



Office of the Sangguniang Panlungsod

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5TH SANGGUNANG PANLUNGSOD

CITY ORDINANCE NO. 22, S-2021

AN ORDINANCE PROVIDING FOR A COMPREHENSIVE ANTI-DISCRIMINATION POLICY ON THE BASIS OF SEXUAL ORIENTATION, GENDER IDENTITY AND EXPRESSION (SOGIE) FOR THE PROTECTION OF LESBIAN'S, GAY'S, BISEXUAL'S, TRANSGENDER'S, QUEER'S AND INTERSEX'S (LGBTQIs) RIGHTS IN THE CITY OF BAYBAY AND FOR SUCH OTHER PURPOSES.

AUTHORED BY: HON. MARK MICHAEL O. UNLU-CAY

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

WHEREAS, the Bill of Rights provision of said constitution, clothes the State with authority to protect its citizens against all forms of discriminatory acts in order to promote equal protection and eliminate stereotypes and prejudices;

WHEREAS, per voice of experience in the society in general, these group of the third sex, known as the lesbians, gays, bisexuals, transgenders, queers, and intersex (or LGBTQI), have always been victims of social prejudice and discrimination of various sorts, such as bullying, teasing, harassment, etc.

WHEREAS, the Local Government Code of 1991 (RA 7160) empowers the Sangguniang Panlungsod to enact ordinances for the general welfare of the city and its people, which entails the enhancements of social justice in consonance with several provisions in the Constitution.

WHEREAS, on March 18, 2021, the Office of the Sangguniang Panlungsod enacted Resolution No. 2021-109, Creating SP Special Committee on LGBTQI+ Rights and Welfare as an affirmation to its sincere and utmost intention to afford equal protection to LGBTQI+ people as guaranteed by our Constitution and to craft local legislative measures in support of this aim;

WHEREAS, this ordinance calls for a consistent awareness of general human rights principles and should be applied with fairness and equality to all individuals is mainstreamed;

WHEREAS, our quest for economic prosperity in the City of Baybay is deeply connected to how the Local Government values the rights and dignity of the people, regardless of who they are, where they come from, and whom they love.

NOW, THEREFORE, on motion of Honorable Mark Michael O. Unlu-cay and duly seconded by the majority of the members present;

BE IT ORDAINED by the Sangguniang Panlungsod, this city, in its 25th Regular Session assembled on June 24, 2021 as hereby is adopted, to wit:

SECTION 1. TITLE – This Ordinance shall be known as **An Ordinance Providing for a Comprehensive Anti-Discrimination Policy on The Basis of Sexual Orientation, Gender Identity and Expression (SOGIE) For the Protection of Lesbian's, Gay's, Bisexual's, Transgender's, Queer's and Intersex's (LGBTQI+) Rights in the City of Baybay And For Such Other Purposes.**

SECTION 2. DECLARATION OF POLICY – It is hereby declared a policy of the City of Baybay 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

a) LGBTQI+ — refers to a diverse and complex range of identities based on sexual orientation, gender identity and expression. The term "LGBTQI+" refers to gender and sexuality non-conforming persons, including but not limited to lesbian, gay, bisexual, transgender, queer, and intersex persons;

a.1 LESBIAN — a woman whose emotional, romantic and sexual energies are geared towards other women;

a.2 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;

a.3 BISEXUAL — a person who is emotionally and/or physically attracted to members of both the same and opposite sex;

a.4 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.

a.5 QUEER — those who are gender non-conforming and who do not want to be defined by any of the labels.

a.6 INTERSEX — those who are naturally born and possesses both male and female organs;

b) SOGIE – refers to Sexual Orientation, Gender Identity and Expression.

c) DISCRIMINATION — constitutes any distinction, exclusion, restriction, preference or other differential treatment that is directly or indirectly based on sexual orientation, gender identity, or gender expression, which has the intention or effect of nullifying or impairing the recognition, enjoyment, or exercise on an equal footing, of political, civil, economic, social, and cultural rights;

- d) **GENDER EXPRESSION** — is how a person publicly presents their gender. This can include behaviour 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;
- e) **GENDER IDENTITY** — is each person's internal and individual experience of gender. It is their sense of being a woman, a man, both, neither, or anywhere along the gender spectrum. A person's gender identity may be the same as or different from their birth-assigned sex. Gender identity is fundamentally different from a person's sexual orientation;
- f) **SEX** — is a human and civil status of a person acquired by birth having organ and system of reproduction;
- g) **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;
- h) **ACCOMMODATION** — as mentioned herein, includes a house, apartment, condominium, townhouse, 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 or juridical entities;
- i) **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;
- j) **VILIFICATION** — The utterance of slanderous and abusive statements done in any activity in public that 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);
- k) **PUBLIC RIDICULE** — making fun or contemptuous by imitating or mocking 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. COVERAGE. This Ordinance shall cover any person, natural or juridical, who commits any of the acts herein prohibited and enumerated shall be held liable and penalized accordingly, provided that in the case of juridical persons, such as but not limited to corporations, associations, partnerships, educational and vocational institutions, whether public or private, the manager or head of office shall also be held criminally accountable and responsible.

SECTION 5. PROHIBITED ACTS. The following constitute act of discrimination:

- a. Vilifying or ridiculing any person on the basis of actual or perceived sexual orientation, gender identity and expression (SOGIE):
- a.1) making fun of or contemptuous by imitating or mocking either in writing, of in words, or in action;
 - a.2) Uttering of slanderous and abusive statements;

- a.3) Executing any activity in public which incites hatred towards serious contempt for, or severe ridicule of a person;
- a.4) Doing any other analogous act/s of ridicule at any time and place which could intimidate or result in loss of self-esteem of the person.
- b. Denying or limiting access of an employee to opportunities for promotion, transfer, training, schooling or any other benefit that are otherwise granted to other employees similarly situated on the basis of actual or perceived sexual orientation and gender identity and expression (SOGIE);
- c. Refusing employment to a job applicant on the basis of actual or perceived SOGIE;
- d. Denying access to public programmes and services for medical and other health services on the basis of actual or perceived SOGIE;
- e. Refusing admission to or expulsion or dismissal of a person from educational institutions on the basis of sexual orientation and gender identity and expression;
- f. 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 academic qualifications of their students;
- g. Providing onerous or unjust terms and conditions for admission of a student, such as but not limited to cutting of hair, setting a dedicated dress code for the purpose of decency, and the like;
- h. 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);
- i. Subjecting any student to harassment, bullying, or any threat of physical, mental and verbal violence, intimidation or other threatening disruptive behaviour committed by teachers, professors, trainers, administrators or by other students.
- j. Revoking any accreditation, recognition, registration of any organization in educational institutions, workplaces and communities on the basis of actual or perceived SOGIE;
- k. Subjecting either verbal or written, to insult any person by reason of SOGIE;
- l. Refusing to provide goods or terms and conditions to a person on the ground of one's actual or perceived SOGIE as a prerequisite for providing such goods or services where the said terms and conditions are not imposed on another person under the same or similar circumstances;
- m. 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 or for a fee on the basis of actual or perceived SOGIE;

- n. Denying an application for a license, clearance, certification or any other document issued by governmental authorities or other private juridical entities, on the basis of actual or perceived SOGIE;
- o. It shall be unlawful to commit harassment, unjust detention and involuntary confinement because of one's actual or perceived SOGIE;
- p. It shall be unlawful to refuse entry and/or disallow a person or group of persons from entering any establishment such as restaurants, 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 no consumable; or to subject one to discrimination or harassment in buses, taxis, ships, airplanes on the basis of actual or perceived SOGIE;
- q. It shall be unlawful to organize groups and activities which promote and incite discrimination against persons based on actual or perceived SOGIE;
- r. Any act of discrimination or harassment based on actual or perceived 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 civil, political, labor, economic, social, cultural, educational spheres, and other spheres.

SECTION 6. AFFIRMATIVE ACTS. The City shall endeavour to mainstream "gender-fairness" by conducting programs and celebrating activities such as, but not limited to:

- a. Seminars, trainings, workshops, fora and symposia about Sexual Orientation, Gender Identity and Expression (SOGIE) and on "inclusive" workplaces in both private and public spaces;
- b. Discrimination and Stigma Reduction Program – The City Government of Baybay shall allocate funds to address discrimination and stigma that has the following components:
 - i. 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.
 - ii. 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 databank of different cases and experiences of stigma and discrimination.
 - iii. 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.

- c. Access to Scholarships, Skills, Employment and Livelihood Opportunities – The City Government of Baybay shall ensure that all persons residing in the City of Baybay shall have equal access to scholarships, skills trainings, employment, livelihood opportunities, and microfinance opportunities and ensure equitable access by persons who for reasons of disability, age, health status, sexual orientation, gender identity, ethnicity, and religion are discriminated; Commission on Higher Education (CHED) Memorandum Order No. 01-2015 for the policies and guidelines on gender and development are implied for people of diverse sexual orientation and gender identity;
- d. Access to Legal Representation – The City Legal Office, when so warrant, may assist the victims of stigma and discrimination, documentation and filing of cases as well as the duration of the case.
- e. Policy Review – The City Government of Baybay 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 to those provisions to effectively eliminate discrimination, stigma, and stereotypes.
- f. Social Protection Program – The City Government of Baybay shall implement social protection measures for individuals, groups, sectors, and communities affected by and vulnerable to stigma and discrimination.

SECTION 7. INCORPORATION OF SEXUAL ORIENTATION AND GENDER IDENTITY EXPRESSION (SOGIE) CONCERNS WITH FUNCTIONS OF EXISTING VIOLENCE AGAINST WOMEN AND CHILDREN (VAWC) DESK/HUMAN RIGHTS DESK IN BAYBAY CITY POLICE STATION – The Baybay City Police Station is strongly encouraged to handle the specific concerns relating to SOGIE through the existing Violence Against Women or VAWC / Human Rights Desk.

- a. Develop a system to document and report cases of discrimination and violence against actual or perceived persons of diverse SOGIE and provide assistance to the victims thereof,
- b. Ensure that Barangay Officials, Barangay Tanods, Lupong Tagapamayapa, and other barangay workers, including volunteers, to undergo training to enable them to respond to victims of gender discrimination and violence against people of diverse sexual orientation, gender identity and expression;
- c. Assist the victim in filing the appropriate complaint with the Baybay City Police Officer or other law enforcement agencies; and/or
- d. Ensure that all pertinent documents are forwarded to the Baybay City Police Station.

SECTION 8. REMEDIAL MEASURES – The remedial measures for any complaints against any person(s) who may violate this Ordinance may include, but are not limited to the following, to wit:

- a. Complaints shall lodge their complaint(s) of any violation with the Lupon Tagamayapa (Punong Barangay) as provided by R.A. 7160 otherwise known as the Local Government Code of 1991 and the Katarungang Pambarangay