



Republic of the Philippines
CITY COUNCIL
City of Manila

REGULAR SESSION NO. 89

11TH CITY COUNCIL

Begun and held in the City Council on Monday,
the twenty-fourth day of February, Two Thousand Twenty

ORDINANCE NO. 8695

AN ORDINANCE FOR THE PROTECTION OF THE RIGHTS OF LESBIANS, GAYS, BISEXUALS, TRANSGENDERS, QUEERS AND INTERSEX (LGBTQI) IN THE CITY OF MANILA AGAINST ANY AND ALL FORMS OF DISCRIMINATION SOLELY ON THE BASIS OF SEXUAL ORIENTATION, GENDER IDENTITY, EXPRESSION (SOGIE) AND PROVIDING PENALTY FOR VIOLATION THEREOF

PRINCIPAL AUTHORS:

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PREAMBLE

WHEREAS, Article XIII, Section 1(a) of the 1987 Philippine Constitution states that the enactment of measures that protect and enhance the right of the people to human dignity, reduce social, economic and political inequalities and remove cultural iniquities shall be given the highest priority and consideration;

WHEREAS, the Constitution further provides under Section 2, Article II thereof that the State values the dignity of every human person and guarantees full respect for human rights;

WHEREAS, consistent with these constitutional precepts, Section 16 of Republic Act No. 7160, as amended, otherwise known as the "Local Government Code of 1991" mandates that the Sangguniang Panlungsod has the power to enact Ordinances for the general welfare of the City and its inhabitants pursuant to general welfare clause;

WHEREAS, to uphold the rights of all its inhabitants especially those discriminated against based on their sexual orientation, gender identity and expression, it is the commitment of the City Government of Manila, in keeping with the Honorable Mayor Francisco "Isko Moreno" Domagoso's "inclusive policy", to recognize and protect the rights of Lesbian, Gay, Bisexual, Transgender, Queer and Intersex (LGBTQI) people against any and all forms of discrimination;

WHEREAS, it is a declared policy of the City of Manila, pursuant to its Gender and Development (GAD) programs and initiatives, that people on both ends of the gender spectrum must be empowered to participate and contribute in all development agenda: NOW, THEREFORE,

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

SECTION 1. TITLE. – This Ordinance shall be known as the "**Manila LGBTQI Protection Ordinance of 2020**".

SEC. 2. Declaration of Policy. – It is hereby the declared policy of the City of Manila, being the premier and capital city and thus the window of the country, to guarantee full respect of the dignity of every individual and their human rights by effectively eliminating any and all forms of discrimination against LGBTQI solely on the basis of their sexual orientation, gender identity, expression thereby giving more substance to the equal protection principle as enshrined in the Constitution.

SEC. 3. Definition of Terms:

- a.) **LGBTQI** – refers to a diverse and complex range of identities including but not limited to lesbian, gay, bisexual, transgender, intersex and queer persons.
- i. **Lesbian** – a woman whose emotional, romantic and sexual energies are geared towards other women.
 - ii. **Gay** – a man who is emotionally and sexually attracted to other men.
 - iii. **Bisexual** – a person who is emotionally and/or physically attracted to members of both the same and opposite sex.
 - iv. **Transgender** – denoting or relating to a person whose self-identity does not conform unambiguously to conventional notions of male or female gender.

- v. **Intersex** – those who are naturally born and possesses both male and female organs.
 - vi. **Queer** – those who are gender non-conforming and who do not want to be defined by any of the labels.
- b.) **Discrimination** – constitutes any distinction, exclusion, restriction, or other differential treatment that is directly or indirectly based on sexual orientation, gender identity and expression which has the intention or effect of nullifying or impairing the recognition, enjoyment or exercise on an equal footing, of political, civil, economic, social and cultural rights.
 - c.) **Gender Identity** – refers to each person’s internal and individual experience of gender, sense of being a woman, a man, both, neither or anywhere along the gender spectrum.
 - d.) **Gender Expression** – is how a person publicly presents their preferred gender and include behavior and outward appearance such as dress, hair, make-up, body language and voice including the choice of name and/or aliases.
 - e.) **Sexual Orientation** – refers to the emotional or sexual attraction or inclination of a person towards person of his/her own sex, or both masculine and feminine sexes.
 - f.) **Sex** – is a human and/or civil status of a person acquired by birth having organ and system of reproduction.
 - g.) **LGBTQI Assistance Desk** – a designated place established in every barangay which shall cater or assist members of the LGBTQI community with the basic needs and assistance as provided in this Ordinance.

SEC. 4. Coverage. – This Ordinance shall cover any person, natural or juridical, who commits any of the acts herein prohibited and enumerated shall be held liable and penalized accordingly, provided that in the case of juridical persons, such as but not limited to corporations, associations, partnerships, educational and vocational institutions, whether public or private, the manager and head of office shall also be held criminally accountable and responsible.

SEC. 5. Prohibited Acts. – The following constitutes acts of discrimination and therefore punishable:

- a. Denying or limiting access to an employee, opportunities for promotion, transfer, training, schooling or any other benefit which are otherwise granted to other employees similarly situated on the basis of actual or perceived sexual orientation and gender identity and expression;
- b. Refusing employment to a job applicant on the basis of actual or perceived sexual orientation and gender identity and expression;
- c. Denying access to public programs and services to medical and other health services on the basis of actual and perceived sexual orientation and gender identity and expression;

- d. Denying admission to or expel, dismiss or to prevent a student from graduating or issue clearances to a person or student from educational institutions on the basis of actual or perceived sexual orientation and gender identity and expression including imposing disciplinary sanctions higher than customary or similar penalties, restrictions or prohibitions due to the sexual orientation, gender identity or expression of such person or student or their parents or guardians;
- e. Revoking any accreditation, recognition, registration of any organization in educational institutions, workplaces and communities on the basis of actual or perceived sexual orientation and gender identity and expression;
- f. Subjecting any person by reason of actual or perceived sexual orientation and gender identity and expression to either verbal or written insult including social media platforms;
- g. Refusing to provide goods or services and/or imposing onerous terms and conditions to a person on the ground of one's actual or perceived sexual orientation and gender identity and expression as a prerequisite for providing such goods or services where the said terms and conditions are not imposed on another person under the same or similar circumstances;
- h. Refusing or failing to allow any person to avail of services or accommodations in theaters, malls, spas, parlors, studios or apartments, condominiums, townhouses, flats, hotels, inns, dormitories and any other places of dwelling being rented out or offered to the public or for a fee on the basis of actual or perceived sexual orientation and gender identity and expression; Provided that the fact of giving inferior accommodations or services shall be considered a denial of access or use of such facility or services;
- i. Denying an application for a license, clearance, certification, or any other document issued by governmental authorities or other private juridical entities, on the basis of actual or perceived sexual orientation and gender identity and expression;
- j. Subjecting a person to physical or verbal harassment, profiling, unjust detention and involuntary confinement because of one's actual or perceived sexual orientation and gender identity and expression;
- k. Organizing groups and activities which promote and incite discrimination against persons on the basis of actual or perceived sexual orientation and gender identity and expression which results in physical, psychological and emotional violence and harm; and
- l. Any act of discrimination or harassment against a person or group of persons based on actual or perceived sexual orientation and gender identity and expression, which demeans the dignity and self-respect of such person or impairs, reduces or nullifies the recognition, enjoyment or exercise of a person's human and legal rights and basic freedoms in civil, political, labor, economic, social, cultural, educational spheres.

SEC. 6. Creation of the Gender Sensitivity and Development Council. – There shall be the creation of the Manila Gender Sensitivity Council and Development Council (MGSDC) which shall have the following functions:

- i.) Oversee the implementation of this Ordinance and other existing laws, regulations and guidelines relevant to the protection and promotion of the LGBTQI rights;
- ii.) Integrate and synchronize programs, projects and activities for the LGBTQI community;
- iii.) Coordinate with the concerned National Government Agencies for the promotion of gender development and continuing education relative to LGBTQI rights; and
- iv.) Conduct trainings and livelihood programs for the LGBTQI community in coordination with the different Departments/Offices of the City Government and Private Agencies.

SEC. 7. Composition of the Manila Gender Sensitivity and Development Council. – The MGSDC shall be formed by virtue of an Executive Order with the following officers: Chairperson, Vice-Chairperson, Executive Director, 10 Members of the Board and a Technical Working Group (TWG).

SEC. 8. Oversight Functions of the Manila Gender Sensitivity and Development Council. – The MGSDC shall oversee the implementation of anti-discrimination programs herein provided. It shall exercise the following principal functions:

1. Monitor Complaints concerning violations of any provisions of this Ordinance;
2. Facilitate and assist the victims of stigma and discrimination to ensure that they have legal representation, counseling and psychological assistance and ensuring the establishment of an LGBTQI Assistance Desk in the Barangays and law enforcement agencies within the City of Manila for this purpose;
3. Maintain discrimination documentation, case monitoring system, and set-up a databank to easily access various cases and experience stigma and discrimination;
4. Recommend to the Sangguniang Panlungsod anti-discrimination policies and programs as well as policy reforms; and
5. Monitor or review all policies embodied in resolutions, ordinances, codes and other policy documents to determine if they are free from discriminatory statements and provisions to effectively eliminate discrimination stigma and stereotyping LGBTQIs.

SEC. 9. Role of Barangay. – Every barangay in the City of Manila is mandated to establish a LGBTQI Desk which shall have the following functions:

1. Receive complaint for violation of this Ordinance and attend to the same pursuant to the Katarungang Pambarangay Law, if applicable, and for this purpose shall ensure the creation of an LGBTQI Assistance Desk to safeguard the rights and interests of the aggrieved member/s of said community;

2. Document any incidents of physical, emotional or psychological abuses directed against LGBTQI and periodically report the same to MGSDC;
3. Assist LGBTQI members in filing the appropriate complaint and legal action against those who will violate this Ordinance;
4. Facilitate and coordinate the City's programs for the benefit of the LGBTQI community; and
5. Perform such other functions the MGSDC may, from time to time, formulate in relation to this Ordinance.

SEC. 10. Provision of Gender Neutral Toilets and Period of Compliance. – Within three (3) years from the passage of this Ordinance, there shall be provided a gender neutral toilets inside the lavatory or comfort room of restaurants, bars, stores, movies houses, shopping malls and other similar business establishments in the City of Manila which are open to the general public for the use of members of the LGBTQI community. The provision of such toilets shall be made a condition precedent for the renewal of business permits of these establishments.

In large establishments, where there are several lavatories or comfort rooms in each floor, designation shall be made to a specific floor where gender neutral toilets are located.

SEC. 11. Where and How to File a Complaint. – Any LGBTQI whose rights against discrimination, as defined under this Ordinance, has been violated, may filed a complaint to the Chairman of the Barangay where the resident of the violator/s is/are located. In the event the prohibited acts were committed in workplace, schools, universities and similar establishments, the complaint shall be filed in the Barangay where said workplace, schools, universities and establishment is located.

SEC. 12. Penalties. – Any person found liable under this Ordinance shall be penalized in the following manner:

FIRST OFFENSE: A fine of not less than One Thousand Pesos (PhP. 1,000.00) or imprisonment of six (6) months or both at the discretion of the court;

SECOND OFFENSE: A fine of not less than Two Thousand Pesos (PhP. 2,000.00) or imprisonment of six (6) months and one (1) day to eight (8) months or both at the discretion of the court;

THIRD OFFENSE: A fine of not less than Three Thousand Pesos (PhP. 3,000.00) or imprisonment of eight (8) months and one (1) day to one (1) year or both at the discretion of the court;

Subsequent violations shall be punished by a penalty of one (1) year imprisonment and fine of not less than Five Thousand Pesos (PhP. 5,000.00);

In addition to the penalty detailed above, the violator shall be required to mandatorily undergo human rights education by the MGSDC for a period to be determined by the court. In case of corporations, partnerships, associations and other juridical persons, the officers thereof shall be directly liable for violating this Ordinance.

SEC. 13. Implementing Rules and Regulations. – Within sixty (60) days from the effectivity of this Ordinance, the MGSDC shall formulate the Implementing Rules and Regulations and guidelines of this Ordinance after thorough consultation with multi-sectoral groups and Stakeholders. The multi-sectoral groups and stakeholders shall be composed of experts and representatives from various sectors such as civil society, LGBTQI, non-governmental organizations, LGBTQI organizations and community-based organizations.

SEC. 14. Information Campaign. – Within thirty (30) days from the approval of this Ordinance, the Public Information Office shall conduct an information campaign to apprise the public of the provisions of this Ordinance.

SEC. 15. Appropriation. – For the effective implementation of this Ordinance, the City Government shall source out funds from the five percent (5%) of the annual budget appropriated to finance the Gender and Development (GAD) plans, projects and programs after complying with the existing laws, rules and regulations to cover the operational expenses of the MGSDC in the proper and effective implementation of this Ordinance.

SEC. 16. Separability Clause. – Should any part or provision of this Ordinance be held unconstitutional or invalid by a competent Court, the other parts or provisions hereof which are not affected thereby shall continue to be in full force and effect.

SEC. 17. Repealing Clause. – All ordinances, resolutions, executive orders, rules and regulations, and other issuances or parts thereof found to be inconsistent with the provisions of this Ordinance are hereby repealed, modified or amended accordingly.

SEC. 18. Effectivity. – This Ordinance shall take effect upon its approval.

This Ordinance was finally enacted by the City Council of Manila on October 26, 2020

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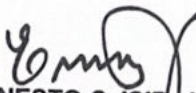
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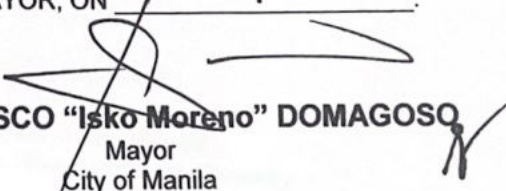
PRESIDED BY:


ERNESTO C. ISIF, JR.
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 OCT 29 2020


FRANCISCO "Isko Moreno" DOMAGOSO
Mayor
City of Manila

ATTESTED:


BERNARDITO C. ANG
City Government Department Head III
(Secretary to the Mayor)

RNF: jhb/acl/md/kjm/jmt/eyes