- i. **Gender expression** refers to the ways in which manifest masculinity or femininity, it is usually an extension of gender identity that innate sense of being male or female. A person expresses a particular gender by the way they style their hair, select their clothing or even stands with their appearance, speech, behavior, movement and other factors signal that they wish to be understood as masculine or feminine, or as man or a woman.
- j. **Discrimination**, for purposes of giving effect to this ordinance, 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 sexual orientation, gender identity and expression, which has the purpose or effect of nullifying or impairing the recognition, enjoyment, or exercise by all persons of an equal footing of all rights and freedoms.
- k. **Responsible officer of an entity** - is a person directly in charge of accommodating persons who avail of the entity's services or facilities and discriminates the latter on account of sexual orientation, gender identity and gender expression or his/her superior officer/s who assents to authorize/s or identity/ies such discrimination.

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

(a.) Deny access to public programs and services of any person;

- (b.) Refuse admission to or expel or dismiss a person from educational institutions on the basis of sexual orientation, gender identity and gender expression, without prejudice to the right of educational institutions to determine the academic qualifications of their students;
- (c.) 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 sexual orientation, gender identity and gender expression of their members or of their target constituencies;
- (d.) Deny a person's access to medical and other health services and as well as health insurance and other related benefits as provided for under the law on the basis of sexual orientation, gender identity and gender expression;
- (e.) Deny a person access to and/or the use of private and public establishments, facilities, utilities, transportation or services, including housing, open to the general public on the basis of sexual orientation, gender identity, gender expression and notwithstanding the existence of the person's capacity to comply or his/her actual compliance with the requirements set forth in order to access or enter such establishments;
- (f.) There is a denial when, among others, a person is given inferior accommodations or services; and rejection of any application, entry and participation solely on the basis sexual orientation, gender identity, gender expression;
- (g.) Subject or force any person to any medical or psychological examination without the expressed approval of the person involved on the basis of sexual orientation, gender identity and gender expression; Provided that such person is not psychologically incapacitated ~~as determined by competent authority~~;
- (h.) Work-related discrimination shall be subject to the provisions of the Labor Code of the Philippines and other pertinent laws such as but not limited to, Magna Carta for Persons with Disability, Magna Carta for Senior Citizens, Child and Youth Welfare Code, Magna Carta for Women, Indigenous Peoples Rights Act, among others. There is work-related discrimination when sexual orientation, gender identity and expression, are included in the criteria for hiring, promotion and dismissal of workers, when the same are immaterial to the nature of the work required, and in the determination of employee compensation, training, incentives, privileges, benefits or allowances, and other terms and conditions of employment.
- (i.) Discrimination due to the denial of an application or revocation of a professional license, clearance, certification or any other document issued by any government authority due to applicant's sexual orientation, gender identity and expression, shall be handled by the appropriate administrative agencies of government which grants such license clearance, certification and other documents without prejudice to recourse by the victims with the appropriate court and other concerned government agencies.

SECTION 5. ANTI-DISCRIMINATION PROGRAMS – The Provincial Government of Batangas shall endeavor to ensure that discrimination is prevented and effectively addressed through the following programs:

Discrimination and Stigma Reduction Program: The Provincial Government of Batangas shall allocate funds to address discrimination and stigma which has the following components:

Capacity Building and Education Campaign. To curb social stigma and eliminate discrimination, a comprehensive consciousness and awareness-raising campaign and developing knowledge, harnessing skills, and values formation on respect for human rights and human dignity shall be undertaken within public and private institutions, establishments, organizations and communities. Further the program shall include the following:

Discrimination and Stigma Studies and Databank. Fund shall be allocated for stigma and discrimination case documentation, researches and information dissemination as well as set-up a databank of different cases and experiences of stigma and discrimination.

Discrimination and Stigma Monitoring. This refers to monitoring of discriminating articles, songs, videos, books and other materials published in print media and the internet, broadcasted through television and radio and filing the appropriate charges.

Access to Scholarships, Skills, Employment and Livelihood Opportunities. The Provincial Government of Batangas shall ensure that all persons have equal access to scholarships, skills trainings, employment, livelihood opportunities and microfinance opportunities and ensure equitable access to persons who by reason sexual orientation, gender identity and gender expression are discriminated.

Access to Legal Representation. The Provincial Government of Batangas shall facilitate the giving of assistance to the victims of stigma and discrimination by affording legal assistance in documenting and filing of cases as well as during the pendency of the case.

Policy Review. The Provincial Government of Batangas shall ensure that all policies embodied in resolutions, ordinances, codes and other policy documents are free from discriminatory statements and provisions and undertake necessary amendments of those provisions to effectively eliminate discrimination, stigma and stereotypes.

SECTION 6. IMPLEMENTATION

The Provincial Government of Batangas through the Provincial Social Welfare and Development Office (PSWDO) together with the Provincial Committee on Gender and Development (PCGAD), shall be directly and primarily responsible for the implementation of the provisions of this ordinance. It shall be the duty of PSWDO to coordinate with the appropriate agencies and offices to implement the programs provided under Section 5 and monitor or take action on any complaint brought before it falling under the provisions of Section 4. Provided, that an Anti-Discrimination Desk, under the Provincial Social Welfare and Development Office, shall be created within one (1) year from the effectivity of this ordinance.

The provision of the Local Government Code otherwise known as R.A. 7160 prior recourse to Katarungang Pambarangay Law and exceptions thereto are applicable in case of violation of this Ordinance.

SECTION 7. PENALTY.

Any person or responsible person of the entity who violates any provision of this Ordinance shall suffer the following graduated penalties:

- (a) First offense- The offender violating the ordinance shall be penalized with a fine of One Thousand Pesos (PHP 1,000.00) or an imprisonment of one (1) day to thirty (30) days, or both, at the discretion of the court.
- (b) Second offense- The offender violating the ordinance shall be penalized with a fine of Three Thousand Pesos (PHP 3,000.00) or an imprisonment of one (1) day to thirty (30) days, or both, at the discretion of the court.
- (c) Offenses committed a third time or offense- The offender violating the ordinance shall be penalized with a fine of Five Thousand Pesos (PHP 5,000.00) or an imprisonment of one (1) day to thirty (30) days, or both, at the discretion of the court.

SECTION 8. SEPARABILITY. If any provision or part hereof is held invalid or unconstitutional, the remainder of the Ordinance or the provision or otherwise affected shall remain valid and subsisting.


SECTION 9. EFFECTIVITY. This ordinance shall take effect fifteen (15) days after its publication in a newspaper of general circulation.

APPROVED: Wednesday, 23 September 2015 A.D. at Batangas City.

I HEREBY CERTIFY to the correctness of the foregoing Provincial Ordinance No. 002, Year 2015 approved by the Sangguniang Panlalawigan ng Batangas during its 17th Regular Session held on September 23, 2015.


RASSEL C. BARTOLANO
Assistant Provincial Board Secretary

ATTESTED:


AMADO CARLOS A. BOLLA IV
Board Member
Temporary Presiding Officer

APPROVED:


VILMA SANTOS RECTO
Governor