



ORDINANCE NO. 538, S-2014

**AN ORDINANCE ENACTING THE MANDALUYONG CITY CODE
OF PARENTAL RESPONSIBILITY
FOR THE PROTECTION OF CHILDREN'S RIGHTS**

WHEREAS, pursuant to the UN Declaration of the Rights of the Child, the best interest of the child shall be the paramount consideration in the enactment of laws that would enable the child to enjoy special protection, including protection from all forms of neglect, cruelty and exploitation;

WHEREAS, the State recognizes the vital role of children and youth in nation building and shall promote and protect their physical, moral, spiritual, intellectual and social well-being. It shall inculcate in the youth patriotism and nationalism, and encourage their involvement in public and civic affairs;

WHEREAS, the State shall defend the right of children to assistance, including proper care and nutrition, and special protection from all forms of neglect, abuse, cruelty, exploitation and other conditions prejudicial to their development;

WHEREAS, the natural and primary right and duty of parents in the rearing of the youth for civic efficiency and the development of moral character shall receive the support of the Government;

WHEREAS, the Mandaluyong City Government has on-going efforts to ensure the safety and well-being of its children;

WHEREAS, it is the policy of the Mandaluyong City Government to protect the interest of child from reckless, careless and negligent parents and to shield them from dangerous or predatory situations arising from such irresponsibility;

WHEREAS, the Sangguniang Panlungsod of Mandaluyong City has the power to enact laws for the welfare of its children.

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

ARTICLE I

TITLE, POLICY, COVERAGE & DEFINITION OF TERMS

SECTION 1. TITLE. This Ordinance shall be known as Mandaluyong City's "Code of Parental Responsibility (CPR)".

SECTION 2. DECLARATION OF POLICY. The grant of the rights and privileges for parents and their children shall be guided by the following principles:

1. The parents shall have the primary right and obligation to provide for their children's upbringing.

2. The parents have the right to discipline the child as may be necessary for the formation of his good character and may require from him obedience to just and reasonable rules, suggestions and admonitions.
3. The child is an important asset of our nation. Every effort should be exerted to promote his welfare and enhance his opportunities for a useful and happy life.
4. The child shall enjoy special protection and shall be given opportunities and facilities, by law and by other means, to ensure and enable his fullest development physically, mentally, emotionally, morally, spiritually and socially in a healthy and normal manner and in conditions of freedom and dignity appropriate to the corresponding developmental stage.
5. The child shall be brought up in an atmosphere of universal understanding, tolerance, friendship, and helpfulness and in full consciousness of his responsibilities as a member of society.
6. In all questions regarding the care, custody, education and property of the child, his welfare shall be the paramount consideration.
7. The child's individual traits and aptitudes should be cultivated to the utmost.
8. The formation of the child's character begins at home. Consequently, every member of the family must make the home a place that will positively influence the child's development.
9. Other institutions, like the school, the church, the guild, and the community in general, should assist the home and the State in preparing the child for the responsibilities of adulthood.

SECTION 3. COVERAGE. This Ordinance shall cover all persons exercising parental authority and responsibility over their minor children in Mandaluyong City, the barangays, and, to the extent herein provided, communities, institutions, departments, offices and agencies under the supervision and jurisdiction of the Mandaluyong City Government.

SECTION 4. DEFINITION OF TERMS. For purposes of this Act, these terms are defined as follows:

- (a) **"Children"** refer to those below the age of eighteen (18) years at the time of any relevant proceeding or those over but are unable to fully take care of themselves or protect themselves from abuse, neglect, cruelty, exploitation or discrimination because of a physical or mental disability or condition.
- (b) **"Parents"** shall include the mother, father, guardian and those exercising substitute parental authority over the child, as defined under Article 216 and Article 217 of the Family Code.

- (c) **“Parental Authority and Responsibility”** shall include the caring for and rearing them for civic consciousness and efficiency and the development of their moral, mental and physical character and well-being.
- (d) **“Special parental authority and responsibility”** shall be exercised by the school, its administrators and teachers, or the individual, entity or institution engaged in child care while the child is under their supervision, instruction or custody.

Authority and responsibility shall apply to all authorized activities whether inside or outside the premises of the school, entity or institution.

- (e) **“Neglect”** is a failure by the parents to adequately perform parental duties.
- (f) **“Best interest of the child”** means the primary consideration in all actions, either by public or private bodies, of the welfare, protection, survival and normal development of the child.
- (g) **“Motorcycle”** shall mean private motorcycles and scooters of two or three wheels and bicycles with motor attachments.
- (h) **“Hazing”** is an initiation rite or practice as a prerequisite for admission into membership in a fraternity, sorority or organization by placing the recruit, neophyte or applicant in some embarrassing or humiliating situations such as forcing him to do menial, silly, foolish and other similar tasks or activities or otherwise subjecting him to physical or psychological suffering or injury.
- (i) **“Truancy”** means absence without cause for more than twenty (20) school days, not necessarily consecutive. It shall be the duty of the teacher in charge to report to the parents the absences of the child the moment these exceed five (5) school days.
- (j) **“Newborn Screening”** means the process of collecting a few drops of blood from the newborn onto an appropriate collection card and performing biochemical testing for determining if the newborn has a heritable condition.
- (k) **“Bahay Pag-asa”** refers to a 24-hour child-caring institution established, funded and managed by local government units (LGUs) and licensed and/or accredited non-government organizations (NGOs) providing short-term residential care for children in conflict with the law who are above fifteen (15) but below eighteen (18) years of age who are awaiting court disposition of their cases or transfer to other agencies or jurisdiction.

Part of the features of a ‘Bahay Pag-asa’ is an intensive juvenile intervention and support center. This will cater to children in conflict with the law in accordance with Sections 20, 20-A and 20-B hereof.

A multi-disciplinary team composed of a social worker, a psychologist/mental health professional, a medical doctor, an educational/guidance counselor and a Barangay Council for the Protection of Children (BCPC) member shall operate the ‘Bahay Pag-asa’. The team will

work on the individualized intervention plan with the child and the child's family.

**ARTICLE II
PARENTAL AUTHORITY AND RESPONSIBILITY**

SECTION 5. EXERCISE OF PARENTAL AUTHORITY AND RESPONSIBILITY. - The father and the mother shall jointly exercise parental authority and responsibility over the persons of their common children (Article 211, FC).

In case of absence or death of either parent, the parent present shall continue exercising parental authority and responsibility. The remarriage of the surviving parent shall not affect the parental authority and responsibility over the children, unless the court appoints another person to be the guardian of the person or property of the children (Art. 212, FC).

In case of separation of the parents, parental authority and responsibility shall be exercised by the parent designated by the Court.

In case of death, absence or unsuitability of the parents, substitute parental authority and responsibility shall be exercised by the surviving grandparent. In case several survive, the one designated by the court (Art. 214, FC).

In default of parents or a judicially appointed guardian, the following person shall exercise substitute parental authority over the child in the order indicated:

- (1) The surviving grandparent;
- (2) The oldest brother or sister, over twenty-one years of age, unless unfit or disqualified; and
- (3) The child's actual custodian, over twenty-one years of age, unless unfit or disqualified (Art. 216, FC).

In case of foundlings, abandoned neglected or abused children and other children similarly situated, parental authority shall be entrusted in summary judicial proceedings to heads of children's homes, orphanages and similar institutions duly accredited by the proper government agency (Art. 217, FC).

SECTION 6. SPECIAL PARENTAL AUTHORITY. - The school, its administrators and teachers, or the individual, entity or institution engaged in child shall have special parental authority and responsibility over the minor child while under their supervision, instruction or custody. Authority and responsibility shall apply to all authorized activities whether inside or outside the premises of the school, entity or institution (Article 218, FC).

SECTION 7. NON-RENUNCIATION/TRANSFER OF PARENTAL AUTHORITY AND RESPONSIBILITY. - Parental authority and responsibility may not be renounced or transferred except in the cases authorized by law (Article 210, FC).

SECTION 8. SUSPENSION OR TERMINATION OF PARENTAL AUTHORITY. - Parental authority terminates permanently:

- (1) Upon the death of the parents;
- (2) Upon the death of the child; or
- (3) Upon emancipation of the child (Article 228, FC).

Unless subsequently revived by a final judgment, parental authority also terminates:

- (1) Upon adoption of the child;
- (2) Upon appointment of a general guardian;
- (3) Upon judicial declaration of abandonment of the child in a case filed for the purpose;
- (4) Upon final judgment of a competent court divesting the party concerned of parental authority; or
- (5) Upon judicial declaration of absence or incapacity of the person exercising parental authority (Article 229, FC).

ARTICLE III THE DUTIES OF PARENTS AND THE RIGHTS OF THE CHILD

SECTION 9. DUTIES OF PARENTS. - The following responsibilities that parents have toward the child:

1. To give him love, affection, guidance, companionship and understanding;
2. To extend to him the benefits of moral guidance, self-discipline and religious instruction;
3. To provide him with proper education in accordance with the means of the family, including monitoring his attendance and performance in school, and attending parent-teacher conferences when required;
4. To supervise his activities, in and outside of the home, including his recreational activities;
5. To provide him with proper medical attention and health services as regularly provided by the City Government, including the complete immunization for diseases for which vaccines have been developed for administration to children up to eight (8) years of age, as well as to allow a newborn child to undergo a newborn screening test within the first forty-eight (48) hours from birth, but not later than three (3) days from the complete delivery as prescribed under Mandaluyong City Ordinance No. 405, S-2008;

6. To prevent him from becoming addicted to intoxicating drinks, narcotic drugs, smoking, gambling, and other vices or harmful practices;
7. To avoid situations which endanger his physical safety, expose him to harm and threaten his normal development;
8. To stimulate his interest in civic affairs, teach him the duties of citizenship, and develop his commitment to his community, which shall include giving him every opportunity to form or join social, cultural, educational, recreational, civic or religious organizations or movements and other useful community activities;
9. To provide him with his basic needs for survival, such as food, shelter and clothing, including adequate support, as defined under the Family Code; and
10. To encourage breastfeeding for newborn until two years of age.

SECTION 10. RIGHTS OF THE CHILD. All children shall be entitled to the rights herein set forth without distinction as to legitimacy or illegitimacy, sex, social status, religion, political antecedents, and other factors:

1. Every child is endowed with the dignity and worth of a human being from the moment of his conception, and therefore has the right to be protected from this time.
2. Every child has the right to a family life that will provide him with love, care and understanding, guidance, and material security.

The dependent or abandoned child shall be provided with the nearest substitute for a home.

3. Every child has the right to a well-rounded development of his personality to the end that he may become a happy, useful and active member of society.

The gifted child shall be given opportunity and encouragement to develop his special talents.

The emotionally disturbed or socially maladjusted child shall be treated with sympathy and understanding, and shall be entitled to treatment and competent care.

The physically or mentally handicapped child shall be given the treatment, education and care required by his particular condition.

4. Every child has the right to a balanced diet, adequate clothing, sufficient shelter, proper medical attention, and all the basic physical requirements of a healthy and vigorous life.
5. Every child has the right to be brought up in an atmosphere of morality and rectitude for the enrichment and the strengthening of his character.

6. Every child has the right to an education commensurate with his abilities and to the development of his skills for the improvement of his capacity for service to himself and to his fellowmen.
7. Every child has the right to full opportunities for safe and wholesome recreation and activities, individual as well as social, for the wholesome use of his leisure hours.
8. Every child has the right to protection against exploitation, improper influences, hazards, and other conditions or circumstances prejudicial to his physical, mental, emotional, social and moral development.
9. Every child has the right to live in a community and a society that can offer him an environment free from pernicious influences and conducive to the promotion of his health and the cultivation of his desirable traits and attributes.
10. Every child has the right to the care, assistance, and protection of the State, particularly when his parents or guardians fail or are unable to provide him with his fundamental needs for growth, development and improvement.
11. Every child has the right to an efficient and honest government that will deepen his faith in democracy and inspire him with the morality of the constituted authorities both in their public and private lives.
12. Every child has the right to grow up as a free individual, in an atmosphere of peace, understanding, tolerance, and universal brotherhood, and with the determination to contribute his share in the building of a better world.
13. In no case, shall those exercising parental authority, inflict corporal punishment over the child (Art. 233, FC).

SECTION 11. EXEMPT FROM CRIMINAL LIABILITY. - A child fifteen (15) years of age or under at the time of the commission of the offense shall be exempt from criminal liability. However, the child shall be subjected to an intervention program pursuant to Section 20 of RA 9344.

A child is deemed to be fifteen (15) years of age on the day of the fifteenth anniversary of his/her birthdate.

A child above fifteen (15) years but below eighteen (18) years of age shall likewise be exempt from criminal liability and be subjected to an intervention program, unless he/she has acted with discernment, in which case, such child shall be subjected to the appropriate proceedings in accordance with this Act.

The exemption from criminal liability herein established does not include exemption from civil liability, which shall be enforced in accordance with existing laws (*RA 9344 as amended by Section 6 of RA 10630*).

A child who is above twelve (12) years of age up to fifteen (15) years of age and who commits parricide, murder, infanticide, kidnapping and serious illegal

detention where the victim is killed or raped, robbery, with homicide or rape, destructive arson, rape, or carjacking where the driver or occupant is killed or raped or offenses under Republic Act No. 9165 punishable by more than twelve (12) years of imprisonment, shall be deemed a neglected child under Presidential Decree No. 603, as amended, and shall be mandatorily placed in a special facility within the youth care faculty or 'Bahay Pag-asa' called the Intensive Juvenile Intervention and Support Center (IJISC) pursuant to Section 20-A of RA 10630.

A child who is above twelve (12) years of age up to fifteen (15) years of age and who commits an offense for the second time or oftener: Provided, That the child was previously subjected to a community-based intervention program, shall be deemed a neglected child under Presidential Decree No. 603, as amended, and shall undergo an intensive intervention program supervised by the local social welfare and development officer pursuant to Section 20-B of RA 10630.

ARTICLE IV

CHILD RIGHTS VIOLATIONS, CHILD LABOR & OTHER ACT AND/OR CONDITION PREJUDICIAL TO THE CHILD'S DEVELOPMENT

SECTION 12. NEGLECT OF THE CHILD. Criminal liability shall attach to any parent having parental authority and responsibility who:


1. Abandons the child under such circumstances as to deprive him of the love, care and protection he needs.
2. Neglects the child by not giving him the education which the family's station in life and financial conditions permit.
3. Fails or refuses, without justifiable grounds, to enrol the child.
4. Causes, abates, or permits the truancy of the child from the school where he is enrolled.
5. Fails to monitor the child's attendance and performance in school, and to attend, without justifiable grounds, parent-teacher conferences when required by the school.
6. Improperly exploits the child by using him, directly or indirectly, such as for begging and other acts which are inimical to his interest and welfare.
7. Inflicts cruel and unusual punishment upon the child or deliberately subjects him to indignation and other excessive chastisement that embarrass or humiliate him.
8. Causes or encourages the child to lead an immoral or dissolute life.
9. Permits the child to possess, handle or carry a deadly weapon, regardless of its ownership.

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CHONA S. CELESTE
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CITY OF MANDALUYONG

10. Permits the child to possess or use intoxicating drinks, narcotic drugs, cigarettes and to engage in gambling and other vices or harmful practices.
11. Allows or requires the child to drive without a license or with a license which the parent knows to have been illegally procured. If the motor vehicle driven by the child belongs to the parent, it shall be presumed that he permitted or ordered the child to drive. (P. D. 603)
12. Allows the child to ride on a motorcycle (a) without the standard protective motorcycle helmet, or (b) even if the child is wearing the standard protective motorcycle helmet, allows the child to ride on an overloaded motorcycle.
13. Allows the child to ride in an overloaded tricycle, whether for hire or otherwise. There is overloading when tricycle exceeds four (4) passengers.
14. Fails to present the child at health centers for free pre-natal and post natal care and Basic Immunization Services, which includes (a) BCG Vaccination against tuberculosis; (b) Inoculation against diphtheria, tetanus, and pertussis; (c) Oral poliomyelitis immunization; (d) Protection against measles; (e) Immunization against rubella; and (f) such other basic immunization services that the Department of Health (DOH) prescribe under Presidential Decree No. 996.
15. Allows a child to loiter in public places or outside their residence between the curfew hours of 10:00 P.M. to 4:00 A.M. as prohibited under Mandaluyong City Ordinance No. 324, S-2005 for three (3) consecutive times.
16. Allows his or her child to join gangs, fraternities or sororities inside or outside school, and who allows to head, join or, in any other manner, participate in hazing and other forms of initiation rites under Republic Act No. 8049;
17. Allows the child to sell, buy or smoke cigarettes or other tobacco products under Republic Act No. 9211;
18. Allows the child to participate in any gambling activity or illegal numbers game as defined under Presidential Decree No. 1602 as amended by Republic Act No. 9287;

ARTICLE V
TORTS AND PENALTIES

SECTION 13. TORTS. - Parents shall be civilly liable for the injuries and damages caused by the acts or omissions of their unemancipated children living in their company and under their parental authority subject to the appropriate defenses provided by law.


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CITY OF MANDALUYONG

SECTION 14. PENALTIES. - The acts mentioned in paragraphs 1 to 18 of section 12 hereof shall be punishable as follows:

- a) **FIRST OFFENSE** – a fine of P1,000.00 or three (3) months imprisonment, or both, at the discretion of the court;
- b) **SECOND OFFENSE** - a fine of P3,000.00 or six (6) months imprisonment, or both, at the discretion of the court;
- c) **THIRD OFFENSE** – maximum penalty of a fine of P5,000.00 or one (1) year imprisonment, or both, at the discretion of the court;

SECTION 15. NO CONTEST PROVISION. – The parents concerned who wish not to contest their liability may pay the fine for the offense with the City Treasurer before the institution of formal charges. In case of inability to pay the fine, the parents concerned shall render community service as follows:

- a) For a penalty of a fine of P1,000 = eight (8) hours;
- b) For a penalty of a fine of P3,000 = sixteen (16) hours; and
- c) For a penalty of a fine of P5,000 = twenty-four (24) hours;

Provided that, should the parent concerned already avail of the benefits of this Section three times, he can no longer avail of the same, and the corresponding complaint for violation of the Ordinance with the maximum penalty imposed shall be filed against him;

SECTION 16. ATTENDANCE IN PARENT EFFECTIVENESS SERVICE SESSIONS MANDATORY. - In all cases of violations under this Ordinance, the parents concerned shall always undergo *Parent Effectiveness Service Sessions* to be conducted in their respective barangays in addition to the penalty imposed.

SECTION 17. ROLE OF THE BARANGAY. – In cases of violations of this Ordinance, the Barangay Council for the Protection of Children (BCPC) shall immediately summon the parents concerned of the child.

SECTION 18. ROLE OF THE CITY SOCIAL WELFARE DEVELOPMENT. – The well-trained social workers of the Mandaluyong City Social Welfare Development shall conduct the *Parent Effectiveness Service Sessions* in the barangays, and shall teach, train and develop proper barangay personnel in the conduct of such activities.

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ARTICLE VI
FINAL PROVISIONS

SECTION 19. RULES AND REGULATIONS. – Unless otherwise provided in this Ordinance, the City Legal Office in coordination with the Mandaluyong City Council for the Welfare of Children and Family Concerns, shall promulgate rules and regulations for the effective implementation of this Ordinance.

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Chona S. Celeste
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Such implementing rules and regulations shall take effect upon its publication in two (2) local newspapers of general circulation.

SECTION 20. SEPARABILITY CLAUSE. – If, for any reason or reasons, any part or provision of this Ordinance shall be held to be unconstitutional or invalid, other parts or provisions hereof which are not affected thereby shall continue to be in full force and effect.

SECTION 21. EFFECTIVITY. – This Ordinance shall take effect fifteen (15) days after its approval and publication at least once in a newspaper of general circulation in Metro Manila.

ENACTED on this 6th day of February 2014 in the City of Mandaluyong.

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

Jimmy D. Lacedal
JIMMY D. LACEDAL
Sanggunian Secretary

PRESIDED BY:

Edward G. Bartolome
EDWARD G. BARTOLOME
Vice Mayor &
Presiding Officer

PPROVED:

Benjamin Dc. Abalos, Jr.
BENJAMIN DC. ABALOS, JR.
City Mayor

Date: FEB 07 2014