OFFICE OF THE SANGGUNIANG PANLUNGSOD

FIFTH CITY COUNCIL
ORDINANCE NO. 36
SERIES OF 2014

"AN ORDINANCE PROHIBITING RACIAL, ETHNIC, GENDER IDENTITY, SEXUAL ORIENTATION, AND RELIGIOUS DISCRIMINATION IN THE CITY OF VIGAN"

Explanatory Note

WHEREAS, Article II, Section 10 of the 1987 Philippine Constitution provides that the state shall promote social justice in all phases of national development;

WHEREAS, Article II, Section 11 also provides that the state values the dignity of every human person and guarantees full respect for human rights;

WHEREAS, Article III, Section 1 also states 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 laws;

WHEREAS, Section 22 also stipulates that the state recognizes and promotes the rights of indigenous cultural communities within the framework of national unity and development;

WHEREAS, Article XIII, Section 3 also provides that the state shall afford full protection to labor, local and overseas, organized and unorganized and promote full employment and equality of employment opportunities for all;

NOW THEREFORE, BE IT ORDAINED by the Sangguniang Panlungsod of the City of Vigan, in session duly assembled to enact:

SECTION 1. SHORT TITLE. This Ordinance shall be known as the "The Anti-Discrimination Ordinance of Vigan".

SECTION 2. DECLARATION OF POLICY. It is the policy of the state to work actively for the elimination of all forms of discrimination that offends the equal protection clause of the Bill of Rights and the State obligations under human rights instruments acceded to by the Republic of the Philippines. Towards this end, discriminatory practices as defined herein shall be prescribed and penalized.

SECTION 3. DEFINITION OF TERMS. As used in this Ordinance, the following shall mean:

(a) Accommodation - refers to a house, apartment, condominium, townhouse, flat, hotel, villa, motel, boarding house, hostel and dormitory.

(b) Discrimination - Any distinction, exclusion or restriction made on the basis of gender identity, sexual orientation, race, ethnic origin, religion, or religious affiliation or beliefs which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural, civil, or any other field of public life.
(c) **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.

(d) **Employment** - refers to the 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, probationary, contractual, seasonal and project-based workers. In legitimate contracting or sub contracting arrangements, the contractor/subcontractor shall be deemed the employer of the contractual employee.

(e) **Ethnic origin** - refers to the race, color, descent, national origin and ethno-linguistics origin of a person.

(f) **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.

(g) **Goods and services** shall refer to the material and nonmaterial products or things of value offered for sale to satisfy needs and wants for survival, comfort, or pleasure such as, but not limited to, that provided by restaurants, resorts, hotels, clubs, stores and shopping malls or acts or services provided by financial establishments, public utilities, professionals, maintenance and repair workers, laborers, etc.

(h) **Indigenous peoples** - as provided under Section 3(h), Chapter II of Republic Act No. 8371 or “The Indigenous Peoples Rights Act of 1997”, shall refer to a group of people or homogenous societies identified by self-ascription and ascription by others, who have continuously lived as an organized community on communally bounded and defined territory, and who have, under claims of ownership since time immemorial, occupied, possessed and utilized such territories, sharing common bonds of language, customs, traditions and other distinctive cultural traits, or who have, through resistance to political, social and cultural inroads of colonization, nonindigenous religions and cultures, became historically differentiated from the majority of Filipinos. Indigenous Cultural Communities/Indigenous Peoples (ICCs/IPs) shall likewise include peoples who are regarded as indigenous on account of their descent from the populations which inhabited the country, at the time of conquest or colonization, or at the time of inroads of nonindigenous religions and cultures, or the establishment of present state boundaries, who retain some or all of their own social, economic, cultural and political institutions, but who may have been displaced from their traditional domains or who may have resettled outside their ancestral domains.

(i) **Religious belief** - refers to a strong belief in a supernatural power or powers that control human destiny.

(j) **Sexual Orientation** - refers to the direction of emotional sexual attraction or conduct. This is expressed 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).

Sexual orientation is not equivalent to sexual behavior since this refers to feelings and self-concept. Persons may or may not express their sexual orientation in their behaviors.

**SECTION 4. ACTS OF DISCRIMINATION.** This includes, but is not limited to:

(a) **Discrimination in Political Participation** - Any person acting as principal or agent shall be liable for discrimination through the commission of any of the following acts:
(1) Preventing, impeding, prohibiting, obstructing or intervening in the exercise of political rights by another including, but not limited to, the right to vote in a national or local election, both regular or special, or in a plebiscite, both initiative or referendum;

(2) Imposing onerous terms before these political rights are granted, preserved or protected; or

(3) Subjecting another person who wishes to exercise a political right to any other detriment, on the basis of sexual orientation, gender identity, race, ethnic origin, religion or religious affiliation or beliefs of the person or of any relative, representative or assignee of the person.

(b) Discrimination in Employment. –

(1) Any employer or head of a firm, company or organization shall be liable for discrimination by:

(i) Refusing without just cause to employ another for work of any type or kind which is available and for which the person is qualified, or by imposing on the person onerous terms and conditions on the basis of sexual orientation, gender identity, race, ethnic origin, religion or religious affiliation or beliefs;

(ii) Denying or limiting access of an employee to the same terms and conditions of work, opportunities for training, transfer or promotion, or to other benefits connected with the employment, as are made available for other employees having the same qualifications and employed in the same circumstances or work of the same kind or type, or by imposing on the person onerous terms and conditions on the basis of sexual orientation, gender identity, race, ethnic origin, religion or religious affiliation or beliefs;

(iii) Dismissing an employee, or subjecting an applicant for employment or an employee to any other detriment, on the basis of sexual orientation, gender identity, race, ethnic origin, religion or religious affiliation or beliefs.

(2) Any person acting as principal or agent in procuring employment for other persons or procuring employees for an employer shall be liable for discrimination by treating an applicant seeking employment less favorably than another person in the same circumstances on the basis of sexual orientation, gender identity, race, ethnic origin, religion or religious affiliation or beliefs of the person or of any relative, representative or assignee of the person seeking employment.

(3) Any person acting as principal or agent of an organization of employers or employees, or any person acting or purporting to act on behalf of such organization, shall be liable for discrimination by preventing or seeking to prevent another person from offering employment or from continuing another person in employment on the basis of sexual orientation, gender identity, race, ethnic origin, religion or religious affiliation or beliefs of the person or of any relative, representative or assignee of the person.

(c) Discrimination in Education. – Any person who heads or owns an educational institution, including any officer, employee or person acting on behalf of the head or owner of such institution shall be liable for discrimination by:

(1) Refusing without just cause to accept an applicant for admission as a student;

(2) Denying or limiting access of a student to any benefit or privilege provided by the institution;

(3) Expelling a student without just cause; or

(4) Subjecting the student to any other detriment, on the basis of sexual orientation, gender identity, race, ethnic origin, religion or religious affiliation or beliefs of the student or of any relative, representative or assignee of the student.

(d) Discrimination in the Delivery of Goods and Services. – Any person acting as principal or agent who supplies goods or services to the public or to any section of the public shall be liable for discrimination by:

(1) Refusing without just cause on demand to supply those goods or services to a person
(2) Refusing without just cause on demand to supply those goods or services to another person except on less favorable terms or conditions than those upon whom they would otherwise supply those goods or services; or

(3) Subjecting another person to any other detriment in connection with the provision of goods or services, on the basis of sexual orientation, gender identity, race, ethnic origin, religion or religious affiliation or beliefs of the person or of any relative, representative or assignee of the person

(c) Discrimination in Accommodation.

(1) Any person acting as principal or agent providing accommodation shall be liable for discrimination by:

(i) Refusing without just cause to accept or process the application for any interest in land, or residential or business accommodation;

(ii) Disposing of such an interest or such accommodation to another person on less favorable terms and conditions than those which are or would otherwise be offered;

(iii) Treating another person who is seeking to acquire or has acquired an estate or interest or such accommodation less favorably than to others in the same circumstances;

(iv) Refusing without just cause to permit another person to occupy any land or any residential or business accommodation;

(v) Terminating any estate or interest in land of another person or the right of another person to occupy any land or any residential or business accommodation; or

(vi) Subjecting an applicant to any other detriment, on the basis of sexual orientation, gender identity, race, ethnic origin, religion or religious affiliation or beliefs of the person or of any relative, representative or assignee of the person.

(2) Any person acting as principal or agent shall also be liable for discrimination by imposing or seeking to impose on another person any term or condition that limits the persons or class of persons who may be the clients, visitors or guests of any land or residential or business accommodation, on the basis of sexual orientation, gender identity, race, ethnic origin, religion or religious affiliation or beliefs of the person.

(f) Discrimination in Accessing Public Places, Facilities and Public Meetings.

Any person acting as principal or agent shall be liable for discrimination by:

(1) Refusing to allow another person access to or use of any such place, vehicle or facilities that the public or a section thereof is entitled or allowed to enter or use;

(2) Refusing to allow another person access to or use of any such place, vehicle or facilities by providing onerous terms and conditions not similar to others whom they would otherwise allow access to or use of the place, vehicle or facilities;

(3) Refusing to allow another person access to a meeting or assembly open to the public or to a section thereof, or the refusal to allow another access to a meeting or assembly by providing onerous terms and conditions not similar to others to which they would otherwise allow access to a meeting or assembly;

(4) Requiring another person to leave or cease to use any such place, vehicle or any such facilities; or

(5) Subjecting a person wishing to access public places, facilities or public meetings to any other detriment, on the basis of sexual orientation, gender identity, race, ethnic origin, religion or religious affiliation or beliefs of the person or of any relative, representative or assignee of the person.

(g) Discrimination in Accessing Commercial Establishments.

Any person acting as principal or agent shall be liable for discrimination by:

(1) Refusing to allow another person access to or use of any such place, vehicle or facilities that is for commercial purposes or a section thereof is entitled or allowed to enter or use;
(2) Refusing to allow another person access to or use of any such place, vehicle or facilities by providing onerous terms and conditions not similar to others whom they would otherwise allow access to or use of the place, vehicle or facilities;

(3) Requiring another person to leave or cease to avail the services of such establishment, vehicle or any such facilities; or

(4) Subjecting a person wishing to access commercial establishments to any other detriment, on the basis of sexual orientation, gender identity, race, ethnic origin, religion or religious affiliation or beliefs of the person or of any relative, representative or assignee of the person.

(h) Discrimination by Wrongful Portrayal. – Any person acting as principal or agent shall be liable for discrimination by portraying, imitating, depicting or describing in learning institutions, instructional materials, teaching devices, books and reference materials, especially in Civics and History, certain individuals and/or group/s as racially inferior.

(i) Inciting Others to Commit Acts of Discrimination. – Any person acting as principal or agent shall be liable for discrimination by inciting others to commit discrimination or any action that is unlawful by reason of a provision of this ordinance, or by assisting or promoting, whether through financial assistance or otherwise, the doing of such act.

SECTION 5. PERSONS LIABLE. Any person, natural or juridical, or their representatives, including government or government-owned and controlled corporations, or any private corporation, institution or company who commits discrimination through any of the acts described in the preceding section shall be liable under this ordinance.

Any person who requests, instructs, induces, encourages, authorizes or assists another to commit acts of discrimination shall also be liable under this ordinance. Any person who is duty-bound to act on complaints of discrimination under this ordinance but fails or refuses to do so shall be deemed to have sanctioned the discriminatory act, and shall consequently be held equally liable for discrimination.

All government officers and workers are obliged to promote nondiscrimination in the discharge of their duties and responsibilities.

SECTION 6. 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:

Chairman
Sangguniang Panlungsod Chairman of the Committee on Legal Matters and Human Rights

Vice Chairman
City Mayor

Members:
Sangguniang Panlungsod Chairman of the Committee on Women, Family Affairs and Gender Development
City Legal Officer
Head of Commission on Higher Education Region I
Head Department of Labor and Employment in Vigan City
Three (3) Representatives from Accredited Non-Government Organization

SECTION 7. MAIN/PRINCIPAL FUNCTION OF THE ANTI-DISCRIMINATION MEDIATION AND CONCILIATION BOARD. The Anti-Discrimination Mediation and Conciliation Board is tasked to receive complaints concerning violations of any provision of this Ordinance, notify the parties concerned of the same, and mediate and conciliate the parties’ differences to the end that judicial, quasi-judicial, prosecutorial and administrative action is AVOIDED.
SECTION 8. RESPONSIBILITY TO PROMOTE A NONDISCRIMINATION AND EQUAL OPPORTUNITY ENVIRONMENT. It shall be the duty of every person, natural or juridical, public or private, to ensure nondiscrimination and equal opportunity for all persons in relating to actual or prospective employees, students, tenants, customers or clients, and that no discriminatory acts, as defined herein, is committed by them or their agents in the areas defined under Section 4 of this Ordinance.

SECTION 9. PENALTIES. Without prejudice to the provisions of the Labor Code of the Philippines involving the rights of workers and employees which shall be punishable under the said Code, and for violations under Republic Act 7610, otherwise known as “Special Protection of Children Against Abuse, Exploitation and Discrimination Act”, involving rights of children of Indigenous Communities which are punishable under said act, the following penalties for violations of any provisions of this Ordinance are hereby imposed as follows:

(a) Any person liable under this Ordinance shall be punished by admonition and a fine of One Thousand pesos (P1,000.00);
(b) A second conviction, for any of the acts punishable under this Ordinance, shall be penalized by a fine of Two Thousand Pesos (P2,000.00) and imprisonment for a period of not more than ten (10) days at the discretion of the court;
(c) A third conviction or any conviction after two (2) previous convictions shall be penalized by a fine of Five Thousand Pesos (P5,000.00) and imprisonment of fifteen days (15).

SECTION 10. PRESCRIPTIVE PERIOD. All cases of act of discrimination shall be filed within a reasonable period of 6 months with the Anti-Discrimination Mediation and Conciliation Board; otherwise the complainant shall be barred from filing with the board without prejudiced to the filing of the case to the court of competent jurisdiction.

SECTION 11. IMPLEMENTING RULES AND REGULATIONS. Within sixty (60) days from the approval of this Ordinance, the City Legal Office, shall promulgate the Implementing Rules and Regulations which shall govern the Mediation and Conciliation Proceedings which Implementing Rules and Regulations shall be submitted to the Sangguniang Panlungsod for approval.

SECTION 12. INFORMATION CAMPAIGN. Within thirty (30) days from the approval of this Ordinance, the City Information Office shall conduct an information campaign to apprise the public of the provisions of this Ordinance.

SECTION 13. SEPARABILITY CLAUSE. If, for any reason, any part, section or provision of this Ordinance is held invalid or unconstitutional, the remaining provisions not affected thereby shall continue to be in force and effect.

SECTION 14. EFFECTIVITY CLAUSE. This Ordinance shall take effect ten (10) days after the completion of its publication in a local newspaper of general circulation in the city and its postings in the Bulletin Board at the entrance of the City Hall and in two (2) other conspicuous places in the city whichever comes later, either the publication or posting.

Enacted on NOVEMBER 10, 2014.
LOURDES DG. BAQUIRAN
City Vice Mayor

JUAN CARLO S. MEDINA
Sangguniang Panlungsod Member

JOHN PATRICK A. SINGSON
Sangguniang Panlungsod Member

FRANCISCO ARTURO O. RANCHES III
Sangguniang Panlungsod Member

KRISTEN BENEDICT B. FIGUERRES
Sangguniang Panlungsod Member

RAMIL A. ARCE
Sangguniang Panlungsod Member

KISSES MARQUISE G. AGDAMAG
Sangguniang Panlungsod Member

JOY BRIELTE A. ORIO
Sangguniang Panlungsod Member

CONSTANTE V. BENZON
Sangguniang Panlungsod Member

BENEDICTO JOSE P. VERZOSA
Sangguniang Panlungsod Member

(on leave)

GEORGE J. VILLANUEVA
Sangguniang Panlungsod Member

NICHOLAS JOSEPH S. DE LEON
ABC President

Attested:

JAYSON I. AVILA
Secretary to the Sangguniang Panlungsod

Approved:

EVA MARIE S. MEDINA
City Mayor