

Republic of the Philippines  
City of Cagayan de Oro  
**OFFICE OF THE CITY COUNCIL**  
(Sangguniang Panlungsod)

**ORDINANCE NO. 8972-2003**

**AN ORDINANCE PENALIZING DOMESTIC VIOLENCE AS DEFINED, PROVIDING PROTECTIVE MEASURES THEREFOR AND FOR OTHER PURPOSES**

*Whereas*, domestic violence is a problem long recognized to have wrecked havoc on families thereby destroying lives of family members in the process and threatening the very foundation of society;

*Whereas*, while there are already laws which address some forms of violence between spouses, including live-in partners and between other family members, studies show that there is no specific legislation which properly addresses violence between partners in intimate relationships and other household members;

*Whereas*, the Cagayan de Oro City Council recognizes the necessity to timely address this worsening social problem and finds it imperative to promptly uphold the plight not only of women and family but that also of men;

*Now, therefore*.

**BE IT ORDAINED** by the City Council (*Sangguniang Panlungsod*) of the City of Cagayan de Oro in session assembled that:

**SECTION 1.** - Title - This Ordinance shall be known as the "Anti-Domestic Violence Ordinance of Cagayan de Oro City".

**SECTION 2.** - Definition of Terms - For the purpose of this Ordinance, Domestic Violence - shall refer to any act or series or combination of acts which result in or likely to result in physical, sexual or psychological harm or economic forms of suffering, other forms of abuse such as threats of coercion, assault, harassment or arbitrary deprivation of liberty, which violate one's personhood, integrity and freedom of movement, committed against any member/s of the family or household.

A. Physical violence shall consist of any or combination of the following, but not limited to:

- i. Slapping, pulling of hair, boxing, kicking, shoving, throwing, banging of the head on floor, wall or any hard object or surface;
- ii. Hitting with an object or the use of deadly weapons;
- iii. Forcing the use or intake of alcohol, drugs or other dangerous substance.

B. The emotional or psychological forms of abuse shall include, but not limited to:

- i. Threats and intimidation, including threatening to cause the woman physical harm and/or placing the woman in fear of imminent physical harm;
- ii. Stalking which includes willfully, maliciously and repeatedly following or harassing another person and making threats, whether actual or implied, with the intent to place that person in reasonable fear for the safety of his/her person or family, or entering or remaining in the dwelling or on the property of the victim against his/her will;
- iii. Damage to property, animals or pets of the victim;
- iv. Public ridicule or humiliation including but not limited to repeated verbal or emotional abuse, name-calling and derogatory remark;
- v. Inflicting or threatening to inflict physical harm on oneself for the purpose of controlling the victim's actions or decisions;
- vi. Engaging in any form of psychological abuse.

C. The economic or financial forms of abuse shall include, but not limited to:

- i. Threatening to deprive or actually depriving the victim of personal property or money due him/her;
- ii. Depriving or threatening to deprive the victim or his/her family or household member of financial support legally due him/her or to his/her or to the family or household member, or deliberately providing him/her family or household member insufficient financial support;
- iii. Selling common or conjugal property without the consent of the other party;
- iv. Willful neglect or denial to provide support comprising everything indispensable for sustenance, dwelling, clothing, medical attendance, education and transportation in keeping with the financial capacity of the family;
- v. Unreasonably preventing the victim from engaging in any profession, occupation, and business or actually or solely controlling the conjugal or co-owned money or properties or controlling the victim's own money or property.

D. For the purpose of this Ordinance, family or household member, shall include:

- i. Person related to each other such as spouses, live-in partners, ascendants, descendants, whether legitimate or illegitimate, adopted parents and the adopted child, and other similar relations, whether living together or not, or between persons with a common child who have been intimately related of had close familial relationship or close emotional attachment;
- ii. Relatives by consanguinity or affinity up to the fourth civil degree including parents-in-law, children-in-law, stepparents and stepchildren;
- iii. Household helps and other employees living with the family.

**SECTION 3.** - Who may be Liable – Any person who shall commit any act of domestic violence as herein defined shall be liable for the same.

**SECTION 4.** - Who may File – Any person who witnessed or with personal knowledge of any act comprising domestic violence may file a complaint of domestic violence independent of the consent of the victim.

**SECTION 5.** - Where to File – Domestic violence cases shall be filed in the Family Courts in the City in accordance with the provisions of R.A. 8369, provided, however, that in cases involving household helps or other persons who are not related by consanguinity or affinity within the 4<sup>TH</sup> civil degree, the proper venue shall be with the Municipal Trial Court in Cities of Cagayan de Oro City, provided that if one of the party is a minor, the same be filed with Family Courts.

**SECTION 6.** - How to File – The filing of a domestic violence complaint shall be in accordance with the procedures provided in the Revised Rules of Court in instituting criminal actions. It shall state the application for the issuance of a protection order and claim for damages, unless separate application for protection order or claim for damages is filed. The filing of a complaint for domestic violence under this Ordinance shall be without prejudice to the filing of other criminal or civil actions whenever applicable.

**SECTION 7.** - Interventions upon Commission of Domestic Violence – In every case of domestic violence as herein defined, any person who, in good faith, intervenes without using violence or restraint necessary to ensure the safety of the victim, shall not be liable for any criminal or civil liability therefrom.

**SECTION 8.** - Mandatory Acts – Any person who commits any act of domestic violence shall be arrested immediately pursuant to the Rules on Warrantless Arrest of the Rules of Court. However, if a person who is not a law enforcement officer makes the arrest, the offender shall be turned over immediately to the proper authorities for investigation and detention. If the detention center is not easily accessible, the barangay officials may temporarily take the offender into custody.

Any offender arrested without a warrant of arrest shall be detained for a period specified under Article 125 of the Revised Penal Code. While in detention, the offender shall not be allowed to contact the victim. If the offender is granted bail, the prohibition to contact the victim shall remain in force until the victim expressly waives the protection before the person who has custody of the offender. Such waiver, however, should be in writing and signed by the victim.

The complaint shall be made to undergo compulsory preliminary counseling with the Department of Social Welfare and Development's psychologist or any accredited psychologist or psychiatrist, as the case may be. The respondent shall likewise be made to undergo counseling if the preliminary counseling done to the complainant strongly suggests that counseling is necessary. If need be, the members of the family involved shall also be subjected to counseling.

**SECTION 9.** - Protection Orders – A protection order is an order issued this Ordinance for the purpose of preventing further acts of abuse against persons specified in Section 2. The relief granted under protection order should serve the purpose of safeguarding the person abused from further harm, minimizing any disruption in the abused person's daily life and facilitating the opportunity and ability of the person abused to independently regain control over his/her life. The provisions of protection order shall be enforced by law enforcement agencies. The protection orders that may be issued under this Ordinance are the Barangay Protection Order (BPO), the Temporary Protection Order (TPO), and the Permanent Protection Order (PPO). These protection orders shall include some or any of the following reliefs:

- a. Prohibit the respondent personally or through another, from committing any act of domestic violence as defined in Section 2 of this Ordinance.
- b. Whenever applicable, order the respondent to immediately leave the domicile/residence of the petitioner regardless of ownership of the house, either temporarily or permanently for the purpose of protecting the petitioner, provided this relief is not applicable to persons in Section 2, D (ii & iii).
- c. Prohibit the respondent from directly or indirectly communicating with or contacting petitioner.
- d. Whenever applicable, grant custody of the minor children to the petitioner's parents, or such person or government agency which shall redound to the interest of the child.
- e. Grant other relief/s as deemed necessary by the Court for the protection of the petitioner and for such other persons who may in need of such protection.

**SECTION 10.** - The following may File Petition for Protection Orders:

- a. The offended party.
- b. Any member of the family or household of the offended party as defined in the Ordinance.
- c. Social Worker of the Department of Social Welfare and Development (DSWD) or any accredited social welfare organizations, Commission of Human Rights (CHR), and SEC-accredited non-government organizations (NGO's which advocacy is on domestic violence.
- d. Law enforcement officer who has personal knowledge of the abuse.
- e. Lawyer, counselor, therapist or healthcare provider of petitioner, any concerned responsible citizen of the community who has personal knowledge of the offense committed.

**SECTION 11.** - Where to Apply for Protection Order – Application for Barangay Protection Order (BPO) shall follow the Rules of Venue under Section 409 of the Local Government Code of 1991 and its Implementing Rules and Regulations. Application for a Temporary or Permanent Protection Orders shall be with the Family Courts in the City or the Municipal Trial Court in Cities, as the case may be.

**SECTION 12.** - Application for Protection Order – The application for protection order shall be in writing, signed and verified by the petitioner. An application order may be filed as an independent action or

an incidental relief in any civil or criminal case where the abuse in Section 2 is the subject matter or is one of the issues pending before the court.

The applicant must state the circumstances of the abuse, the reasons of the application, the degree of relationship of victim and perpetrator, and the specific relief sought under Section 9 of this Ordinance. If the applicant is not the victim, the application must be accompanied by an affidavit of the applicant attesting to (a) the circumstances if the disclosure of the abuse suffered by the victim; and (b) the circumstances of consent given by the victim for the filing of the application.

An application for a protection order filed with a court shall be considered as an application both a TPO and PPO.

**SECTION 13.** - The Barangay Protection Order – The Punong Barangay may issue the Barangay Protection Order only after receiving application for it either as an independent petition or accessory process of a formal complaint of violation of this Ordinance filed with the Barangay. Provided, that the Barangay Protection Order under this Ordinance shall not be considered an injunction or prohibition but as an immediate intervention to ensure the safety of the victim.

A Punong Barangay who receives applications for a Barangay Protection Order shall issue the protection order on the date of the filing after an *ex parte* determination of the basis of the application.

The Barangay Protection Order shall cover only the relief mentioned in Section 9, paragraph (a), (b) and (c), and shall be effective for fifteen (15) days only or whenever a TPO or PPO is already commenced with the court or the request for protection is withdrawn by the complainant or the one who filed it in writing.

Immediately after the issuance of an *ex parte* Barangay Protection Order, the Punong Barangay or his representative shall personally serve a copy of the same on the respondent.

**SECTION 14.** - Penalties – Any person who shall commit act constituting domestic violence in any form shall, upon conviction, be punished by a penalty of imprisonment not exceeding one (1) year or a fine not exceeding Five Thousand Pesos (₱5,000.00), or both, upon the discretion of the Court for violation of this Ordinance.

**SECTION 15.** - Prescription – Violation of this Ordinance shall prescribed in five (5) years in consonance with the provision of Article 90, Revised Penal Code.

**SECTION 16.** - Separability Clause – The provisions of this Ordinance are hereby declared to be separable and in the event one or more of such provisions are held unconstitutional, the validity of the other provisions shall not be affected thereby.

**SECTION 17.** - Effectivity.- This Ordinance shall take effect after fifteen (15) days following its publication in a local newspaper of general circulation.

**UNANIMOUSLY APPROVED.**

AUTHOR:

- COUNCILOR ALFONSO C. GOKING

Present:

- Councilor Michelle J. Tagarda

- Councilor Noel S. Beja

- Councilor Reynaldo N. Advincula

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- Councilor Alvin R. Calingin
- Councilor Annie Y. Daba
- Councilor Maryanne C. Enteria
- Councilor Caesar Ian E. Acenas
- Councilor Edgar S. Cabanlas
- Councilor Juan Y. Sia
- Councilor Alfonso C. Goking
- Councilor Jose Benjamin A. Benaldo
- Councilor Benmarc P. Garcia

Out of the Session Hall:

- Councilor President D. Elipe
- Councilor Ian Mark Q. Nacaya

**DONE** in the City of Cagayan de Oro this 10<sup>TH</sup> day of November 2003.

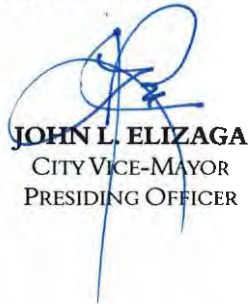
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I hereby certify to the correctness of the aforestated Ordinance.



**ARTURO S. DE SAN MIGUEL**  
CITY COUNCIL SECRETARY

Attested and certified to have been enacted:



**JOHN L. ELIZAGA**  
CITY VICE-MAYOR  
PRESIDING OFFICER

Approved:



**VICENTE Y. EMANO**  
CITY MAYOR

Attested:

**MARY JANE L. BUTASLAC**  
HOUSING AND HOMESITE REGULATION OFFICER II  
ACTING SECRETARY TO THE MAYOR



**NORBERTO A. OOSADIO**  
SECRETARY TO THE MAYOR