REPUBLIC OF THE PHILIPPINES
SANGGUNIANG PANLUNGSOD
CITY OF MANDALUYONG

ISO 9001:2015 QUALITY MANAGEMENT SYSTEM
CB CERT. NO. 119910

ORDINANCE NO. 969, S-2024

AN ORDINANCE OPERATIONALIZING REPUBLIC ACT NO. 10173, OTHERWISE KNOWN AS THE "DATA PRIVACY ACT OF 2012" IN THE CITY GOVERNMENT OF MANDALUYONG, CREATING THE DATA PRIVACY OFFICE, AND PROVIDING GUIDELINES THEREFOR

WHEREAS, Article II, Section 24 of the 1987 Constitution provides that the State recognizes the vital role of communication and information in nation-building. At the same time, Article II, Section 11 thereof emphasizes that the State values the dignity of every human person and guarantees full respect for human rights;

WHEREAS, on 15 August 2012, Republic Act No. 10173 entitled "An Act Protecting Individual Personal Information in Information and Communications Systems in the Government and the Private Sector, Creating for this Purpose a National Privacy Commission, and for Other Purposes," also known as the Data Privacy Act of 2012 (DPA), was enacted;

WHEREAS, Section 2 of the DPA provides that it is the policy of the State to protect the fundamental human right of privacy while ensuring the free flow of information to promote innovation and growth. The State also recognizes its inherent obligation to ensure that personal information in information and communications systems in the government and in the private sector are protected;

WHEREAS, Section 16 of Republic Act No. 7160 otherwise known as the "Local Government Code of 1991" (LGC) provides that every local government (LGU) 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. It shall also ensure and support the promotion of health and safety, maintain peace and order, and preserve the comfort and convenience of the inhabitants;

WHEREAS, Section 458 (a)(1)(x) of the LGC and Section 10(e)(1)(j) of Republic Act No. 7675 otherwise known as the "Charter of the City of Mandaluyong" provide that the Sangguniang Panlungsod has the power to enact ordinances to ensure the safety and protection of all government property, public documents and records of public interest;

WHEREAS, all LGUs processing personal or sensitive personal information (collectively known as "personal data") are considered as Personal Information Controllers (PIC) having obligations under the DPA;

WHEREAS, the National Privacy Commission (NPC), created under the DPA, is an independent body tasked to administer and implement the provisions of the DPA, and to monitor and ensure compliance of the country with international standards set for data protection;

WHEREAS, pursuant to Section 7 of the DPA, the NPC is charged with carrying out efforts to formulate and implement plans and policies that strengthen the protection of personal information in the country, in coordination with other government agencies and the private sector;

WHEREAS, recognizing the vital role of data in driving government decisions, policies, public services, and innovation that will benefit its constituents, with the aim of improving the delivery of basic goods and services, the City Government of Mandaluyong deems it necessary to create an office that will provide and implement local mechanism for its offices to abide by the provisions of the DPA for the processing of personal data of its constituents as data subjects, whereby the people's right to data privacy is respected and upheld, subject to limitations provided by law.

NOW, THEREFORE, BE IT ORDAINED, by the Sangguniang Panlungsod of Mandaluyong in session assembled:

SECTION 1. TITLE. - This Ordinance shall be known as the "Data Privacy Ordinance" of the City Government of Mandaluyong.

SECTION 2. DEFINITION OF TERMS. - All terms used in the DPA and its Implementing Rules and Regulations (IRR), including NPC Circulars, are adopted herein.

SECTION 3. COVERAGE. - This Ordinance shall cover all city departments and offices, including the twenty seven (27) barangays of Mandaluyong City.

SECTION 4. GENERAL DUTIES AND OBLIGATIONS OF THE PERSONAL INFORMATION CONTROLLER (PIC). - The following are the general duties and obligations of the departments/offices/barangays of the City Government of Mandaluyong as a Personal Information Controller (PIC):

A. Personal data shall be processed for the purposes of facilitating the performance of its public functions and the provision of public service pursuant to its mandate. In all instances, it shall adhere to the general data privacy principles of transparency, legitimate purpose, and proportionality;

B. Reasonable and appropriate measures shall be implemented for the protection of personal data of data subjects of the City Government of Mandaluyong, whether internal (local officials, regular or casual employees, job order, contract of service) or external (clients, visitors, other stakeholders, and the like);

C. The rights of the data subjects shall be upheld, subject to limitations as may be provided for by law. The free exercise of applicable rights shall be enabled through mechanisms that are clear, simple, straightforward, and convenient for the data subjects; and

D. The data privacy rights of the affected data subjects shall be harmonized with the right to information on matters of public concern. It is recognized that both rights are imperative for transparent, accountable, and participatory governance, and are key factors for effective and reasonable public participation in social, political, and economic decision-making.

SECTION 5. CREATION OF THE DATA PRIVACY OFFICE. – There shall be created a Data Privacy Office headed by the Data Protection Officer (DPO) of Mandaluyong with the rank, benefits, duties and responsibilities of City Government Assistant Department Head II and Salary Grade of 24 (SG-24). It has the mandate to ensure the compliance of the City Government of Mandaluyong, its departments, offices, officials, employees and personnel, including all twenty seven (27) barangays of Mandaluyong City, with the DPA, its IRR, issuances by the NPC, and other applicable laws and regulations relating to privacy and data protection.

Specifically, the Data Privacy Office shall exercise the following duties and functions:

a.) Monitor compliance of the City Government with the DPA, its IRR, issuances by the NPC and other applicable laws and policies. For this purpose, it may:

i. Collect information to identify the processing operations, activities, measures, projects, programs, or systems of the offices as PICs, and maintain a record thereof;

ii. Analyze and check the compliance of processing activities, including the issuance of security clearances to and compliance by third-party service providers;

iii. Inform, advise and issue recommendations to the PICs;

iv. Ascertain renewal of accreditations or certifications necessary to maintain the required standards in personal data processing; and

v. Advice on the necessity of executing a Data Sharing Agreement and other related agreements with third parties, and ensure its compliance with the law.

b.) Ensure the conduct and periodic revision of Privacy Impact Assessments (PIA) relative to activities, measures, projects, programs, technology or systems of the City Government, its departments and offices, including the barangays, that involve personal data processing;

c.) Facilitate the creation and, thereafter, periodic revision by the City Government of the Privacy Management Program, Privacy Manual, Privacy Notices and other related policies and security measures;

d.) Implement a mechanism for the exercise by data subjects of their rights (e.g. complaints and requests for information, clarifications, rectification or deletion of personal data), and in addressing all related data privacy and protection issues;

e.) Monitor and ensure proper data breach and security incident management by the PICs, including the preparation and submission to the NPC of reports and other documentation concerning security incidents or data breaches within the prescribed period;

f.) Cultivate data privacy and protection awareness and promote a culture of privacy within the City Government;

g.) Hold and attend trainings and seminars that will enhance the knowledge, skills and abilities of the officials, employees and personnel of the PICs on data privacy and protection;

h.) Prepare and generate information and education campaign materials, conduct breach drills and similar activities that will raise data privacy and protection awareness on the PICs, its employees and other personnel, as well as the constituents;

i.) Advocate for the development, review and/or revision of policies, guidelines, projects and/or programs of the PICs relating to data privacy and protection, by adopting a privacy and security by design approach;

j.) Serves as focal office of the City Government of Mandaluyong vis-à-vis the data subjects, private organizations, the NPC and other government agencies in all matters concerning data privacy or security issues or concerns;

k.) Establish linkages with other LGUs, private organizations and non-government organizations (NGOs) advocating for data privacy and protection to impart and obtain knowledge and best practices;

l.) Cooperate and coordinate with the NPC regarding matters concerning data privacy and security; and

m.) Perform other duties and tasks that may be assigned by the City Mayor that will further the interest of data privacy and protection, and uphold the rights of the data subjects.

SECTION 6. SPECIFIC COMPLIANCE REQUIREMENTS. - The following specific compliance requirements under the DPA, its IRR as amended, and relevant issuances of the NPC, are hereby set out as follows:

A. Data Protection Officer (DPO). –

1. Functions. The DPO has the following functions:

a.) ensure the PIC's compliance with the DPA, its IRR, issuances by the NPC and other applicable laws and policies;

b.) advise or facilitate the conduct of Privacy Impact Assessments (PIA) relative to activities, measures, projects, programs or systems of the PIC;

c.) advice the PICs regarding complaints and/or the exercise by data subjects of their rights;

d.) ensure compliance by the PIC of the data breach and security incident management policies;

e.) inform and cultivate awareness on privacy and data protection within the organization of the PIC;

f.) ensure the development, review and/or revision of policies, guidelines, projects and/or programs of the PICs relating to privacy and data protection, by adopting a privacy by design approach;

g.) serve as the contact person of the PIC vis-à-vis data subjects, the NPC and other authorities in all matters concerning data privacy or security issues or concerns; and

h.) cooperate, coordinate and seek advice of the NPC regarding matters concerning data privacy and security.

2. Roles. The DPO shall be:

   a.) consulted at the earliest stage possible on all issues relating to privacy and data protection of all personal data processing systems;

   b.) provided with resources necessary to keep himself updated with the developments in data privacy and security;

   c.) granted appropriate information and access, where necessary, to the details of personal data processing activities of the departments and offices;

   d.) invited to participate in the appropriate meetings of any department and office to represent the interest of data privacy;

   e.) consulted promptly in the event of a personal data breach or security incident; and

   f.) included in all relevant working groups that deal with personal data processing activities.

3. NPC Accounts. The DPO shall create the necessary user accounts in the applicable NPC systems for compliance with the requirements for registration and personal data breach notification and management.

4. Trainings/Seminars. The DPO shall ensure that data privacy awareness seminars and other necessary trainings for the employees and personnel of the PICs, including the Data Privacy Office, are duly conducted; and

5. Contact Details of the DPO. The contact detail of the DPO shall be made available and easily accessible on the official website, and should include the following information:

a.) Title or designation - the name of the DPO need not be published but should be made available upon request by a data subject;

b.) Postal address; and

c.) Dedicated telephone number and email address.

6. COP. Every department and offices of the City Government, including the 27 barangays, shall designate an individual with willingness and competency as Compliance Officer for Privacy (COP), who shall serve as focal person of the office relating to data privacy and security, and shall assist the DPO in the performance of the latter's functions. The COPs shall be under the supervision of the DPO.

B. Conduct of Privacy Impact Assessment. - All departments and offices of the City Government of Mandaluyong, including the 27 barangays, as PIC shall conduct a Privacy Impact Assessment (PIA) on any personal data processing system prior to their adoption, use, or implementation.

1. For existing systems, the DPO shall be consulted by the concerned PICs on the appropriateness of conducting a PIA and the reasonable timeframe to accomplish the same;

2. For both existing and proposed systems, there may be a determination that the conduct of a PIA is not necessary if the processing involves minimal risks to the rights and freedoms of data subjects, taking into account the recommendations from the DPO. In making this determination, the following should be considered:

a.) Size and sensitivity of the personal data being processed;

b.) Duration and extent of processing;

c.) Likely impact of the processing to the life of data subject; and

d.) Possible harm in case of a personal data breach;

3. The conduct of a PIA may be outsourced to a third-party service provider, as may be recommended by the DPO subject to the laws, rules, and regulations applicable to government procurement;

4. The relevant issuances and other information, education, and communication materials of the NPC on PIA and other relevant issuances shall serve as additional guidance; and

5. The results of the PIA conducted shall be made the basis for the preparation of the Privacy Management Program, the Privacy Manual, and the crafting of the appropriate privacy notices specific to the personal data processing activities being undertaken by the pertinent departments and offices, including the barangays, and other applicable policies relevant to data privacy and security.

C. Adoption of a Privacy Management Program and Privacy Manual. - The City Government of Mandaluyong shall prepare a Privacy Management Program, which shall contain, among others, the necessary policies and processes that remedy the gaps in the PIA and a Privacy Manual, as may be supplemented by the existing or prospective codes, guides, manuals, privacy notices, ordinances, policies, and other documented information on processes that may deal with any data privacy matter.

1. The DPO shall be tasked to ensure that all relevant records and other documentation on data privacy are maintained and kept up to date; and

2. The Privacy Management Program and Privacy Manual shall be subject to regular review, evaluation, and updating, where appropriate, considering the best practices and national and/or international standards for data privacy and security.

D. Implementation of Security Measures. - Reasonable and appropriate organizational, technical, and physical security measures shall be implemented by all PIC that process personal data.

1. The determination of what is reasonable and appropriate shall take into account the following factors as determined following the PIA conducted:

    a.) Nature and volume of the personal data to be protected;

    b.) Risks of the processing to the involved data subjects;

    c.) Size of the department or office and complexity of its personal data processing activities;

    d.) Current data privacy best practices; and

    e.) Cost of implementation.

2. The security measures to be implemented shall ensure the protection of personal data against any unlawful processing and the confidentiality, integrity, and availability of the personal data being processed. The DPO, in consultation and coordination with the PIC, shall make the appropriate determination and recommendation on the measures and policies to be implemented. These may include back-up solutions, access controls, secure log files, acceptable use, encryption, and data disposal mechanisms, among others, for any personal data processing activity, whether done through paper-based or electronic systems.

3. The data sharing and outsourcing arrangements shall be subject to the execution of the appropriate agreements as may be determined by the PIC in consultation with the DPO. For this purpose, the relevant issuances of the NPC shall be observed accordingly.

E. Security Incident Management; Personal Data Breach Management. - The following policies and procedures are set out for the purpose of managing security incidents, including personal data breaches:

    1. Data Breach Response Team (DBRT). - There is hereby created a Data Breach Response Team, with members that have clearly defined responsibilities, to ensure timely action in the event of a security incident or personal data breach.

The Team shall be composed of the following city officials and employees:

Chairperson : Head of the Public Information Office

Members : Data Protection Officer (DPO)

Head of the City Information and Communications Technology Department

Head of the Human Resource Management Department

Head of the City Civilian Affairs and Security Department

The DBRT shall be responsible for the following actions:

a.) Assess and evaluate all security incidents, including personal data breaches;

b.) Restore integrity to the affected information and communications systems;

c.) Recommend measures for mitigation and remedies on any resulting damage to the City Government and the affected data subjects;

d.) Comply with the mandatory notification and other reporting requirements indicated in the appropriate NPC issuance; and

e.) Coordinate with the appropriate government Computer Emergency Response Team (CERT) and law enforcement agencies, where appropriate.

2. Incident Response Procedure. - The DPO shall formulate actual procedure or manual for the timely discovery and management of security incidents. It shall include:

a.) Identification of person or persons responsible for regular monitoring and evaluation of security incidents;

b.) Reporting lines in the event of a personal data breach;

c.) Evaluation of the security incidents or personal data breaches as to its nature, extent and cause, the adequacy of safeguards in place, immediate and long-term impact of the personal data breach, and its actual and potential harm and negative consequences to affected data subjects;

d.) Procedures for contacting law enforcement, if necessary;

e.) Conduct of investigations on the security incident, including personal data breaches;

f.) Procedures for notifying the NPC and data subjects when the personal data breach is subject to mandatory notification requirements;

g.) Procedures for assisting affected data subjects to mitigate the possible harm and negative consequences in the event of a personal data breach.

SECTION 7. RIGHTS OF DATA SUBJECTS; mechanisms for the exercise of rights. - The DPO shall formulate procedure or mechanism for the effective exercise of data subject rights. The relevant NPC issuances on data subject rights, the guidance on transparency, procedures for the exercise of rights, and appropriate templates indicated therein, are hereby adopted.

SECTION 8. FUNDING. - The DPO shall ensure the funding requirements needed for this Ordinance shall be provided for through an Appropriation Ordinance.

SECTION 9. INTERPRETATION. - Any doubt in the interpretation of any provision of this Ordinance and corresponding policies shall be construed in a manner that accords the highest respect for data privacy, and liberally interpreted in a manner mindful of the rights and interests of data subjects.

SECTION 10. SEPARABILITY CLAUSE. - If any section or part of this Ordinance is held unconstitutional or invalid, the other sections or provisions not otherwise affected shall remain in full force or effect.

SECTION 11. REPEALING CLAUSE. - All other ordinances, orders, issuances, rules, and regulations, which are inconsistent with the provisions of this Ordinance are hereby repealed, amended or modified accordingly.

SECTION 12. EFFECTIVITY. - This Ordinance shall take effect after approval.

ENACTED on this 12th day of February 2024, in the City of Mandaluyong.

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

MA. TERESA S. MIRANDA
Sanggunian Secretary

ATTESTED BY:

CARMELITA A. ABALOS
City Vice Mayor
& Presiding Officer

APPROVED BY:

BENJAMIN S. ABALOS
City Mayor

Date: MAR 14 2024

DISTRICT I

ANTONIO DLS. SUVA, JR.
Councilor

ANJELO ELTON P. YAP
Councilor

DANILO L. DE GUZMAN
Councilor

RODOLFO M. POSADAS
Councilor

CARISSA MARIZ S. MANALO
Councilor

ESTANISLAO V. ALIM III
Councilor

DISTRICT II

BENJAMIN A. ABALOS III
Councilor

ALEXANDER C. STA. MARIA
Councilor

REGINALD S. ANTIOJO
Councilor

LESLIE F. CRUZ
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MICHAEL R. OCAMPO
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