



**Excerpt from the
MINUTES OF THE 18TH REGULAR SESSION OF THE SANGGUNIANG PANLUNGSOD OF
BAYBAY CITY, LEYTE HELD ON JUNE 7, 2010/**

PRESENT:

HON. REX A. RETANA.....	City Vice Mayor & Presiding Officer
HON. ERNESTO M. BUTAWAN.....	Sangguniang Panlungsod Member
HON. CRISTELO S. LORETO.....	-do-
HON. EDUARDO S. GUINOCOR, JR.....	-do-
HON. LEONIDO A. BERAY.....	-do-
HON. LOLITO C. MUÑEZ.....	-do-
HON. ERLINDO P. LAPLANA.....	-do-
HON. TERESITA J. VELOSO.....	-do-
HON. CARLO S. ENRIQUEZ.....	-do-
HON. MARGARITA C. CARI.....	ABC, Provincial Federation President

ABSENT:

HON. CARL NICOLAS C. CARI.....SK Federation Pres. OB, Manila

CITY ORDINANCE NO. 004 S. 2010

AN ORDINANCE TO ADDRESS THE PROBLEM OF PROSTITUTION IN THE CITY OF BAYBAY, IMPOSING PENALTIES ON ITS PERPETRATORS, PROVIDING PROTECTIVE MEASURES AND SUPPORT SERVICES FOR THE PROSTITUTED PERSONS, AND FOR OTHER PURPOSES.

INTRODUCED BY HON. TERESITA J. VELOSO, PRINCIPAL SPONSOR, and HON. CARLO S. ENRIQUEZ

Prefatory Statement

WHEREAS, prostitution has always been viewed as a problem about women and children - those usually solicited for sexual pleasure, and those who solicit, who are predominantly men and often shielded from the laws;

WHEREAS, international instruments such as 1949 convention for the suppression of prostitution and the convention for the elimination of Discrimination against Women clearly encourage states to stop violence against women, particularly all forms of sexual exploitation, and as a party to the Convention, the Philippine State is obliged to institute mechanisms to eliminate various forms of sexual exploitation, including prostitution.

WHEREAS, the Declaration of Principle and State Policies of the 1987 Constitution mandates that the State shall ensure the fundamental equality of women and men before the law;
WHEREAS, the Anti-trafficking of Persons Act of 2003 or Republic Act No. 9208 expressly prohibits the trafficking of persons by any means for the purpose of prostitution, pornography, and sexual exploitation;

WHEREAS, it is the bounden duty of all local government units to promote the general welfare, to protect its citizens from the insidious evils that threaten to tear the moral fiber and to uplift the socio-economic status of its members, as embodied in the Constitution and R.A. 7160; and

WHEREAS, based on the foregoing, there is an immediate need to minimize prostitution, if not totally eliminate it, and to penalize its perpetrators and patrons, as well as to protect its victims.

- more over -

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF BAYBAY CITY IN SESSION ASSEMBLED TO ENACT THE FOLLOWING ORDINANCE:

ARTICLE 1. Title and Scope – This ordinance shall be known as “**An Ordinance to Address the Problem of Prostitution in the City of Baybay, Imposing Penalties on its Perpetrators, Providing Protective Measures and Support Services for the Prostituted Persons, and for Other Purposes.**” This Ordinance covers all forms of prostitution, its perpetrators and patrons, and the protection and the rehabilitation of its victims.

ARTICLE 2. Definition of Terms – The following terms are defined for the purpose of this Ordinance:

- c. Prostitution – any act, transaction, scheme or design involving the use of a person, whether woman, man or child for the sexual gratification, exploitation or pleasure of another in exchange for cash, profit or other consideration, or any act that promotes or facilitates the accomplishment of the said act, transaction, scheme or design, as specifically defined in Article 3 of this Ordinance.
- d. Person Exploited in Prostitution – refers to a woman, man or child exploited for the sexual gratification, pleasure and for the monetary gain of others, as defined in Section 2 of this Ordinance.
- e. Child – refers to any person below eighteen (18) years of age or one who is over eighteen (18), but because of mental shortcomings or physical disabilities, is unable to fully take care of or protect himself/herself from abuse, neglect, cruelty, exploitation or discrimination.
- f. Sexual Exploitation – refers to the participation or engagement of a person for any sexual act in exchange for cash, profit or other consideration as a result of being subjected to a threat, deception, coercion, abduction and force, lead to the abuse of his/her vulnerability.
- g. Sexual Act – refers to sexual intercourse, including genital-to-genital, oral-to-genital, anal-to-genital, or oral-to-anal intercourse or contact, bestiality, masturbation, sadistic or masochistic abuse, exhibition of the genitals or pubic area of any person, and other acts presumed to obtain sexual gratification for the buyer, whether the same is made between persons of the same or opposite sex.
- h. Establishment – refers to any business, enterprise or location, including but not limited to, sauna bath, massage parlour, discotheque, bar, restaurant, resort, lodging house, motel, hotel, theatre, ship, vessel, taxicab or any other vehicle, or dwelling, house, structure or building serving as a cover or venue for the prostitution, or any group, association or organization that engages in prostitution activities as defined in Section 2 of this Ordinance. Solicitation – refers to any manner of procurement or buying of sexual services with money or any other consideration as payment.

ARTICLE 3. Punishable Acts – Prostitution is a crime committed by:

- a. Any person who offers or accepts payment in exchange for any sexual activity as defined in Article 2 paragraph (e) of this ordinance.
- b. Any person who solicits, gives or delivers money or any other consideration in exchange for the actual performance or mere demonstration of a sexual activity as defined in Article 2(e) of this Ordinance by a person exploited in prostitution, regardless of whether the person giving or delivering the money or any other consideration is the recipient of such sexual act;
- c. Any person who is the recipient of a sexual act as defined in Article 2(e) of this ordinance, whether such a recipient has given or delivered money or any other consideration for the procurement of a person exploited in prostitution; Provided, however, that for purpose of this Article, being a recipient shall include a person or persons with whom or for whom a person or persons exploited in prostitution has actually performed or merely demonstrated such a sexual act;
- d. Any person who transports, induces, persuades, entices, compels, kidnaps, recruits or in any manner procures or causes a person to work in an establishment knowing that the same is involved in prostitution activities or when he/she has reasonable cause to believe that such establishment is involved in the said activities;
- e. Any person who organizes or arranges travel tours and tourism-related activities that involve the sexual exploitation of any person as defined in Article 2(b), or the escort services of any person who is expected to perform the sexual acts as defined in this Ordinance;

- more over-

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- f. Any person who advertises, arranges, manages, promotes or facilitates in any manner or under any pretext, the commission of any of the acts prohibited under this Article;
- g. Any person who uses information technology such as cyberspace, satellites, television, film, radio, prints or any form of media to promote any of the prohibited acts defined in this Article;
- h. Any person who derives profit or advantage from any of the prohibited acts defined in this Article as owner, operator, manager, head, director, officer or agent of the establishment where any prostitution activity defined takes place or of the establishment serving as a cover or venue for such prostitution activity or aiding another establishment or person involved in any prostitution activity;
- i. Any person who lease, subleases or in any manner allows the use of any dwelling, house, structure, building, land or any other property knowing that the lessee/sub lessee intends to use or uses it for prostitution activities as defined in this Article. For the purpose of this paragraph, the owner of the dwelling, house, structure, building, land or any other property used for prostitution and his/her agent shall be presumed to have knowledge that the place is being used or intended to be used for prostitution unless he/she disapproves it.
- j. Any member of the military or police establishment, or any government official or employee, or any person in authority, who commits, causes or promotes, facilitates, allows or tolerates the commission of any of the acts defined in this Article, or who, in any manner, provides protection to the perpetrators of the said acts;

For the purpose of this Article, it is understood that the prohibited acts of prostitution may be committed in any establishment as defined in Article 2(f) or in any other place not otherwise mentioned in Article 2(g).

ARTICLE 4. Persons Liable – The acts defined in Article 3 of this Ordinance maybe committed by any natural or juridical person, establishment, association, club, movement, cult, religious group or organizations. For the purpose of Article 3, the term "person" when used to refer to the offender, shall be interpreted to include the aforesaid persons or entities whenever applicable.

ARTICLE 5. Penalties and Sanctions -

a. Any person found guilty of the acts defined in Article 3(b) and (c) shall be penalized as follows:

First Offense - Six (6) months of mandatory human rights education on the plight of the victims of prostitution and a fine of Four Thousand Pesos (P4, 000.00); for this purpose the office of social welfare shall conduct the human rights education;

Second and Subsequent Offenses – Imprisonment of six (6) months and a fine of Four Thousand Pesos (P4, 000.00);

However, when the person exploited in prostitution referred to in Article 3 (b) and (c) is a child, the penalty shall be as follows:

First Offense – imprisonment of **two) 2 months;**

Second Offense – imprisonment of **three (3) months**

b. Any person found guilty of the acts defined in Article 3 (d) and (e) shall suffer the penalty of **Four Thousand (P4,000.00) Pesos ;**

c. Any person found guilty of the acts defined in Article 3 (f), (g), (h), and (i) shall suffer the penalty of imprisonment of **six (6) months;**

d. Any person found guilty of the acts defined in Article 3 (j) shall suffer the penalty of imprisonment of **six (6) months;**

e. When the offender is a legal or common-law spouse, ascendant, parent, guardian, or collateral relative within the fourth degree of consanguinity or affinity or one who exercises parental authority or moral ascendancy over the person exploited in prostitution, he/she shall suffer the penalty of **six (6) months** and a fine of Five Thousand Pesos (P5, 000.00).

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This penalty shall also apply to any offender who is legal spouse or common-law spouse of any of the persons aforementioned;

f. When the offender is an establishment as defined in this Ordinance, the penalty shall be imposed upon the owner, operator or manager, or the directors and officers, or the responsible officers or agents of the establishment, corporation, partnership or association found to be engaged in any of the acts defined in Article 3 of this Ordinance.

In addition, the establishment, corporation, partnership or association shall be immediately closed and its registration and/or license to operate shall be revoked. A sign with the words "off limits" shall be conspicuously displayed outside the establishment by the city government for such period as it may determine which shall not be less than one (1) year. The unauthorized removal of such sign shall be punishable by imprisonment of six (6) months.

g. When the offender is a person who is also exploited in prostitution or had been exploited in prostitution, he/shall be penalized as follows:

First Offense – the offender shall undergo three (3) months of mandatory counselling and rehabilitation with the Department of Social Welfare and Development;

Second Offense – imprisonment of one (1) month and mandatory counselling and rehabilitation with the DSWD for six (6) months;

Third Offense – imprisonment of six (6) months and mandatory counselling and rehabilitation with the DSWD for six (6) months;

Notwithstanding the criminal liability imposed upon the offender under this provision, such liability shall not divest him/her of the rights, benefits and protection accorded to a person exploited in prostitution under this Ordinance.

h. When the offender is a foreigner, he/she shall be deported and forever barred from entering the confines and limits of Baybay, after having served his sentence;

i. Any person found guilty of an attempt to commit child prostitution shall suffer the penalty of imprisonment of one (1) year and a fine of Five Thousand Pesos (P5, 000.00). without prejudice to the filing of other criminal charges under other applicable laws;

Except to the extent referred to in Article 5(g), any person found guilty of any prohibited act under Article 3 shall, in addition to the penalty of imprisonment and fine, undergo a rehabilitation program with the DSWD for a period of not less than less three (3) months but not longer than one (1) year; Provided, that only first time offenders shall undergo such rehabilitation program. The DSWD shall submit to the court a report on the rehabilitation of the offender.

ARTICLE 6. Responsibilities of the City Government in Anti-Prostitution Efforts.

The City government shall exercise its power to curb prostitution within its respective jurisdiction. It shall be unlawful for any city government agency or office to issue licenses or permits for the operation of any establishment found by the courts used or intended to be used for any prostitution activity.

It is also the responsibility of the City government to conduct public information campaign against prostitution, carrying out rescue operations, and ensuring the safety and security of victims of prostitution.

ARTICLE 7. Social Services and Programs – There shall be a Local Anti-Prostitution Task Force composed of the following agencies:

- a. Social Services and Development Department as lead agency.
- b. City Health Department
- c. Philippine National Police (PNP)
- d. Three (3) non-government organizations to be selected by NGO's providing support services to victims of prostitutions
- e. Three (3) representatives of persons exploited in prostitutions

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MARIA LITA C. CARI
SP Member

The Local Anti-Prostitution Task Force shall perform the following functions:

- a. Develop a program to address the conditions that lead to prostitution its insidious effects on society, and the needs of persons exploited in prostitution and those vulnerable to be exploited in prostitution. The program shall include public information and education campaigns against prostitution, crisis intervention service, education assistance, socio-economic assistance such as sustainable livelihood skills training and financial support for small-scale businesses, and integration and complete after-care programs for persons exploited in prostitution, among others;
- b. Identify and, if necessary, create centres in strategic locations all over the city to provide health services, including counselling and therapy, temporary shelter and other crisis intervention services to persons exploited in prostitution. The rape crises centres established under Republic Act No. 8505 and the hospital-based protection units for women and children may also serve as centres servicing persons exploited in prostitution. Each centre shall establish a network of health care and other service providers to address the needs of persons exploited in prostitution;
- c. Ensure that units are created or identified within relevant government agencies, particularly in those composing the Task Force, which shall focus on addressing prostitution and the needs of persons exploited in prostitution. This shall include units within the National Prosecution Service Offices in the local government units that shall specifically focus on the prosecution of offenders of this Ordinance.
- d. Implement a system that would ensure relevant government agencies work in close coordination with each other in addressing prostitution and the needs of persons exploited in prostitution;
- e. Develop and implement training programs for law enforcers, public prosecutors, judges, government lawyers, government health care providers, social workers and barangay officials which aim to increase their understanding of prostitution as a social and economic problem, and equip them with the perspective, sensitivity and skills to appropriately address the needs of persons exploited in prostitution, to respect, protect and promote their human rights, and to pursue the prosecution of offenders;
- f. Ensure that counterparts of the City Task Force are created in barangays where prostitution is reported;
- g. Undertake and lead the prosecution of any violation of this Ordinance; and
- h. Promulgate, when necessary, rules and regulations for the effective implementation and enforcement of this Ordinance.

ARTICLE 8. Separability Clause – If any provision of this Ordinance is declared invalid or unconstitutional the remaining provisions not affected thereby shall continue to be in full force and effect.

ARTICLE 9. Effectivity Clause – This Ordinance shall take effect upon its approval.

Enacted June 7, 2010

RESOLVED, FURTHER, to let certified copies of this ordinance be furnished to the Honorable Sangguniang Panlalalwigan of Leyte and other offices concerned for their information and appropriate action.

CARRIED UNANIMOUSLY

I HEREBY CERTIFY to the correctness of the foregoing ordinance which was adopted by the Sangguniang Panlungsod during its regular session held on June 7, 2010.

AMELITO V. BORNEO
Secretary to the SP

ATTESTED AND CERTIFIED TO
BE DULY ADOPTED

REX A. RETANA
City vice Mayor &
Presiding Officer

APPROVED BY HIS HONOR:

MICHAEL L. CARI
City Mayor

ERLEND P. LAPLANA
SP Member

TERESITA J. VELOSO
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