

AN ORDINANCE PENALIZING THE USE, POSSESSION, AND/OR CONTROL OF AUDIOVISUAL RECORDING DEVICES FOR THE UNAUTHORIZED RECORDING OF CINEMATOGRAPHIC FILMS AND OTHER AUDIOVISUAL WORKS AND/OR THEIR SOUNDTRACKS IN AN EXHIBITION FACILITY, CINEMAS, ETC., AND FOR OTHER PURPOSES, OTHERWISE KNOWN AS THE "FILM PROTECTION ORDINANCE OF MANILA OF 2008".

Be it ordained by the City Council of Manila, in session, assembled, THAT:

**SECTION 1. Title of the Ordinance.** - This Ordinance shall be known as the "FILM PROTECTION ORDINANCE OF MANILA OF 2008".

**SEC. 2. Definition of Terms.** - The following terms are defined as follows:

(a) **"Audiovisual Work"** consists of a series of related images intended to be shown by the use of machines or devices such as projectors, viewers, or electronic equipment, together with accompanying sounds, if any, regardless of the nature of the material objects used therefor, in which the works are embodied;

(b) **"Audiovisual Recording Device"** includes digital or analogue photographic or video camera, or any other technology or device capable of enabling the recording or transmission of a cinematograph film or other audiovisual work, or any part thereof, regardless of whether audiovisual recording is the sole or primary purpose of the device, such as camcorders or handycams;

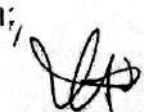
(c) **"Police Authorities"** any official or member of the Manila police Force or other members of the Philippine National Police or National Bureau of Investigation;

(d) **"Cinematograph Film"** is any audiovisual work consisting of a series of related images which, when shown in succession, impart an impression of motion, together with accompanying sounds, if any;

(e) **"Copy"** any article or thing in which the visual images or sounds comprised in any cinematograph film or audiovisual work, in whole or in part, are embodied, and includes the making or reproduction of the electronic format, or transient or incidental to some other use thereof;

(f) **"Copyright Owner"** refers to the owners of exclusive rights comprised in a copyright as provided under R.A. 8293 and related international treaties, conventions or agreements, to which the Republic of the Philippines is a party;

(g) **"Exclusive Licensee"** one authorized in writing, signed by or on behalf of the owner or prospective owner of copyright, to the exclusion of all other persons, to do an act within the Philippines that, by virtue of this Ordinance, the owner of the copyright would, but for the license, have the exclusive right to do or to perform;



(h) **"Exhibition Facility"** means any cinema house, film theater, screening room, or other venue used for the showing or exhibition, in full or in part, of a cinematograph film or audiovisual work to the public, whether with fee or for free;

(i) **"Operator of an Exhibition Facility"** includes any person, firm, corporation or entity licensed or accredited by the appropriate government agency or agencies to operate the exhibition facility within the territorial jurisdiction of the City of Manila;

(j) **"Relevant Authority"** means the officers, members, responsible personnel of law enforcement agencies such as the Philippines National Police (PNP) and their adjuncts, the National Bureau of Investigation (NBI), agents of the Optical Media Board (OMB), OMB-deputized agents, and the duly authorized representatives of the City of Manila or the latter's duly deputized representatives;

(k) **"Transmit"** means to convey by any means (whether over a path or a combination of paths, provided by a material substance or by wireless means or otherwise), whether or not in response to a request made.

**SEC. 3. Acts constituting unauthorized use or possession of audiovisual recording devices.** - Any person, who, at a time when a copyright subsists in a cinematograph film or other audiovisual work or its soundtrack, without the authority/or consent of the copyright owner or exclusive licensee thereof:

(a) uses or attempts to use an audiovisual recording device, such as camcorder, video recorder, handycam, etc. to transmit or make a copy of any performance in an exhibition facility of such cinematograph film or other audiovisual work or its soundtrack, or any part thereof; or

(b) has in his/her possession, an audiovisual recording device, as described in par. (a) hereof, in an exhibition facility with the intent of using or attempting to use the audiovisual recording device to transmit or make a copy of any performance in the exhibition facility or such cinematograph film or other audiovisual work or its soundtrack, or any part thereof, shall constitute offenses punishable under this Ordinance.

**SEC. 4. Acts constituting the unauthorized use, possession and/or control of audiovisual recording devices for the purposes of sale, rental or other commercial distribution of a copy of a cinematographic or audiovisual work or its soundtrack or any part thereof.** - A person, who, at the time when copyright subsists in a cinematograph film or other audiovisual work or its soundtrack, without the authorization of the copyright owner or exclusive licensee thereof, for the purpose of sale, rental or other commercial distribution of a copy of the cinematographic or audiovisual work or its soundtrack, or any part thereof:

(a) uses or attempts to use an audiovisual recording device to transmit or make a copy of any performance, in full or in part, in an exhibition facility of such cinematographic film or other audiovisual work or its soundtrack, or any part thereof;

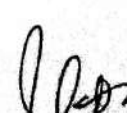
(b) has in his/her possession or control, an audiovisual recording device in an exhibition facility with the intent of using or attempting to use the audiovisual recording device to transmit or make a copy of any performance in the exhibition facility of such cinematographic film or other audiovisual work or its soundtrack, or any part thereof; or

(c) procures, aids, abets or connives in the commission of the acts prohibited under this section shall constitute violations of this Ordinance.

**SEC. 5. Presumption as to the subsistence of copyright.** - Copyright shall be presumed to subsist in the subject cinematograph film or other audiovisual work or its soundtrack, if the offender does not question it, or even if he does, fails to satisfy the court that he does so in good faith; *PROVIDED THAT*, the presumption applies where the name of a person appears on copies of the subject cinematograph film or other audiovisual work or its soundtrack as made available to the public as to imply that the person was the maker thereof and, in the case of a person other than a body corporate, that name was his/her true name or a name by which he/she was commonly known, that person shall be presumed to be the maker thereof and the copyright owner thereof, unless the contrary is established; *PROVIDED, FURTHERMORE*, that where the offender puts in issue the question of whether copyright subsists in the subject cinematograph film or other audiovisual work or its soundtrack, or the ownership of the copyright therein, an affidavit made in behalf of the copyright owner in which he/she makes assertions of facts relevant to showing [i] that copyright subsists in the work or other subject-matter; and/or as the case may be [ii] that he is the owner of the copyright, shall be admitted in evidence and shall be prima facie proof of the matters stated therein until the contrary is proved, unless the court requires that oral/testimonial evidence be adduced to prove those matters.

**SEC. 6. No defense on account of use for private or domestic purposes.** - It shall not be a defense to the offenses falling under Sections 2 and 3 above, that the transmission or making of the copy of the cinematograph film or other audiovisual work or its soundtrack, or any part thereof, is for private or domestic purposes or in connection with a fair use dealing.

**SEC. 7. Requirement for posting of notices in an exhibition facility on the prohibition against the bringing into said exhibition facility of audiovisual recording devices and the like.** - Operators of exhibition facilities shall post in at least two (2) conspicuous places or areas in the exhibition facility, including, but not limited to, the areas where tickets are sold and the entrance (s) of the exhibition facilities, notices or signages, warning against the bringing inside said exhibition facilities of audiovisual recording devices, with a reservation that the management/operator of the exhibition facility can confiscate or take into preventive/temporary custody such audiovisual recording device(s) until the film/movie theater patron leaves the screening/exhibition room/area/facility. The failure of the operator of exhibition facility to comply with the foregoing requirement shall constitute an offense under this Ordinance and, the manager, or owner thereof shall, upon conviction, be punished by a fine of PhP 3,000.00 or imprisonment of one (1) month to six (6) months, or both, at the discretion of the court.



**SEC. 8. Powers of police authorities to enter an exhibition facility and to conduct search:**

(a) Any police authority may, upon the written request of the copyright owner or its representative or the operator of the exhibition facility, enter and search a person or properties in said exhibition facility, when there is reason to suspect that an offense under this Ordinance has been or is being committed and the delay in obtaining a warrant could result in the loss or destruction of evidence, or for any other reason, it would not be reasonably practicable to obtain a warrant;

(b) Seize or confiscate any audiovisual recording device found within the exhibition facility which has been used or is being used in the unauthorized copying of any cinematographic film or for the commission of acts punishable under this Ordinance;

(c) Use reasonable force to remove any person, thing or object obstructing the police authorities in conducting search within the exhibition facility;

(d) Arrest any person in the exhibition facility found actually possessing any audiovisual recording device, in respect of which an offense under this Ordinance has been committed;

(e) Require the operator of an exhibition facility or any other person who appears to be at the time responsible for the control or management of the exhibition facility, to give information or render assistance that may be necessary to enable the authorized searching person to carry out the functions under this Ordinance.

**SEC. 9. Forfeiture and disposal of unauthorized copy of cinematograph film or other audiovisual work/audiovisual recording devices used in the commission of the offenses penalized under this Ordinance.** - The court before which a person charged with an offense involving a violation of this Ordinance, whether or not said person is convicted, may order that the *copies of a cinematograph film or other audiovisual work, or parts thereof, which appears to the court to be an unauthorized copy, and any audiovisual recording devices or other equipment in the possession of the alleged offender, be destroyed or delivered to the owner or exclusive licensee of the copyright owner concerned, or otherwise dealt with in such a manner as the court deems fit.*

In the event that the court retains representative sample(s) of the unauthorized copy of a cinematograph film or other audiovisual work or audiovisual recording device(s) or other equipment for evidentiary purposes in the prosecution of the offense for which an accused is charged, the retained sample(s) shall remain in custodia legis until the final resolution of the court proceedings thereon.

**SEC. 10. Government and Private Assistance.** - The City Government of Manila may solicit the direct assistance of other agencies and instrumentalities of the national government, as well as members of the private sector representing stakeholders of rights over cinematograph films/other audiovisual works and their soundtracks, to assist in the enforcement functions required under this Ordinance.

**SEC. 11. Penalties for Other Violation of this Ordinance.** - Any person who violates the provisions of this Ordinance shall, upon conviction, be punished as follows:

(a) If the offender is an alien, he shall be immediately deported after serving his/her sentence, and shall, thereafter, be refused entry into the Philippines.

(b) An imprisonment of six (6) months to one (1) year and a fine of Five Thousand Pesos (PhP 5,000.00), or both in the discretion of the court. If the offender be a public officer, he shall suffer perpetual disqualification from public office.


**SEC. 12. Separability Clause.** - If, for any reason, any provision of this Ordinance is declared invalid or unconstitutional, the other sections or provisions not so declared, shall remain in full force and effect.

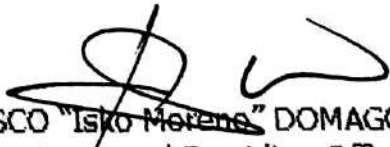
**SEC. 13. Effectivity Clause.** - This Ordinance shall take effect fifteen (15) days after its publication on the Official Gazette and in any newspaper of general circulation.

Enacted by the City Council of Manila at its regular session held today, July 8, 2008.


Approved by His Honor, the Mayor on July 18, 2008.

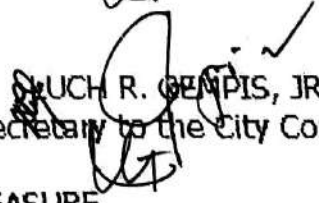
APPROVED:

  
ALFREDO S. LIM  
Mayor  
City of Manila

  
FRANCISCO "Isko Moreno" DOMAGOSO  
Vice-Mayor and Presiding Officer  
City Council, Manila

ATTESTED:

  
RAFAELITO M. GARAYBLAS  
Secretary to the Mayor

  
RUCH R. GEMPIS, JR.  
Secretary to the City Council

ADMINISTRATION MEASURE

---

PRINCIPAL AUTHORS: HON. FRANCISCO "Isko Moreno" DOMAGOSO, Vice-Mayor and Presiding Officer, Hon. Rafael P. Borromeo, Hon. Joel R. Chua, Hon. Jocelyn B. Dawis-Asuncion, Hon. Ernesto M. Dionisio, Jr., Hon. Corazon C. Gernale, Hon. Cristina A. Isip, Hon. Ernesto C. Isip, Jr., Hon. Ma. Lourdes M. Isip-Garcia, Hon. Arlene W. Koa, Hon. Marlon M. Lacson, Hon. Moises T. Lim, Hon. Numero G. Lim, Hon. Carlo Vincent V. Lopez, Hon. Edward V.P. Maceda, Hon. Victoriano A. Melendez, Hon. Ramon D. Morales, Hon. John Marvin C. Nieto, Hon. Erick Ian O. Nieva, Hon. Jocelyn J. Quintos, Hon. Ernesto F. Rivera, Hon. Monina U. Silva, Hon. Josefina M. Siscar, Hon. Rolando Y. Sy, Hon. Amalia A. Tolentino, Hon. Roderick D. Valbuena, Hon. Rolando M. Valeriano, Hon. Ivy A. Varona, Hon. Luciano M. Veloso, Hon. Abelardo C. Viceo, Hon. Raymundo R. Yupangco, Hon. Salvador H. Lacuna, Hon. John Russel Benedict M. Ibay, and HON. MANUEL M. ZARCAL, Majority Floor Leader

---