



Republic of the Philippines
BATANGAS CITY

Office of the Sangguniang Panlungsod

Tel. No. 723-2175

ORDINANCE NO. 12 S. 2016

AN ORDINANCE PROVIDING FOR A COMPREHENSIVE ANTI-DISCRIMINATION POLICY
ON THE BASIS OF SEXUAL ORIENTATION, GENDER IDENTITY AND EXPRESSION

AUTHORED BY : COUN. CLAUDETTE U. AMBIDA-ALDAY
CO-AUTHORED BY : COUN. GLENN M. ALDOVER
COUN. SERGIE REX M. ATIENZA
COUN. ALYSSA RENEE A. CRUZ-ATIENZA
COUN. MA. KRISTINE JOSEFINA G. BALMES
COUN. GERARDO A. DELA ROCA
COUN. AILEEN GRACE A. MONTALBO
COUN. JULIAN B. VILLENA
COUN. ARMANDO C. LAZARTE
COUN. HAMILTON G. BLANCO

WHEREAS, Section 1, Article III of the 1987 Philippine Constitution guarantees that 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 law;

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

WHEREAS, Section 11, Article II of the 1987 Philippine Constitution states that the State values the dignity of every human person and guarantees full respect for human rights;

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), Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) Convention on the Elimination of All Forms of Racial Discrimination (CERD), Convention Against Torture (CAT), International Convention on Civil and Political Rights (ICCPR) and Convention on the Rights of Persons with Disabilities (CRPD), which instruments aim to eliminate all forms of discrimination and abuse;

WHEREAS, in Gender and Development (GAD) plans, programs and activities and with the aim of integrating and synchronizing programs and projects of the lesbian, gay, bisexual, and transgender (LGBT) community in the City, and to ensure herein the effective implementation of said programs;

WHEREAS, Batangas City shall spearhead cultural, arts, film, sports and other related events including education campaigns on lesbian, gay, bisexual and transgender (LGBT) issues and concerns shall conduct trainings and livelihood programs for the lesbian, gay, bisexual and transgender (LGBT) community in coordination with other city departments/offices and national government agencies, including private agencies;



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WHEREAS, lesbian, gay, bisexual and transgender (LGBT) persons in the Philippines continue to experience stigma, prejudice and discrimination. This stigma is manifested in actions such as: bullying, teasing and harassment of lesbian, gay, bisexual and transgender (LGBT) children and adolescents in families, schools and communities; media portrayal of lesbian, gay, bisexual and transgender (LGBT) persons as frivolous untrustworthy and even dangerous and predatory; denying transgender Filipinos entry into commercial establishments; pigeonholing lesbian, gay, bisexual and transgender (LGBT) Filipinos into particularly limited roles and occupations; or curtailing their rights to participate in the political sphere;

WHEREAS, on September 2014, the United Nations Human Rights Council adopted a resolution against LGBT Violence and discrimination expressing grave concern at acts of violence and discrimination committed against individuals based on their sexual orientation and gender identity and upholding the rights of the LGBTs. The Philippines was among the twenty-five countries which voted yes in this landmark resolution.

NOW THEREFORE, BE IT ORDAINED AS IT IS HEREBY ORDAINED BY THE SANGGUNIANG PANLUNGSOD OF BATANGAS CITY IN SESSION ASSEMBLED:

SECTION 1. TITLE - This Ordinance shall be known as "The Batangas City Gender-Fair Ordinance."

SECTION 2. DECLARATION OF POLICY - It is hereby declared a policy of Batangas City to actively work for the elimination of all forms of discrimination that offend the equal protection clause of the Bill of Rights enshrined in the Constitution and other existing laws and to value the dignity of every person, guarantee full respect for human rights and give the highest priority to measures that protect and enhance the right of all people;

SECTION 3. DEFINITION OF TERMS

- 1) **LGBT** - refers to a diverse and complex range of identities based on sexual orientation, gender identity and expression (hereinafter "SOGIE"). The term "LGBT" refers to gender and sexuality non-conforming persons, including, but not limited to lesbian, gay, bisexual and transgender persons.
 - 1.a. **Lesbian** - a woman whose emotional, romantic and sexual energies are geared towards other women;
 - 1.b. **Gay** - a person who is emotionally and/or physically attracted to members of the same sex. Although all-encompassing, this term refers mainly to men;



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1.c. **Bisexual** - a person who is emotionally and/or physically attracted to members of both the same and the opposite sex;

1.d. **Transgender** - is the state of one's gender identity (self-identification as woman, man or neither) not matching one's "assigned sex" (identification by others as male or female based on physical/genetic sex). Transgender does not imply any specific form of sexual orientation; transgender people may identify as heterosexual, homosexual, bisexual, pansexual, polysexual or asexual. The precise definition for transgender remains in flux, but includes: - of relating to or designating a person whose identity does not conform ambiguously to conventional notions of male or female gender roles, but combines or moves between these. - people who were assigned a sex, usually at birth and based on their genitals, but who feels that this is a false or incomplete description of themselves. - non-identification with or non-presentation as the sex (and assumed gender) one was assigned at birth.

2. **DISCRIMINATION** - shall mean any distinction, exclusion, restriction, or preference made on the basis of sexual orientation and gender identity and expression (SOGIE) which has an effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by a person, group of persons, or institutions of their human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field, especially including but not limited to, employment, livelihood, education and basic services;
3. **SEX** - is a human and civil status of a person acquired by birth having organ and system of reproduction.
4. **SEXUAL ORIENTATION** - refers to each person's capacity for profound, emotional, affectional and sexual attraction to and intimate and sexual relations with, individuals of a different gender or the same gender or more than on gender;
5. **GENDER IDENTITY** - refers to each person's deeply felt and individual experience of gender which may or may not correspond with sex assigned at birth, including personal sense of the body which (may involve, if really chosen, modification of bodily appearance or function by medical, surgical or other means) and other expressions of gender, including dress, speech and mannerisms;



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6. **GENDER EXPRESSION** - is how a person publicly presents one's gender. This can include behavior and outward appearance such as dress, hair, make-up, body language and voice. A person's chosen name and pronoun are also common ways of expressing gender;
7. **EDUCATION** - refers to all types and levels of education and includes access to education, the standard and quality of education and the conditions under which it is given;
8. **EMPLOYMENT** - existence of an employer-employee relationship, which is determined by the four-fold test: 1) selection of the employee; 2) payment of wages; 3) power of dismissal; and 4) power of control. This definition shall apply to regular, probational, contractual, seasonal and project-based workers. In legitimate contracting or sub-contracting agreements, the contractor/sub-contractor shall be deemed the employer of the contractual employee;
9. **ACCOMMODATION** - as mentioned herein, includes a house, apartment, condominium, townhouse, flat, motel, boarding house, hotel and dormitory which are open to the general public. It shall also include the grant of license, clearance, certification or any other document issued by governmental authorities or other private juridical entities;
10. **GOODS AND SERVICES** - as applied herein includes but shall not be limited to establishments, individuals and groups of individuals supplying physical goods and services such as restaurants, resorts, hotels, clubs and shopping malls as well as those providing clearing, repair, maintenance, construction, financial health, transportation and public utility services;
11. **VILIFICATION** - the utterance of slanderous and abusive statements done in any activity in public which incites hatred towards, serious contempt for, or severe ridicule towards any person/s on the basis of actual or perceived sexual orientation, gender identity and expression (SOGIE).
12. **PUBLIC RIDICULE** - an act of making fun or contemptuous imitating or making mockery of persons whether in writing or in words or in action on the basis of actual or perceived sexual orientation, gender identity and expression (SOGIE).

SECTION 4. SCOPE AND COVERAGE

This Ordinance shall be implemented within the territorial jurisdiction of Batangas City.



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SECTION 5. PROHIBITED ACTS/ACTS OF DISCRIMINATION

Discrimination is committed when a person treats another less favorably on the basis of actual or perceived sexual orientation, gender identity and expression (SOGIE), than a person treats or would treat another without that attribute, on the same or similar circumstances in employment, education, accommodation, delivery of services and in other areas, to wit:

1. **Discrimination in Employment** - It shall be unlawful for any employer to discriminate against any person or group of persons on the basis of actual or perceived sexual orientation, gender identity and expression (SOGIE), in public or private employment by:
 - 1.a. Denying or limiting rights to trainings, recruitment, promotion, remuneration and other terms and conditions of employment;
 - 1.b. Denying or limiting opportunities to favorable terms and conditions of employment which afford employees advancement, in all areas of public service, including all levels of government service and employment in Batangas City;
 - 1.c. Excluding membership in labor unions or similar organizations;
 - 1.d. Subject any employee to workplace harassment or any threat of physical mental and verbal violence, intimidation or other threatening disruptive, behaviour committed by the employer or by another employee;
 - 1.e. Dismissing the employee or subjecting the employee to any other detriment on the basis of actual or perceived sexual orientation, gender identity and expression (SOGIE).
2. **Discrimination in Education** - It shall be unlawful for an educational institution, both public and private, along with the institution's officers and employees, to discriminate against a person on the ground of actual or perceived sexual orientation, gender identity and expression (SOGIE) thereof by:



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- 2.a. Unduly delaying, refusing or failing to accept a person's application or admission as a student, without prejudice to the right of educational institutions to determine the academic qualifications of their students;
 - 2.b. Providing onerous or unjust terms and conditions for admission of a person as a student;
 - 2.c. Denying or limiting the student's access to any benefit provided by the educational authority;
 - 2.d. Expelling or subjecting the student to any penalty or any other detriment on the basis of actual or perceived sexual orientation, gender identity and expression (SOGIE);
 - 2.e. Refusing admission, denying acceptance or expelling or dismissing a student from academic, socio-civic organization and associations on the basis of actual or perceived sexual orientation, gender identity and expression (SOGIE);
 - 2.f. Subjecting any student to harassment, bullying or any threat of physical, mental and verbal violence, intimidation or other threatening disruptive behavior committed by teachers, professors, trainers, administrators or by other students.
3. **Discrimination in the delivery of Goods or Services** - It shall be unlawful for a person, natural or juridical, whether as a principal or agent, to discriminate against a person on the ground of actual or perceived sexual orientation, gender identity and expression (SOGIE) by:
- 3.a. Refusing to provide goods or services and/or imposing onerous terms and conditions to a person on the ground of one's actual or perceived sexual orientation, gender identity and expression (SOGIE) as a pre-requisite for providing such goods or services where the said terms and conditions are not imposed on another person under the same or similar circumstances;
 - 3.b. Denying a person's access to health services and facilities, health insurance and other related benefits as provided under the law or those health benefits provided by the local government;



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4. **Discrimination in Accommodation** - It is unlawful for a person, natural or juridical, whether as principal or agent to refuse or limit access to any benefit associated to accommodation, on the ground of actual or perceived sexual orientation, gender identity and expression (SOGIE) BY:
 - 4.a. Refusing or failing to allow any person to avail of services or accommodation in an apartment, condominium, townhouse, flat, hotel, inn, dormitory and any other places of dwelling being rented out or offered to the public for a fee;
 - 4.b. Denying an application for a license, clearance, certification or any other document issued by governmental authorities or other private or juridical entities, on the basis of actual or perceived sexual orientation, gender identity and expression (SOGIE).
5. **Verbal, Non-Verbal Ridicule and Vilification** - Any person, natural or juridical, is hereby prohibited from vilifying or ridiculing any person on the basis of actual or perceived sexual orientation, gender identity and expression (SOGIE) which could result in the loss of self-esteem of the latter through any of the following acts:
 - 5.a. Making fun or contemptuous imitating or making a mockery whether in writing or in words, or in action;
 - 5.b. Uttering of slanderous and abusive statements;
 - 5.c. Executing any activity in public which incites hatred towards, serious contempt for, or severe ridicule of a person;
 - 5.d. Doing any other analogous act/s of ridicule in any time and place which could intimidate or result in loss of self-esteem of the person.
6. **Harassment, unjust detention and involuntary confinement** - It shall be unlawful to commit harassment, unjust detention and involuntary confinement because of one's actual or perceived sexual orientation, gender identity and expression (SOGIE).
7. **Disallowance from entry and refusal to serve** - It shall be unlawful to refuse entry and/or disallow a person or group of persons from entering any establishment such as restaurants,



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bars, stores, movie houses, shopping malls and other places or entertainment and other businesses which are open to the general public, and/or to refuse to attend to or serve any orders for food, drinks and other goods, consumable and non-consumable, or to subject one to discrimination or harassment in buses, taxis, ships, airplanes on the basis of actual or perceived sexual orientation, gender identity and expression (SOGIE).

8. **Promotion of Discrimination Against LGBT** - It shall be unlawful to organize groups and activities which promote and incite discrimination against persons based on actual or perceived sexual orientation, gender identity and expression (SOGIE).
9. **Any Other Analogous Act** - Any act of discrimination or harassment based on actual or perceived sexual orientation, gender identity and expression (SOGIE), which demeans the dignity and self-respect of a person or impairs, mars, reduces or nullifies the recognition, enjoyment or exercise of a person's human and legal rights and basic freedoms in the civil, political, labor, economic, social, cultural, education spheres and other spheres.

SECTION 6. AFFIRMATIVE ACTS - To ensure that the rights of lesbian, gay, bisexual and transgender (LGBT) persons are protected, the following plans and programs shall be adopted in employment, in education, in the delivery of goods and services, accommodation, and other areas to wit:

1. Affirmative Acts in Employment

1.a. **Wage and Benefits for Lesbian, Gay, Bisexual and Transgender (LGBT) persons** - Every employer in Batangas City shall comply with the minimum wage as stipulated by the Regional Wage Board or as stipulated by pertinent legislation passed by Congress and shall grant all lesbian, gay, bisexual and transgender (LGBT) persons benefits afforded under existing laws, such as maternity/paternity leaves, sick and vacation leaves, retirement and benefits provided under special laws such as in R.A. No. 9262, among others;

1.b. **Issuance of Annual Gender Sensitivity Training Certificate including Sexual Orientation Gender Identity and Expression (SOGIE)** - All private offices, commercial/industrial establishments located in Batangas



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City shall encourage an annual gender sensitivity training or orientation for all employees, including a module on the elimination of all forms of discrimination on the basis of one's actual or perceived sexual orientation, gender identity and expression (SOGIE).

1.c. Dissemination to Employee and Posting of the Ordinance - A copy of this ordinance shall be provided to all employees upon engagement by the Hiring Officer or by the Human Resources Officer of any public or private entity where employment is sought. A copy of the ordinance shall be posted in two conspicuous places in the office where the business is located;

1.d. Facilities and Support System for Lesbian, Gay, Bisexual and Transgender (LGBT) Persons - All government agencies, private officers and commercial/industrial establishments shall designate toilet rooms and lavatories labeled as all gender CR.

2. Affirmative Acts in Education

2.a. Equal Access to Education Opportunities - The Batangas City Government shall ensure equal access to opportunities for lesbian, gay, bisexual and transgender (LGBT) persons in various trainings and scholarships;

2.b. Availability of Anti-Discrimination Materials - All schools, colleges, universities and other educational and training institutions, whether public or private, located in Batangas City, shall develop and make available resource materials on gender rights and empowerment, including laws and ordinances pertinent to the elimination of any form of discrimination on the basis of actual or perceived sexual orientation, gender identity and expression (SOGIE), in their libraries;

2.c. Elimination of Gender Stereotyping - All schools, colleges, universities and other educational and training institutions, whether public or private, located in Batangas City, shall promote the elimination of sex-role stereotyping and gender-discriminatory role modeling for students in academic and extra-curricular activities;

3. Affirmative Acts in the Delivery of Goods and Services



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3.a. Deliver of Goods and Services to Eligible Individuals - Establishments supplying physical goods and services shall ensure that goods and services are delivered to eligible individuals in a non-discriminatory manner in accordance with the standards provided under applicable laws;

4. Affirmative Acts in Accommodation

4.a. Health Services for Lesbian, Gay, Bisexual and Transgender (LGBT) Persons and Capacity-Building and Training for Health Care Providers - In order to ensure that health care services shall be provided in a non-discriminatory manner, the Batangas City Government, through the City Health Department, shall:

4.a.1. Extend quality health care services and information on reproductive health without regard to one's marital status, age, religious affiliations, sexual orientation, gender identity and expression (SOGIE), personal circumstances and nature of work;

4.a.2. Monitor and ensure that provisions for gender-sensitive, gender-responsive and accessible health services for lesbians, gays, bisexuals and transgenders (LGBTs) are available both at the hospitals within the City and in Barangay Health Centers;

4.a.3 Encourage the establishment of an LGBT Desk in every public and private hospital to handle concerns pertaining to the proper administration of medical services to a person with specific needs, according to one's self-identified sexual orientation, gender identity and expression (SOGIE), in order to provide a comprehensive, responsive and accessible health services;

4.a.4. Build the capacities of barangay health workers, schools and community-based health personnel in delivering gender-sensitive and gender-responsive health services to the community in coordination with the barangay and non-governmental organizations;

4.a.5. Initiate a sensitization and training drive in all government health care facilities about the needs of lesbian, gay, bisexual and transgender (LGBT) population vis-à-vis general health and medical emergencies.



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SECTION 7. INCORPORATION OF SEXUAL ORIENTATION, GENDER IDENTITY AND EXPRESSION (SOGIE) CONCERNS WITH FUNCTIONS OF EXISTING VIOLENCE AGAINST WOMEN AND CHILDREN (VAWC) DESK/HUMAN RIGHTS DESK IN BATANGAS CITY POLICE DISTRICT

The Batangas City Police District is strongly encouraged to handle the specific concerns relating to sexual orientation gender identity and expression (SOGIE) through the existing Violence Against Women or VAWC/Human Rights Desk in all police stations in Batangas City, in close coordination with Batangas City Protection Center.

SECTION 8. COMPOSITION OF THE BATANGAS CITY PRIDE COUNCIL (BCPC)

Members of the Secretariat shall be recommended by the Batangas City Pride Council which shall be composed of the following:

Chairperson: Mayor
Vice Chairperson: Chairman Committee on Women & Family
Members:

1. Head of Public Employment Services Office
2. Chief of Business Permits and Licensing Office
3. Superintendent of the Division of City Schools
4. Representative, Gender Development Council
5. Four (4) from Representatives from Non-government Organizations accredited by the City
6. Head of the Batangas City Health Department
7. Representative from the Batangas City Police District

SECTION 9. INCORPORATION OF SEXUAL ORIENTATION, GENDER IDENTITY AND EXPRESSION (SOGIE) CONCERNS WITH THE FUNCTIONS OF THE EXISTING BARANGAY VIOLENCE AGAINST WOMEN AND CHILDREN (VAWC) DESK

All barangays in Batangas City are strongly encouraged to handle concerns relating to sexual orientation, gender identity and expression (SOGIE) through the existing Barangay Violence Against Women and Children (VAWC) Desk;

- a. Develop a system to document and report cases of discrimination and violence against actual or perceived lesbian, gay, bisexual and transgender (LGBT) persons and provide assistance to the victims thereof same as process for VAWC;
- b. Ensure that barangay officials, barangay police and other barangay workers, including volunteers, undergo training to enable them to respond to victims of gender



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discrimination and violence against lesbian, gay, bisexual and transgender (LGBT) persons;

- c. Assist the victim in filing the appropriate complaint with Batangas City Police District or other law enforcement agencies;
- d. Ensure that all pertinent documents are forwarded to the Batangas City Police District.

SECTION 10. OVERSIGHT FUNCTIONS OF THE BATANGAS CITY PRIDE COUNCIL (BCPC) UNDER THE ORDINANCE

The Batangas City Pride Council shall perform oversight functions over the implementation of this Ordinance, including the implementation of Anti-Discrimination programs provided herein. The BCPC shall exercise the following principal functions:

- a. Monitor complaints concerning violations of any provision of this Ordinance;
- b. Facilitate and assist the victims of stigma and discrimination to ensure that they have legal representation, counselling and psychological assistance;
- c. Maintain discrimination case documentation, case monitoring system, and set-up a databank to easily access various cases and experiences of stigma and discrimination;
- d. Recommend to the Sangguniang Panlungsod anti discrimination policies;
- e. Monitor or review all policies embodied in resolutions, ordinances, codes and other policy documents to determine if they are free from discriminatory statements and provisions and undertake necessary amendments of those provisions to effectively eliminate discrimination, stigma and stereotyping LGBTs.

SECTION 11. COMMEMORATION OF LESBIAN, GAY, BISEXUAL AND TRANSGENDER (LGBT) EVENTS

In support of the lesbian, gay, bisexual and transgender (LGBT) community, the Batangas City Government shall commemorate the annual celebration of the following:

- a. Philippine Pride March on the First Saturday of December;
- b. World Aids Day on December 1; and
- c. Human Rights Day on December 10.



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SECTION 12. APPROPRIATION - For the effective implementation of this Ordinance, the City Government shall source out funds from the five percent (5%) of the annual budget appropriated to finance the Gender and Development (GAD) plans, projects and programs.

SECTION 13. ANTI-DISCRIMINATION PROGRAMS - Fund shall be allocated by the Batangas City Government for the implementation of the following programs:

- a. Discrimination Databank and Monitoring;
- b. Access to Legal Representation of Victims of discrimination based on sexual orientation, gender identity and expression (SOGIE);
- c. Psychological Counselling;
- d. Anti-Discrimination Campaign;
- e. Policy review;
- f. Organization of Lesbian, Gay, Bisexual and Transgender (LGBT) persons in the barangay to ensure sectoral representation in the City Government.

SECTION 14. PERSONS LIABLE

Any person, natural or juridical, who commits any of the acts herein prohibited, shall be criminally liable and penalized accordingly. In case of juridical persons, such as but not limited to corporations, partnerships, associations, institutions, whether private or public, the President or head of office, shall also be criminally responsible.

SECTION 15. PENALTIES

Any person held liable under this ordinance shall be penalized with imprisonment for a period of not less than sixty (60) days but not more than one (1) year and/or a fine of not less than One Thousand Pesos (Php 1,000) but not to exceed Five Thousand Pesos (Php 5,000) or both at the discretion of the Court, without prejudice to any applicable criminal, civil or administrative action that may be instituted under the provision of existing laws.

SECTION 16. INDEPENDENT ACTION FOR DAMAGES

Nothing in this Act shall preclude the victim of discrimination based on actual or perceived sexual orientation, gender identity and expression, from instituting a separate and independent action for damages and other affirmative relief.



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SECTION 17. IMPLEMENTING RULES AND REGULATIONS - Within Sixty (60) days from the effectivity of this Ordinance, the Batangas City Pride Council, shall jointly formulate, after thorough consultation with multi-sectoral groups and stakeholders to be consulted shall be composed of experts and representatives from various sectors such as: civil society, LGBT non-government organizations, LGBT organizations and community based organizations.

SECTION 18. SEPARABILITY CLAUSE - If any portion or provision of this ordinance is declared as void or unconstitutional the remaining portions thereof shall not be affected thereby and shall remain in full force and effect.

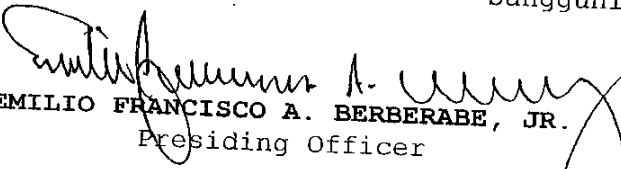
SECTION 19. REPEALING CLAUSE - Any provision of law or regulation inconsistent herewith is hereby repealed, revoked or modified accordingly.

SECTION 20. - EFFECTIVITY CLAUSE - This Ordinance shall take effect upon approval by the City Mayor and complete publication in a local newspaper of general circulation in the city and its posting in the entrance of the City Hall and in two (2) other conspicuous places in the city.

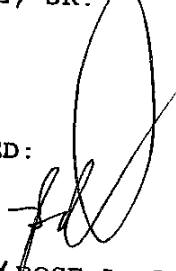
ENACTED by the Sangguniang Panlungsod this 13th day of June, 2016.


ATTY. OLIVA D. TELEGATOS
Secretary
Sangguniang Panlungsod

ATTESTED:


EMILIO FRANCISCO A. BERBERABE, JR.
Presiding Officer

APPROVED:


BEVERLY ROSE A. DIMACUBA
City Mayor

Date Approved: July 12, 2016