

**REPUBLIKA NG PILIPINAS
TANGGAPAN NG SANGGUNANG PANLUNGSOD
LUNGSOD NG BAKOLOD**

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CITY ORDINANCE NO. 608

September 19, 2012

AN ORDINANCE PROVIDING MEASURES FOR THE PROMOTION AND GENERAL WELFARE OF NIGHT WORKERS EMPLOYED IN LEGITIMATE BUSINESS ESTABLISHMENT OPERATING IN THE CITY OF BACOLOD AND FOR OTHER PURPOSES.

WHEREAS, Republic Act No. 10151 was approved last June 21, 2011, repealing Article 130 and 131 of Presidential Decree No. 442, as amended otherwise known as the Labor Code of the Philippines;

WHEREAS, the city is the host of many Customer Management Solutions or call centers which hire employees to work graveyard shift;

WHEREAS, in order to protect the health, safety and welfare of these night workers, their request to undergo health assessment without charge and to receive advise on how to reduce or avoid health problems associated with their work must be supported by government;

WHEREAS, women working night shift, shall be given the necessary protective measures to ensure that an alternative to night work is available to women workers who would otherwise be called upon to perform such work;

WHEREAS, in order to maintain the safety of the night workers, a suitable first-aid facilities shall be made available for workers performing night work.

NOW THEREFORE, be it ordained by the Sangguniang Panlungsod of Bacolod City in session assembled that:

ARTICLE I

Title

This ordinance shall be known as "Night Workers Welfare Ordinance of Bacolod City."

ARTICLE II

Declaration of Policy

It is hereby the policy of the City of Bacolod to provide security, health and safety, protection to all persons that shall be employed or permitted to work at night. In order that their health conditions and workplace be given utmost consideration, proper measures to ensure their protection, safety and welfare against health hazards in the workplace, be established.

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ARTICLE III
Definition of Terms

The following terms as used in this ordinance shall mean:

- a. **DOLE** – Department of Labor and Employment or national government agency tasked to implement the provisions of the Labor Code of the Philippines.
- b. **DOLE Regional Office VI** – the Regional Office for Region VI in the Department of Labor and Employment through which, powers, duties and functions of the Secretary of the Department of Labor and Employment are executed and carried out within the Region VI.
- c. **Employee** – shall mean any person hired, permitted or suffered to work by an employer.
- d. **Employer** – includes any person acting directly/indirectly in the interest of an employer in relation to an employee, and shall include government owned or controlled corporations and institutions, as well as non-profit private institutions/organizations.
- e. **Night Worker** – means any employed person whose work requires performance of a substantial number of hours of night work which exceeds a specified limit. This limit shall be fixed by the Secretary of Labor after consulting the work representatives/labor organizations and employer.
- f. **Labor Code of the Philippines** – as amended, as the law providing for and defining the rights of workers and employment.
- g. **Sub-RAV- 6 – Sub** – Regional Arbitration Branch of the National Labor Relations Commission as the body tasked to arbitrate over labor disputes in Bacolod City.

ARTICLE IV
Coverage

This ordinance shall apply to all persons, who shall be employed or permitted or suffered to work at night in the City of Bacolod, except those employed in agriculture, stock raising, fishing, maritime transport and inland navigation, during a period of not less than seven (7) consecutive hours, including the interval from midnight to five o'clock in the morning to be determined by the Department of Labor and Employment (DOLE), after consulting the workers representative labor organization and employees.

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ARTICLE V Health Assessment

It is stated in city ordinance which prescribed a Sanitary Code for Bacolod City that before hiring a person for night workers, all business establishments shall require the applicants to secure a health/green card from the City Health Office. In case of renewal for their health/green card a certification of their individual health by their company physician is required and only their personnel head may renew their health/green card with the City Health Office in cases, where the night worker cannot renew it personally due to their tight schedule.

At their request, workers shall have the right to undergo a health assessment without charge and to receives advise on how to reduce or avoid health problems associated with their work.

- a) Before taking up an assignment as a night worker;
- b) At regular intervals during such an assignment and;
- c) If they experience health problems during such assignment which are not caused by factors other than the performance of night work.

With the exception of a finding of unfitness for night work, the findings of such assessments shall not be transmitted to others without the workers' consent and shall not be used to their detriment.

ARTICLE VI Mandatory Facilities

Mandatory Facilities as mandated by Republic Act 10151 is purposely reiterated in this ordinance which shall be made available for workers performing night work which includes the following:

- (a) Suitable first-aid and emergency facilities as provided for under Rule 1960 (Occupational Health Services) of the Occupational Safety and Health Standards (OSHS);
- (b) Lactation station in required companies pursuant to Republic Act No. 10028 (The Expanded Breastfeeding Promotion Act of 2009);
- (c) Separate toilet facilities for men and women;
- (d) Facility for eating with potable drinking water; and

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- (e) Facilities for transportation and/or properly ventilated temporary sleeping or resting quarters, separate for male and female workers, shall be provided except where any of the following circumstances is present:
 - i. Where there is an existing company guidelines, practices or policies, Collective Bargaining Agreement (CBA) or any similar agreement between management and workers providing for an equivalent or superior benefit; or
 - ii. Where the start or end of the night work does not fall within 12 midnight to 5 o'clock in the morning; or
 - iii. Where the workplace is located in an area that is accessible twenty-four (24) hours to public transportation;
 - iv. Where the number of thirty (30) or more employees does not exceed a specified number as may be provided for by the Secretary of Labor and Employment in subsequent issuances.

ARTICLE VII Women Night Workers

Measures shall be taken to ensure that an alternative to night work is available to women workers who would otherwise be called upon to perform such work:

- (a) Before and after childbirth, for a period of at least sixteen (16) weeks, which shall be divided between the time before and after childbirth;
- (b) For additional periods, in respect of which a medical certificate is produced stating that said additional periods are necessary for the health of the mother or child:
 - (1) During pregnancy;
 - (2) During a specified time beyond the period, after childbirth is fixed pursuant to subparagraph (a) above, the length of which shall be determined by the DOLE after consulting the labor organizations and employers.

During the periods referred to in this article:

- (i) A woman worker shall not be dismissed or given notice of dismissal, except for just or authorized causes provided for in the Labor Code that are not connected with pregnancy, childbirth and childcare responsibilities.



- (ii) A woman worker shall not lose the benefits regarding her status, seniority, and access to promotion which may attach to her regular night work position.

Pregnant women and nursing mothers may be allowed to work at night only if a competent physician, other than the company physician, shall certify their fitness to render night work, and specify, in the case of pregnant employees, the period of the pregnancy that they can safely work.

The measures referred to in this article may include transfer to day work where this is possible, the provision of social security benefits or an extension of maternity leave.

The provisions of this article shall not have the effect of reducing the protection and benefits connected with maternity leave under existing laws.

ARTICLE XV Separability Clause

If any portion of this ordinance is declared unconstitutional, the same shall not affect the validity and effectivity of the other provisions not affected thereby.

ARTICLE XVI Repealing Clause

All ordinances, rules and regulations or other issuances or parts thereof, which are inconsistent with this ordinance, are hereby repealed and modified accordingly.

ARTICLE XVII Effectivity Clause

This ordinance shall take effect after fifteen (15) days following its publication in a newspaper of local circulation in the City of Bacolod.

CARRIED BY THE VOTE OF:

Affirmative:

Councilors :

El Cid M. Familiaran, Homer Q. Bais, Archie S. Baribar, Roberto M. Rojas, Catalino T. Alisbo, Em L. Ang, Elmer T. Sy, Sonya M. Verdeflor, Al Victor A. Espino, Caesar Z. Distrito, Carlos Jose V. Lopez, Mona Dia G. Jardin.

Negative :

None.



Absent : None.

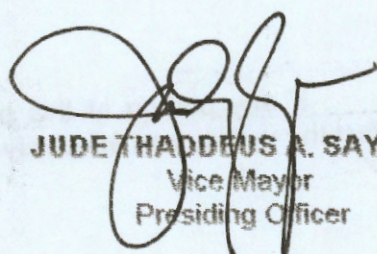
Official Leave : Councilor Dindo C. Ramos.

Main Author : Councilor Catalino T. Alisbo.

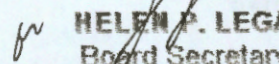
Co-Author : Councilor Sonya M. Verdeflor.

Passed : September 19, 2012 (116th Regular Session).

Comments: Passed.
Councilor Keith Emmanuel L. Ramos was not yet around
when this ordinance was passed.


JUDE THADDEUS A. SAYSON
Vice Mayor
Presiding Officer

ATTESTED:


HELEN P. LEGASPI
Board Secretary IV
OIC, Secretary to the Sanggunian

APPROVED: September, 2012.

EVELIO R. LEONARDIA
City Mayor

HPL/fbz

16 DAYS LAPSED
AS OF Oct. 5, 2012

