



Republic of the Philippines
SANGGUNIANG PANLUNGSOD
Pasay City



Ordinance No. 6158, Series of 2021

AN ORDINANCE PROTECTING THE RIGHTS OF LESBIANS, GAYS, BISEXUALS, TRANSGENDERS, QUEERS AND INTERSEX (LGBTQI) IN THE CITY OF PASAY AGAINST ANY AND ALL FORMS OF DISCRIMINATION SOLELY ON THE BASIS OF SEXUAL ORIENTATION, GENDER IDENTITY, EXPRESSION, SEX CHARACTERISTICS (SOGIESC) AND PROVIDING PENALTIES FOR VIOLATION THEREOF

Introduced by: Vice Mayor Noel L. Del Rosario

Sponsored by: Councilors Arnel Regino T. Arceo, Mark Anthony A. Calixto, Mary Grace B. Santos, Ma. Antonia C. Cuneta, Abraham Albert Q. Alvina, Marlon A. Pesebre, Ricardo E. Santos, Allan T. Panaligan, Donnabel M. Vendivel, Jose C. Isidro, Jr., Editha Y. Manguerra, Aileen C. Padua, Julie G. Gonzales and Jose Miguel A. Mañez

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, 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, 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 LGBTQI rights as Human Rights thus universal, indivisible and inviolable;

WHEREAS, on 26 March 2007, a group of human rights experts launched the *Yogyakarta Principles on the Application of Human Rights Law in Relation to Sexual Orientation and Gender Identity* (hereinafter the "Yogyakarta Principles"). The Principles are intended as a coherent and comprehensive identification of the obligation of states to respect, protect and fulfil the human rights of all persons regardless of their sexual orientation or gender identity. Later on, "Yogyakarta Plus 10" was adopted on November 10, 2017 to supplement the Yogyakarta Principles entitled as "*Additional Principles and State Obligations on the Applications of International Human Rights Law in Relation to Sexual Orientation, Gender Identity, Gender Expression and Sex Characteristics to Complement the Yogyakarta Principles*";

WHEREAS, to uphold the rights of all its inhabitants especially those discriminated against based on their sexual orientation, gender identity and expression and sex characteristics, it is the commitment of the City Government of Pasay to recognize and protect the rights of Lesbian, Gay, Bisexual, Transgender, Queer and Intersex (LGBTQI) people against any and all forms of discrimination;

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

WHEREAS, lesbian, gay, bisexual, transgender, queer and intersex (LGBTQI) persons are target of physical and verbal assaults that affect their economic, cultural, social, health well-being. There is no coordinated and comprehensive state or even non-state mechanisms that monitor the instances of discrimination, bias, prejudice, and violence that lesbian, gay, bisexual and transgender (LGBT) persons face due to homophobia, transphobia, and machismo;

NOW, THEREFORE BE IT ENACTED AS IT IS HEREBY ENACTED by the Sangguniang Panlungsod, in session duly assembled that:

SECTION 1. Title – This ordinance shall be known as the **“Pasay City SOGIESC-Based Anti-Discrimination Ordinance”**.

SECTION 2. Declaration of Policy – It is hereby the declared policy of the City of Pasay, being the premier and travel city, 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 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. **LGBTQI** - refers to a diverse and complex range of identities based on SOGIESC. This term refers to all gender and sexuality non-conforming people, including but not limited to lesbian, gay, bisexual, transgender, queer and intersex persons:

d.1 **LESBIAN** - a woman whose emotional, romantic and sexual attraction 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 sex assigned at birth (identification by others as male or female based on physical/genetic sex). Transgender does not

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imply any specific form of sexual orientation; transgender people may identify as heterosexual, homosexual, bisexual, pansexual, polysexual or asexual.

d.5 QUEER - those who are gender non-conforming and who do not want to be defined by any of the labels.

d.6 INTERSEX - those who are naturally born and possesses both male and female organs;

e. 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.

f. SEX - is a human and civil status of a person acquired by birth having organ and system of reproduction;

g. 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 and other sex orientations.

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 and sex characteristics (SOGIESC);

b. Refusing employment to a job applicant on the basis of actual or perceived SOGIESC;

c. Denying access to public programmes and services to medical and other health services on the basis of actual or perceived SOGIESC;

d. Refusing admission to or expel or dismiss a person from educational institutions on the basis of sexual orientation and gender identity and expression, and sex characteristics;

e. Revoking any accreditation, recognition, registration of any organization in educational institutions, workplaces and communities on the basis of actual or perceived SOGIESC;

f. Subjecting either verbal or written, to insult any person by reason of SOGIESC;

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 SOGIESC

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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 SOGIESC;

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 SOGIESC;

j. It shall be unlawful to commit harassment, unjust detention and involuntary confinement because of one's actual or perceived SOGIESC;

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 nonconsumable; or to subject one to discrimination or harassment in buses, taxis, ships, airplanes on the basis of actual or perceived SOGIESC;

l. It shall be unlawful to organize groups and activities which promote and incite discrimination against persons based on actual or perceived SOGIESC;

m. Any act of discrimination or harassment based on actual or perceived SOGIESC, 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 SOGIESC and on "inclusive" workplaces in both private and public spaces;

b. Women's Month incorporating LGBTQI 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 (June of every year), 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 Pasay City Council in the future, including a day commemorating the establishment of the Pasay Pride Council and passage of the ADO shall be designated by the City Council and the Mayor and be observed annually.

SECTION 7. *Creation of The Pasay City Pride Council.* The Pasay City Pride Council (PCPC) is hereby created which shall oversee the implementation of this Ordinance and other existing laws, regulations and guidelines relevant to the protection and promotion of the

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LGBTQI rights; shall integrate and synchronize programs, projects and activities for the LGBTQI community; and which shall coordinate with existing government agencies both in Pasay City and the local government support efforts to promote gender development.

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

SECTION 8. *Composition Of The Pasay City Pride Council.* The PCPC shall be formed by virtue of an Executive Order with the following officers:

- a. Chairperson – City Mayor
- b. Vice-Chairperson – City Vice Mayor
- c. Executive Director – Chairperson, Committee on Women, Gender and Family Relations
- d. Members of the Board and a Technical Working Group (TWG) which shall be composed of the following:
 - i. Head, Pasay City Social Welfare and Development Department
 - ii. City Planning and Development Coordinator
 - iii. City Legal Officer
 - iv. President, Liga ng mga Barangay
 - v. Chief of Business Permits and Licensing Office
 - vi. Superintendent of the Division of City Schools
 - vii. Representative from Gender Development Council
 - viii. Four (4) representatives from Non-Government Organizations accredited by the City
 - ix. Head of the Pasay City Health Office
 - x. Representative from the Pasay City Police
 - xi. Head of the Public Employment Services Office
 - xii. Other heads/representatives from appropriate offices or entities

SECTION 9. *Oversight Functions Of The Pasay City Pride Council Under The Ordinance.* The Pasay City Pride Council shall perform oversight functions over the implementation of this Ordinance including the implementation of anti-discrimination programs provided herein. The PCPC 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 LGBTQIs.

SECTION 10. *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 Pasay City Police District.* The Pasay Police is strongly encouraged to handle the specific concerns relating to SOGIESC through existing Violence Against Women or VAWC/Human Rights Desk in all police stations in Pasay City.

SECTION 11. *Role of Barangay.* Every barangay in the City of Pasay 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 PCPC;

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 PCPC may, from time to time, formulate in relation to this Ordinance.

Existing VAWC desks in each barangay can be utilized as LGBTQI Desk in the absence or lack of resources.

SECTION 12. *Where and How to File a Complaint.* - Any LGBTQI whose rights against discrimination, as defined under this Ordinance, has been violated, may file 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.

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. However, if the violator is arrested under circumstances allowed by law and inquest proceedings is undertaken, the complaint shall be filed with the Office of the Prosecutor.

SECTION 13. *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 (Php1,000.00) or imprisonment of one (1) month or both at the discretion of the court;

SECOND OFFENSE: A fine of not less than Two Thousand Pesos (Php2,000.00) or imprisonment of one (1) month and one (1) day to six (6) 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 six (6) months and one (1) day to eight (8) months 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 PCPC 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.

SECTION 14. *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 15. *Implementing Rules And Regulations.* Within sixty (60) days from the effectivity of this Ordinance, the Pasay 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, LGBTQI non-government organizations, LGBTQI organizations and community-based organizations.

SECTION 16. *Appropriation.* For the effective implementation of this Ordinance, the Pasay City Pride Council shall submit an annual proposal containing its programs and projects to the Executive Branch through the Gender and Development Council for its consideration and inclusion in the preparation of the Annual Executive Budget of the City after complying with the existing laws, rules and regulations and to cover the operational and management expenses of the Pasay 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 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 Pasay 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 the City of Pasay.

ENACTED in the City of Pasay, Metro Manila, Philippines this 15th day of February in the Year of Our Lord, Two Thousand Twenty One.

CERTIFIED APPROVED BY THE SANGGUNIANG PANLUNGSOD:

District-I

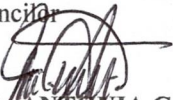
Hon. MARK ANTHONY A. CALIXTO
City Councilor

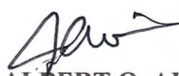
District-II

Hon. ALLAN T. PANALIGAN
City Councilor

PASAY CITY SOGIESC-BASED ANTI-DISCRIMINATION ORDINANCE
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Hon. MARY GRACE B. SANTOS
City Councilor


Hon. MA. ANTONIA C. CUNETA
City Councilor

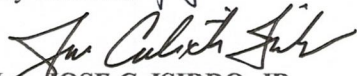

Hon. ABRAHAM ALBERT Q. ALVINA
City Councilor


Hon. MARLON A. PESEBRE
City Councilor

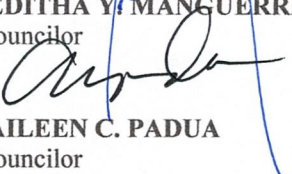

Hon. RICARDO E. SANTOS
City Councilor


Hon. DONNABEL M. VENDIVEL
City Councilor

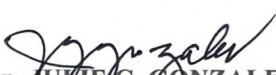

Hon. ARNEL REGINO T. ARCEO
City Councilor


Hon. JOSE C. ISIDRO, JR.
City Councilor


Hon. EDITHA Y. MANGUERRA
City Councilor


Hon. AILEEN C. PADUA
City Councilor

Ex-Officio Members


Hon. JULIE G. GONZALES
President
Liga ng mga Barangay
Pasay Chapter


Hon. JOSE MIGUEL A. MAÑEZ
President
SK Federation
Pasay Chapter

Certified True Copy:


DR. VOLTAIRE F. PORTUGUEZ
Officer-in-Charge
Office of the City Secretary
to the Sangguniang Panlungsod

Attested by:


Hon. NOEL L. DEL ROSARIO
City Vice Mayor & Presiding Officer

Approved by:


Hon. IMELDA G. CALIXTO-RUBIANO
City Mayor