



Republic of the Philippines
SANGGUNIANG PANLUNGSOD

City of Mandaluyong

ORDINANCE NO. 698, S-2018

ANTI-DISCRIMINATION ORDINANCE (ADO) ON THE BASIS OF SEXUAL
ORIENTATION AND GENDER IDENTITY AND EXPRESSION (SOGIE)
FOR THE PROTECTION OF LESBIANS, GAYS, BISEXUALS,
TRANSGENDERS, INTERSEX AND QUEERS
(LGBTIQs) RIGHTS IN THE CITY OF MANDALUYONG

WHEREAS, the 1987 Philippine Constitution under Section 2, Article II, provides: "the State values the dignity of every human person and guarantees full respect for human rights";

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

WHEREAS, to uphold the rights of all Filipinos especially those discriminated against based on their sexual orientation and gender identity and expression (SOGIE), it is the commitment of the City Government of Mandaluyong in keeping with its platform on "inclusive governance" to recognize and protect the rights of Lesbian, Gays, Bisexual, Transgender, Intersex and Queer (LGBTIQ) people;

WHEREAS, the Philippines is a state party to several international agreements such as, among others, the Universal Declaration of Human Rights, International Covenant on Economic, Social and Cultural Rights (ICESCR), the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), affirming LGBTIQ rights as Human Rights thus universal, indivisible and inviolable;

WHEREAS, in June 2011, the Human Rights Council adopted Resolution 17/19 expressing grave concern at violence and discrimination on individuals on the basis of sexual orientation and gender identity which was followed by another Resolution approved last September 26, 2014 combating violence and discrimination based on sexual orientation and gender identity;

WHEREAS, the Yogyakarta Principles, the only international human rights instrument that specifically tackles LGBTIQ rights and SOGIE issues specifically provides for a framework by which SOGIE-based issues are dealt by state and non-state actors. Through this instrument, the awareness that general human rights principles apply to the LGBTIQ sector in the same way that they apply to other persons is mainstreamed;

WHEREAS, pursuant to the Gender and Development (GAD) programs and initiatives of the City, we have to mainstream all people on both ends of the gender spectrum in all development agenda;

WHEREAS, it is the policy of the Mandaluyong City Government to afford equal protection to LGBTIQ people as guaranteed by our Constitution and to craft local legislative measures in support of this aim;

NOW, THEREFORE, be it ORDAINED by the Sangguniang Panlungsod of Mandaluyong, in session duly assembled that:

SECTION 1. TITLE. This Ordinance shall be known as the “**Anti-Discrimination Ordinance (ADO) on the Basis of Sexual Orientation and Gender Identity and Expression (SOGIE) in the City of Mandaluyong**”.

SECTION 2. DECLARATION OF POLICY. It is hereby declared policy of the City of Mandaluyong to promote gender equality and fairness and effectively eliminate all forms of discrimination that violate the rights of Lesbian, Gay, Bisexual, Transgender, Intersex and Queer (LGBT) people and to afford equal protection as enshrined in the **Bill of Rights**.

SECTION 3. DEFINITION OF TERMS.

- a. DISCRIMINATION – constitutes any distinction, exclusion, restriction, preference or other differential treatment that is directly or indirectly based on sexual orientation, gender identity, or gender 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;
- b. GENDER EXPRESSION – is how a person publicly presents their gender. This **can** include behaviour and outward appearance such as dress, hair, make-up, body language and voice. A person’s chosen **name** and pronoun **are** also **common** ways of expressing gender;
- c. GENDER IDENTITY – is each person’s internal and individual experience of gender. It is their sense of being a woman, a man, both, neither, or anywhere along the gender spectrum. A person’s gender identity may be the **same as** or different from their birth-assigned sex. Gender identity is fundamentally different from a person’s sexual orientation;
- d. LGBTIQ – refers to a diverse and complex range of identities based on SOGIE. This term refers to all gender and sexuality non-conforming people, including but not limited to lesbian, gay, bisexual, transgender, intersex and queer persons:
 - d.1 LESBIAN – a **woman** whose emotional, romantic and sexual energies are geared towards other women;
 - d.2 GAY – a person who is emotionally and/or physically attracted to members of the same sex. Although all-encompassing, this term refers mainly to men;
 - d.3 BISEXUAL – a person who is emotionally and/or physically attracted to members of both the same and opposite sex;
 - d.4 TRANSGENDER – is the state of one’s gender identity (**self-identification** as woman, man or neither) not matching one’s “assigned sex” (identification by others as male or female based on physical/genetic sex). Transgender does not imply any specific form of sexual orientation; transgender people may identify as heterosexual, homosexual, bisexual, pansexual, polysexual or asexual.

- d.5 INTERSEX – those who are naturally born and possesses both male and female organs;
- d.6 QUEER – those who **are** gender **non-conforming** and who do not want to be defined by any of the labels.
- e. SEX – is a human and civil status of a person acquired by birth having organ and system of reproduction;
- f. SEXUAL ORIENTATION – refers to the emotional or sexual attraction or inclination of a person towards persons of his/her **own sex**, or both masculine and feminine **sexes**.

SECTION 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.

SECTION 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 (SOGIE);
- b. Refusing employment to a job applicant on the basis of actual or perceived SOGIE;
- c. Denying **access** to public programmes and services to medical and other health **services** on the basis of actual or perceived SOGIE;
- d. Refusing admission to or expel or dismiss a person from educational institutions **on** the basis of sexual orientation and gender identity and expression;
- e. Revoking any accreditation, recognition, registration of any organization in educational institutions, workplaces and communities on the basis of actual or perceived SOGIE;
- f. Subjecting either verbal or written, to insult any person by reason of SOGIE;
- 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 SOGIE **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 accommodation in an apartment, condominium, townhouse, flat, hotel, inn, dormitory 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 SOGIE;

- 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 SOGIE;
- j. It shall be unlawful to commit harassment, unjust detention and involuntary confinement because of one's actual or perceived SOGIE;
- k. It shall be unlawful to refuse entry and/or disallow a person or group of persons from entering any establishment such as restaurants, bars, stores movie houses, shopping malls, and other places or entertainment and other businesses which are open to the general public; and/or to refuse to attend to, or serve any orders for food, drinks and other goods, consumable and non-consumable; or to subject one to discrimination or harassment in buses, taxis, ships, airplanes on the basis of actual or perceived SOGIE;
- l. It shall be unlawful to organize groups and activities which promote and incite discrimination against persons based on actual or perceived SOGIE;
- m. Any act of discrimination or harassment based on actual or perceived SOGIE, which demeans the dignity and self-respect of a person or impairs, mars, 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.

SECTION 6. **AFFIRMATIVE ACTS.** The City shall endeavor to mainstream "gender-fairness" by conducting and celebrating activities such as, but not limited to:

- a. Seminars, trainings, workshops, fora and symposia about SOGIE and on "inclusive" workplaces in both private and public spaces;
- b. Women's Month incorporating LGBTIQ pride activities in March of every year;
- c. International Day against Homophobia and Transphobia (IDAHOT) on May 17 of every year;
- d. A month-long celebration of Philippine Pride March (mid-November to mid-December), including World AIDS Day on December 1 and Human Rights Day on December 10 of every year; and
- e. All other days of observance as legislated and passed by the National Legislature and Mandaluyong City Council in the future, including a day commemorating the establishment of the Mandaluyong Pride Council and passage of the ADO shall be designated by the City Council and the Mayor and be observed annually.

SECTION 7. **INCORPORATION OF SEXUAL ORIENTATION, GENDER IDENTITY AND EXPRESSION (SOGIE) CONCERNS WITH FUNCTIONS OF EXISTING VIOLENCE AGAINST WOMEN AND CHILDREN (VAWC) DESK/HUMAN RIGHTS DESK IN MANDALUYONG CITY POLICE DISTRICT.** The Mandaluyong City Police District is strongly encouraged to handle the specific concerns relating to SOGIE through existing Violence Against Women or VAWC/Human Rights Desk in all police stations Mandaluyong City.

SECTION 8. CREATION OF THE MANDALUYONG CITY PRIDE COUNCIL. There shall be the creation of the Mandaluyong City Pride Council (MCPC) which shall oversee the **implementation** of this Ordinance and other existing laws, regulations and guidelines relevant to the protection and promotion of the LGBTIQ rights; shall integrate and synchronize programs, projects and activities for the LGBTIQ community; and which shall coordinate with existing government agencies both in Mandaluyong City and the local government support efforts to promote gender development.

The MCPC shall conduct trainings and livelihood programs for the LGBTIQ community in coordination with other City **departments/offices** and national government agencies, including private agencies.

SECTION 9. COMPOSITION OF THE MANDALUYONG CITY PRIDE COUNCIL. The MCPC 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).

SECTION 10. OVERSIGHT FUNCTIONS OF THE MANDALUYONG CITY PRIDE COUNCIL UNDER THE ORDINANCE. The Mandaluyong City Pride Council shall perform oversight functions over the implementation of this Ordinance including the implementation of anti-discrimination programs provided herein. The MCPC 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;
3. Maintain discrimination documentation, case monitoring system, and set-up a databank to easily **access** various cases and experiences stigma and discrimination;
4. Recommend to the Sangguniang Panlungsod anti-discrimination policies and programs;
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 and undertake necessary amendments of those provisions to effectively eliminate discrimination stigma and stereotyping LGBTIQs.

SECTION 11. **APPROPRIATION.** For the effective implementation of this Ordinance, the City Government of Mandaluyong 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 and to cover the operational and management expenses of the Mandaluyong City Pride Council as well as for other expenses necessary for the proper, responsive and full operation of the organized and established Pride Council.

SECTION 12. WHERE AND HOW TO FILE A COMPLAINT. Any LGBTIQ whose rights against discrimination, as defined under this Ordinance, has been violated, may file a complaint to the Lupon Chairman of the Barangay in whose jurisdiction the acts of discrimination took place.

Whereupon, the complaint shall undergo the process of mediation, conciliation or arbitration as provided for under the provisions of Katarungang Pambarangay as enshrined under Chapter 7, Title One, Book III of Republic Act No. 7160, known as the "Local Government Code of 1991", which shall govern the procedure on the initiation and filing of the formal complaint before the courts for the violation of this Ordinance.

SECTION 13. **NON-APPLICABILITY OF THE NO CONTEST PROVISION.** Ordinance No. 599, S-2015, known as "An ordinance establishing the procedure in the implementation of a City Ordinance", as amended, including its No Contest Provision does not apply to this Ordinance. Consequently, no Ordinance Violation Receipt (OVR) shall be issued to the offender.

SECTION 14. **PENALTIES.** Any person held liable under this Ordinance shall be penalized with imprisonment for a period of not less than sixty (60) days but not more than one (1) year and/or a fine of not less than One Thousand Pesos (Php1,000.00) but not to exceed Five Thousand Pesos (Php5,000.00), or both at the discretion of the Court, without prejudice to any applicable criminal, civil, or administrative action that may be instituted under the provision of existing laws.


SECTION 15. **INDEPENDENT ACTION FOR DAMAGES.** Nothing in this Ordinance shall preclude the victim of discrimination based on actual or perceived sexual orientation and gender identity and expression, from instituting a separate and independent action for damages and other affirmative relief.

SECTION 16. **IMPLEMENTING RULES AND REGULATIONS.** Within sixty (60) days from the effectivity of this Ordinance, the Mandaluyong City Pride Council shall jointly formulate, after thorough consultation with multi-sectoral groups and stakeholders, the Implementing Rules and Regulations and guidelines of this Ordinance. The multi-sectoral groups and stakeholders to be consulted shall be composed of experts and representatives from various sectors such as civil society, LGBTIQ non-government organizations, LGBTIQ organizations and community-based organizations.

- SECTION 17. INFORMATION CAMPAIGN. Within thirty (30) days from the approval of this Ordinance, the City Public Information Office shall conduct an information campaign to apprise the public of the provisions of this Ordinance.
- SECTION 18. 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.
- SECTION 19. REPEALING CLAUSE. All local Ordinances of the Sangguniang Panlungsod ng Mandaluyong and Executive Orders and Administrative Regulations of the Local Chief Executive, or parts thereof which are inconsistent with any of the provisions of this Ordinance are hereby repealed, revoked or modified accordingly.
- SECTION 20. EFFECTIVITY CLAUSE. This Ordinance shall take effect fifteen (15) days after its complete publication in a newspaper of general circulation in Metro Manila.

ENACTED on this 7th day of May, 2018 in the City of Mandaluyong.

I HEREBY CERTIFY THAT THE FOREGOING ORDINANCE WAS ENACTED AND APPROVED BY THE SANGGUNIANG PANLUNGSOD OF MANDALUYONG IN REGULAR SESSION HELD ON THE DATE AND PLACE FIRST ABOVE GIVEN.


MA. TERESA S. MIRANDA
Sanggunian Secretary

ATTESTED BY:


ANTONIO DLS. SUVA
Vice Mayor &
Presiding Officer

APPROVED:


CARMELITA A. ABALOS
City Mayor

Date: MAY 17 2018















