PO22CC-214

47th Regular Session

ORDINANCE NO. SP-__**3238**__, S-2023

AN ORDINANCE OPERATIONALIZING REPUBLIC ACT NO. 10173, OR THE DATA PRIVACY ACT OF 2012 IN QUEZON CITY, AND PROVIDING GUIDELINES THEREFOR

Introduced by Councilors JOSEPH JOE VISAYA and GELEEN "Dok G" G. LUMBAD

Co-Introduced by Councilors Bernard R. Herrera, Tany Joe "TJ" L. Calalay, Dorothy A. Delarmente, M.D., Nikki V. Crisologo, Charm M. Ferrer, Fernando Miguel "Mikey" F. Belmonte, Candy A. Medina, Aly Medalla, Dave C. Valmocina, Tatay Rannie Z. Ludovica, Godofredo T. Liban II, Kate Galang-Coseteng, Albert Alvin "Chuckie" L. Antonio III, Don S. De Leon, Wencerom Benedict C. Lagumbay, Atty. Anton L. Reyes, Edgar "Egay" G. Yap, Imee A. Rillo, Raquel S. Malañgen, Irene R. Belmonte, Nanette Castelo-Daza, Marra C. Suntay, Alfred Vargas, MPA, Ram V. Medalla, Shaira "Shay" L. Liban, Aiko S. Melendez, Mutya Castelo, Maria Eleanor "Doc Ellie" R. Juan, O.D., Kristine Alexia R. Matias, Eric Z. Medina, Emmanuel Banjo A. Pilar, Vito Sotto Generoso, Victor "Vic" Bernardo, Alfredo "Freddy" Roxas and Julian Marcus D. Trono

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

WHEREAS, on August 15, 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 the personal information in Information and Communications Systems in the government and in the private sectors are protected;

WHEREAS, all Local Government Units (LGUs) processing personal or sensitive personal information (collectively, personal data) are considered as personal information controllers 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 in coordination with other government agencies and the private sector is charged with carrying out efforts to formulate and implement plans and policies that strengthen the protection of personal information in the Country;

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, Quezon City deems it necessary to provide a local mechanism for its offices to abide by the provisions of the DPA for the processing of the 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;

WHEREAS, the City Mayor, through an office order or any similar written document, may designate another department head to act as a Data Privacy Officer for a specific period, pursuant to NPC Circular No. 2022-04, and will be tasked with all the duties and responsibilities of ensuring compliance by the Quezon City Government with Republic Act No. 10173, its Implementing Rules and Regulations, other NPC issuances, and this Ordinance.

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF QUEZON CITY IN REGULAR SESSION ASSEMBLED:

SECTION 1. TITLE. – This Ordinance shall be known as the "Data Privacy Act Ordinance of Quezon City".

SECTION 2. DEFINITION OF TERMS. – The terms used in the DPA and its Implementing Rules and Regulations (IRR), as amended, are adopted herein.

SECTION 3. COVERAGE. – This Ordinance shall cover all departments and offices under the Quezon City Government.

SECTION 4. GENERAL DUTIES AND OBLIGATIONS. – The following are the general duties and obligations of the Quezon City Government 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 services pursuant to its mandate. In all instances, personal data processing shall adhere to the general data privacy principles of transparency, legitimate purpose, and proportionality;

b. Reasonable and appropriate safeguards shall be implemented for the protection of personal data of data subjects of the Quezon City Government, whether internal (officials, employees, job order, contract of service, casual, etc.) or external (clients, visitors, other stakeholders, etc.);

c. The rights of the data subjects shall be upheld, subject to the limitations as may be provided for by law. The free exercise of applicable rights shall be enabled through the 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. IMPLEMENTING RULES AND REGULATIONS. – The City Legal Department, the City Administrator's Office, and the Quezon City Information Technology and Development Department shall draft the Implementing Rules and Regulations of this Ordinance within ninety (90) days after its approval.

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. Designation of a Data Protection Officer (DPO) – pursuant to Section 21 of the DPA, PICs shall designate individual/s who shall facilitate and ensure the PIC's responsibility and accountability for the organization's compliance with the DPA. The following are hereby designated:

1. The City Attorney is hereby designated as the DPO, tasked with the duties and responsibilities of ensuring compliance by the Quezon City Government with the DPA, IRR, and other NPC issuances.

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The City Mayor, through an office order or any similar written document, may designate another department head to act as a Data Privacy Officer who will be tasked with all the duties and responsibilities of ensuring compliance of the QC LGU with Republic Act No. 10173, its IRR, other NPC issuances, and this Ordinance for a specific period, pursuant to NPC Circular No. 2022-04.

2. *Creation of Committee – the designated DPO shall be assisted by a Compliance Officer for Privacy (COP), who shall be appointed by each department of the Quezon City Government to ensure that each office and/or department complies with the data privacy laws, rules and regulations. The Data Privacy Committee created herein shall be composed of the following members:*

   Head: *Office of the City Administrator*

   Secretary: *City Legal Department .*

   Members: *Office of the City Assessor*

               Human Resource Management Department

               Department of the Building Official

               Environmental Protection and Waste Management Department

               Quezon City Health Department

               Social Services Development Department

               Quezon City General Hospital

               Barangay and Community Relations Department

               Information Technology and Development Department

3. *The DPO and the COP shall be:*

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

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

c. *granted appropriate information and access, when 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.*

4. *The DPO or his/her authorized representative/s shall create the necessary user accounts in the applicable NPC system/s for compliance with the requirements for registration and personal data breach notification and management.*

5. *The DPO shall ensure that data privacy awareness seminars and other necessary trainings for the personnel of the Quezon City Government are duly conducted.*

6. *The official email address of the DPO should be made available and easily accessible on the official website and social media page/s 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.*

B. *Conduct of Privacy Impact Assessment – All departments and offices as process owners 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 (and the Committee, if created) shall be consulted by the respective process owners 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 and the Committee, subject to 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 an additional guidance; and

5. The results of the PIA conducted shall be the basis for the preparation and/or revisions 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 and other applicable policies relevant to the data privacy and security.

C. Adoption of a Privacy Management Program and Privacy Manual – The Quezon City Government shall prepare a Privacy Management Program, which shall contain, among others, the necessary policies and processes that remediate the gaps identified 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 and the Committee 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 departments and offices processing 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 Quezon City Information Technology and Development Department, 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 Quezon City Information Technology and Development Department 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) – A Data Breach Response
Team is hereby created with the following members; the DPO,
the Data Privacy Committee, and the Quezon City Information
Technology and Development Department. The DBRT shall be
responsible for the following actions:

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

b. Restore integrity of the affected information and
communications systems;

c. Recommend measures for mitigation and remedies on any
resulting damage to the Quezon 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 DBRT shall recommend
the actual procedure or manual for the timely discovery and
management of security incidents. This shall include the:

a. identification of a 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 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; and

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 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. REMEDIES. – The DPO, in coordination with the Quezon City Information Technology and Development Department and the concerned department or office as the process owner, shall endeavor to address and resolve all data subject clarifications, complaints, concerns, questions, and requests, among others, relating to the processing of their personal data, exercise of rights, personal data breaches, and other similar matters without undue delay, following the applicable provisions of Republic Act No. 11032 or the Ease of Doing Business and Efficient Government Service Delivery Act of 2018 and its Implementing Rules and Regulations.

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. TRANSITORY PROVISION. – Departments and offices affected by the implementation of this Ordinance shall be given sixty (60) days transitory period from the effectivity of this Ordinance to comply with its requirements.

SECTION 11. 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 12. PENALTY CLAUSE. – Non-compliance with the said Ordinance shall be subject to the penalties provided under Republic Act No. 10173.

SECTION 13. 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 14. EFFECTIVITY CLAUSE. – *This Ordinance shall take effect fifteen (15) days after publication.*

ENACTED: *October 16, 2023.*

JOSEPH P. JUICO
City Councilor
Acting Presiding Officer

ATTESTED:

ATTY. JOHN THOMAS S. ALFEROS, III
City Government Department Head III
(City Council Secretary)

APPROVED: **NOV 1 7 2023**

MA. JOSEFINA G. BELMONTE
City Mayor

CERTIFICATION

This is to certify that this Ordinance was APPROVED by the City Council on Second Reading on October 16, 2023 and was PASSED on Third/Final Reading under Suspended Rules on the same date.

ATTY. JOHN THOMAS S. ALFEROS, III
City Government Department Head III
(City Council Secretary)