



Republic of the Philippines
CITY COUNCIL
City of Manila

REGULAR SESSION NO. 142

10TH CITY COUNCIL

Begun and held in the City Council on Thursday,
the eighth day of November, Two Thousand Eighteen

ORDINANCE NO. 8563

AN ORDINANCE ESTABLISHING THE PROCEDURE TO ADDRESS
CONGESTION OF DETAINEES AT MANILA POLICE DEPARTMENT
DETENTION FACILITIES IN VIEW OF THE INTENSIFIED IMPLEMENTATION
OF THE COMMONLY VIOLATED MANILA CITY ORDINANCES

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PREAMBLE

WHEREAS, the 1987 Philippine Constitution guarantees the maintenance of peace and order, the protection of life, liberty and promotion of general welfare are essential for the enjoyment by all the people of the blessings of democracy;

WHEREAS, the Manila City Council has enacted various ordinances such as prohibition of drinking in public places, half-naked individuals in public places, minors violating curfew hours, smoking ban and nocturnal noise which provide fines and penalties for violation thereof;

WHEREAS, the current space in custodial facilities maintained by the Manila Police Department (MPD) is not adequate to receive such an influx of people, has led to several overcrowding, individual cells held up to twice or even three times their capacity, forcing detainees to sleep virtually piled up to one another. At police stations, detainees are crammed into a few square meters for long periods, awaiting trial;

WHEREAS, the overcrowding of detention facilities is confounded by the fact that since April 2018, the Manila Prosecutor's Office has done away with night inquest duties beyond 5:00 PM. Hence, violators of city ordinances apprehended in the evening have to wait at the detention facilities until 8:00 AM of the following day for inquest proceedings;

WHEREAS, the inhumane condition of the custodial facilities has already resulted to deaths and spread of infectious diseases which are attributed to poor health and sanitation due to congested detention facilities;

WHEREAS, the problem of the congestion is expected to rise with the relentless efforts of the Philippine National Police (PNP) to significantly reduce if not eradicate street crimes in the Metropolis through the strict implementation of city ordinances;

WHEREAS, in order to help address the problem of congestion, an immediate solution is necessary to decongest all Manila Police Department's detention facilities;

WHEREAS, Section 16 of Republic Act No. 7160, otherwise known as the Local Government Code of 1991, provides that: "Every local government unit shall exercise the powers expressly granted, those necessarily implied therefrom, as well as powers necessary, appropriate, or incidental for its efficient and effective governance, and those which are essential to the promotion of the general welfare.": NOW, THEREFORE,

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

SECTION 1. SCOPE. – This Ordinance shall govern the procedure in the implementation of the following Commonly Violated Ordinances in the City of Manila, to wit:

- a. Section 819 of R.O. No. 1600 (Indecent Acts [Half-Naked]);
- b. Section 842 (a) of R.O. No. 1600 (Prohibition as to children under eighteen years to stay in the streets after nine o' clock at night);

- c. Section 838 (c) of R.O. No. 1600 (Drinking of alcoholic beverages and intoxicating liquors by minors below 21 years of age);
- d. Section 844 of R.O. 1600 (Breaches of the Peace);
- e. Section 848 of R.O. 1600 (Anti-Noise [Jukebox] from 12:00AM to 6:00AM);
- f. Section 1054 of R.O. 1600 (Urinating in Public Places);
- g. R.O. 5555 (Drinking in Public Places);
- h. R.O. 8521 (Smoke-Free Ordinance of the City Government of Manila); and
- i. R.O. 7971 (Anti-Vandalism).

SEC. 2. VIOLATION OF CITY ORDINANCES. – Any person who violates any of the commonly violated City Ordinances of Manila shall be taken into custody and be brought to the nearest police station of the Manila Police District (MPD) or Barangay Hall for investigation, blotter and recording thereafter, the offender shall be issued ORDINANCE VIOLATION RECEIPT (OVR).

Upon issuance of the OVR, the offender may opt to avail of the NO CONTEST PROVISION. If the offender so avails, he/she has a period of five (5) days within which to pay the fine. If he/she fails to pay within the said period, the appropriate case shall be filed with the Manila Prosecutor's Office through direct filing.

If from the onset, the offender manifests that he/she will not avail of the NO CONTEST PROVISION, he/she shall be referred for booking and appropriate case shall be filed with the Manila Prosecutor's Office also through direct filing.

Exempted is a child who is referred to as a person under the age of eighteen (18) years old.

If the offender is a corporation or a partnership, organization or any similar entity, the OVR shall be issued to its President and/or General Manager or Managing Partner or such other Officer-in-Charge in the management of the business.

SEC. 3. DISCRETION OF APPREHENDING POLICE OFFICER. – In all cases of apprehension for purely violation of a City Ordinance, the offender shall be released ON SITE. However, the apprehending police officer has the discretion not to release the offender on site under any of the following circumstances:

- a. The offender is acting suspiciously, or stranger in the place and sporting tattoos associated with notorious criminal gangs;
- b. The offender tries to avoid the apprehending police officer by resisting arrest or being disobedient;
- c. The offender fails to present his/her any valid identification card (ID) or proof of residency; and
- d. The violation of the City Ordinance is accompanied by violation of the Revised Penal Code and Special Laws.

In which case, the offender shall be brought to the nearest police station where booking and verification of the offender shall be conducted and appropriate case shall be filed with the Manila Prosecutor's Office either through direct filing or inquest proceedings.

SEC. 4. COMMON DATABASE. – For the purpose of monitoring the violators, a common database shall be developed, maintained and utilized by offices or deputized law enforcement agents.

SEC. 5. MPD CITY ORDINANCE VIOLATION DATABASE (MPDCOV DATABASE). – There shall be formed a database for all city ordinance violators to be named as MPD City Ordinance Violation Database (MPDCOV Database), as a common repository of all records relating to violation of city ordinances apprehended by deputized law enforcers and Barangay Public Safety Officer (BPSO) or Barangay Tanod which office shall be managed, monitored, manned, operated and maintained by the MPD and shall have an office at the present Police Clearance Section, MPD.

In order to obtain the maximum efficiency of enforcing city ordinances, each barangay, BPSO's, Police Stations and Traffic Sectors of MPD-TEU, shall have their respective City Ordinance Violation Registrar tasked to record the personal circumstances of the offender, ordinance violated, the time and place of occurrence, as well as the name of the apprehending BPSO and deputized law enforcer. The registrar shall make coordination, either personally or by paperless communication through the use of computer or electronic gadget to the crime registrar of the police station which has jurisdiction over the area for the transmittal of the record to the MPDCOV DATABASE.

SEC. 6. PROCEDURE IN THE ISSUANCE OF ORDINANCE VIOLATION RECEIPT (OVR). – The following shall be observed by any law enforcer in the apprehension of any offender of a City Ordinance:

- a. Inform the offender of his/her violation;
- b. Verify from the common database the records of the offender. This will determine if he/she is a first-time, second-time or third-time offender or a recidivist offender;
- c. Issue the OVR, indicating therein the name, address (verified) and other pertinent data of the person apprehended, as may be required in the OVR, including the violation; and
- d. Inform the offender of his/her right to avail of the No Contest Provision as provided in Section 2 hereof.

SEC. 7. NO CONTEST PROVISION. – Any person apprehended for violation of a City Ordinance, who does not wish to contest the violation and is willing to pay voluntarily the fine imposed upon him/her prior to the filing of formal complaint with the Office of the City Prosecutor shall be allowed to pay said fine with the City Treasurer to avoid being criminally prosecuted.

SEC. 8. PROCEDURE IN THE AVAILMENT OF THE NO CONTEST PROVISION. -

- a. The offender shall be given five (5) working days from the issuance of the Ordinance Violation Receipt (OVR) within which to pay the fine.

1. The fine shall be the minimum imposable by the Ordinance violated;
 2. Where there are fines imposed in the first, second and third offenses, the minimum fine in the second and third offenses shall be charged;
 3. If the offender has already availed of the No Contest Provision three (3) times, he/she can no longer avail of the same and corresponding complaint for the violation of the Ordinance, with the maximum penalty imposed should be fined against the offender.
- b. The Ordinance Violation Receipt (OVR) shall be issued to the offender within six (6) hours from the time of the commission of the City Ordinance.
 - c. The offender who avails of the No Contest Provision before making payment to the City Treasurer, Manila, shall secure an Order of Payment from the said office.
 - d. After payment of the fine, the offender shall present the Official Receipt to the apprehending police officer which shall attach a Certified True Copy of the receipt to the documents of the case and the case shall be considered closed. This will be encoded in the common database.
 - e. If after the lapse of five (5) days, the offender shall present the Official Receipt of the payment of the fine, the apprehending police officer shall have the case filed with the Manila Prosecutor's Office attaching therewith an Affidavit or Certification that the offender failed or did not avail of the No Contest Provision.

SEC. 9. COMMUNITY SERVICE. -

- a. In case of inability to pay the fine, the offender may opt to render community service as follows:

1.	For penalty of PhP. 500.00 and below	Eight (8) hours
2.	For a penalty of more than PhP. 500.00 but not more than PhP. 1,000.00	Sixteen (16) hours
3.	For a penalty of more than PhP. 1,000.00 but not more than PhP. 2,000.00	Twenty-four (24) hours

- b. The offender who alleged inability to pay the fine must secure a Certificate of Indigency from the barangay where he/she resides which shall conduct a capability assessment of the same.
- c. The offender shall present the Certificate of Indigency to the apprehending police officer which shall be used as basis for the offender to render community service.
- d. Upon receipt of the Certificate of Indigency, the apprehending police officer through his Chief of Office or his duly authorized representative shall endorse the offender to the Punong Barangay that issued the certificate for the conduct of community service.

- e. In case of violators, who are non-residents in the City of Manila, he/she shall secure Certificate of Indigency from the barangay where he/she resides but shall render community service at the barangay where the violation happened.
- f. The Punong Barangay of the place where the offender resides shall determine the kind of community service that will be required and shall administer the same to the offender.
- g. After the completion of the community service, the Punong Barangay shall render a report within two (2) weeks to the apprehending police officer which shall consider the case closed.
- h. None completion of the community service as certified by the Punong Barangay shall be deemed a waiver on the part of the offender to still avail of the same and the case shall be filed with the Office of the City Prosecutor through direct filing.
- i. The provision on community service can be availed only for three (3) times by an offender. Thereafter, he/she shall be charged of such ordinance with the Manila City Prosecutor's Office through direct filing.

SEC. 10. VIOLATION OF CITY ORDINANCE BY A CHILD (Under eighteen [18] years of age). - No penalty shall be imposed on the children (R.A. 10630) or the commonly violated city ordinances. However, the parents or guardians of the rescued minors shall be charged in accordance with City Ordinance No. 8243 which shall be filed through direct filing.

SEC. 11. PROCEDURE IN THE HANDLING OF A CHILD OFFENDER. -

- a. A child who is cited for violation of City Ordinance shall be recorded as a child risk and not a child in conflict with the law. He/she shall be brought to any Barangay Official at the Barangay Hall to be referred to the City Social Welfare and Development Department (CSWDD), which shall, with the assistance of the Barangay Official, release the custody of the child to his/her parents or guardian or in the absence thereof, the child's nearest relatives.

If the parents, guardians or nearest relative cannot be located, or if they refuse to take custody, the child may be released to any of the following:

- 1. A duly registered non-governmental or religious organization;
 - 2. A Barangay Official or a member of the Barangay Council for the Protection of Children (BCPC);
 - 3. A City Social Welfare and Development Officer (CSWDO), or when and where appropriate, the DSWD.
- b. The City Social Welfare Development Officer (CSWDO) shall determine and design the intervention program for the child. The intervention program shall consist of counselling, attendance in group activities for children, etc. and for the parents, attendance in parenting education seminars (R.A. 10630).

- c. If a child has been found by the CSWDO, to be dependent, abandoned, neglected or abused by his/her parents and the best interest of the child requires that he/she be placed in the Youth Care Facility or "Bahay Pag-Asa", the child's parents or guardians shall execute a written authorization for the voluntary commitment of the child. Provided, if the child has no parents or guardians or if they refuse or fail to execute the written authorization for voluntary commitment, the proper petition for involuntary commitment shall be immediately filed by the CSWDO.
- d. Section 21, Republic Act No. 9344, pertaining to the "Procedure for taking the child into custody shall at all times be observed by any law enforcer who takes a child into custody".

SEC. 12. DEPUTIZATION OF ENFORCEMENT AGENTS. – The Manila Police District and BPSO's duly appointed by the elected Barangay Officials are hereby deputized as agents.

- a. The Manila Police District (MPD) has the responsibility and obligation to enforce City Ordinances within the jurisdiction of the City of Manila; and
- b. Barangay Officials, among others, it shall be the primary obligation and duty of the Punong Barangay, Sangguniang Barangay Members and Barangay Tanods as provided for in Republic Act No. 7160 (Local Government Code), to enforce all laws and City Ordinances within their respective barangays.

SEC. 13. SHARING OF FINES. (Incentives to Enforcers) -

Fines by violators who availed of the No Contest Provision shall be shared in the following manners:

- a. 40% shall inure to the General Fund of the City;
- b. 40% shall be given to the barangay where the apprehension was made to be used in their peace and order program;
- c. The remaining 20% shall be given as incentives to the following:
 - 1. 15% to the police members of the Manila Police District, Barangay Officials and BPSO who made the apprehension. It shall be based on the total amount of fines collected from apprehensions made by each individual enforcer; and
 - 2. 5% of all the fines generated from the enforcement of the City Ordinances shall be the incentive of the (MPDCOV DATABASE), to be divided pro-rata among the chief of office and administration staff.

The City Treasurer is hereby directed to remit all incentives as above-cited to all concerns within five (5) working days after every quarter covered by the incentives.

SEC. 14. PRINTING AND CUSTODIAN OF ORDINANCE VIOLATION RECEIPT (OVR). -

- a. The City General Services Department is hereby authorized to secure the printing of sufficient copies of the Ordinance Violation Receipt (OVR), the specification of which shall be prepared by the City Treasurer's Office of Manila.
- b. The City Treasurer's Office of Manila shall take custody of and be accountable for all the OVR's printed for use in the enforcement of the city ordinances.

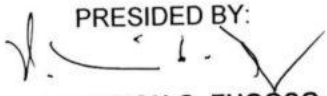
SEC. 15. APPROPRIATION. - The amount necessary to carry out the provisions of this Ordinance upon its effectivity shall be charged out of the General Funds of the City of Manila. Thereafter, any such sum as shall be needed for the implementation of this Act shall be included in subsequent general appropriations of the city.

SEC. 16. REPEALING CLAUSE. - All ordinances, rules and regulations inconsistent with the provisions of this Ordinance are hereby modified or repealed accordingly.


SEC. 17. EFFECTIVITY CLAUSE. - This Ordinance shall take effect after fifteen (15) days following its publication in a newspaper of general circulation in Metro Manila.

This Ordinance was finally enacted by the City Council of Manila on April 29, 2019.

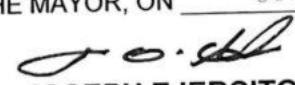
PRESIDED BY:


MA. ASUNCION G. FUGOSO
President Pro-Tempore and
Acting Presiding Officer
City Council, Manila


ATTESTED:


LUCH R. GEMPIS, JR.
City Government Department Head III
(Secretary to the City Council)

APPROVED BY HIS HONOR, THE MAYOR, ON JUN 06 2019


JOSEPH EJERCITO ESTRADA
Mayor
City of Manila

ATTESTED:


EDWARD S. SERAPIO
City Government Department Head III
(Secretary to the Mayor)