ORDINANCE NO. 2015-06

AN ORDINANCE ENJOINING EVERY BARANGAY OF THE CITY OF ALAMINOS, PANGASINAN TO ESTABLISH A VIOLENCE AGAINST WOMEN AND THEIR CHILDREN (VAWC) DESK AND INSTITUTIONALIZE PROTOCOL IN HANDLING VAWC CASES AT THE BARANGAY LEVEL

EXPLANATORY NOTE

WHEREAS, Republic Act No. 9262, otherwise known as the "Anti-Violence Against Women and Their Children Act of 2004," expressly provides that the State values the dignity of women and children and guarantees full respect for human rights and recognizes the need to protect the family and its members particularly women and children, from violence and threats to their personal safety and security.

WHEREAS, it further provides that the State shall exert efforts to address violence committed against women and children in keeping with the fundamental freedoms guaranteed under the Constitution and the Provisions of the Universal Declaration of Human Rights, the convention on the Elimination of all forms of discrimination Against Women, Convention on the Rights of the Child and other international human rights instruments of which the Philippines is a party;

WHEREAS, based on data available, the City of Alaminos, Pangasinan recorded 69 documented cases of VAWC in 2012, 64 cases in 2013, and 96 cases in 2014. These cases were mostly physical abuse of women and some sexual abuse on children;

WHEREAS, the establishment of Violence Against Women and Their Children (VAWC) Desk in every barangay provides for an immediate intervention that will raise the consciousness of the public in recognizing the dignity of women, ensuring support for victims, bringing perpetrators to justice and an avenue for the preparation of a long term plan to prevent violence in all forms;

NOW, THEREFORE, upon motion of Councilor Jan Marianne R. Fontelera, co-sponsored by Councilor Rufina J. Gabriel and Councilor Fatima Ann S. Isla, duly seconded by Councilor Margieliou Orange D. Humilde, Councilor Rany S. De Leon and Liga ng mga Barangay President, Salvador C. Camba;
SECTION 24. Penalties. — The crime of violence against women and their children shall be punishable pursuant to the provisions of RA 9262.

Violation of any of the provisions of this Ordinance, after a finding of guilt by a Court of competent jurisdiction, shall be punishable,

(a) if the violator is a barangay official or a government official or employee, a fine of P5,000.00 and/or face administrative charges;
(b) if the violator is not a barangay official or a government official or employee, a fine of P2,000.00.

SECTION 25. Repealing Clause. — All provisions of local ordinances, orders, resolutions inconsistent herewith are hereby repealed and/or modified accordingly.

SECTION 26. Separability Clause. — If for any reason any part of this ordinance shall be held unconstitutional or invalid, other parts hereof which are not affected thereby shall continue to be in full force and effect.

SECTION 27. Effectivity. — This Ordinance shall take effect upon publication in a newspaper of general circulation in the City of Alaminos.

ENACTED this 14th day of July, 2015.

I HEREBY CERTIFY to the correctness of the foregoing ordinance consisting of ten (10) pages including this page.

LUZ B. VALE
Secretary

ATTESTED:

OSCAR A. BOLING
Minority Floor Leader

MARGIELOU ORANGE D. HUMILDE
Member

FATIMA ANN S. ISLA
Member

RANY S. DE LEON Member

ORLANDO R. GO
Member

RUFINA J. GABRIEL
Member

SALVADOR C. CAMBA, LBP
Ex-Officio Member

APPROVED BY:

EARL JAMES C. AQUINO
Acting City Mayor

Date
BE IT ENACTED BY THE SANGGUNIANG PANLUNGSOD IN SESSION ASSEMBLED THAT:

SECTION 1. Title. — This Ordinance shall be known and cited as “AN ORDINANCE ENJOINING EVERY BARANGAY OF THE CITY OF ALAMINOS, PANGASINAN TO ESTABLISH A VIOLENCE AGAINST WOMEN AND THEIR CHILDREN (VAWC) DESK AND INSTITUTIONALIZE PROTOCOL IN HANDLING VAWC CASES AT THE BARANGAY LEVEL.”

SECTION 2. Definition of Terms. — For purposes of this Ordinance, the following terms and phrases shall be understood as hereunder defined:

(A) "Violence against women and their children" refers to any act or a series of acts committed by any person against a woman who is his wife, former wife, or against a woman with whom the person has or had a sexual or dating relationship, or with whom he has a common child, or against her child whether legitimate or illegitimate, within or without the family abode, which result in or is likely to result in physical, sexual, psychological harm or suffering, or economic abuse including threats of such acts, battery, assault, coercion, harassment or arbitrary deprivation of liberty. It includes, but is not limited to, the following acts:

(1) "Physical Violence" refers to acts that include bodily or physical harm;
(2) "Sexual violence" refers to an act which is sexual in nature, committed against a woman or her child. It includes, but is not limited to:

(a) rape, sexual harassment, acts of lasciviousness, treating a woman or her child as a sex object, making demeaning and sexually suggestive remarks, physically attacking the sexual parts of the victim’s body, forcing her/him to watch obscene publications and indecent shows or forcing the woman or her child to do indecent acts and/or make films thereof, forcing the wife and mistress/lover to live in the conjugal home or sleep together in the same room with the abuser;
(b) acts causing or attempting to cause the victim to engage in any sexual activity by force, threat of force, physical or other harm or threat of physical or other harm or coercion;
(c) prostituting the woman or child.

(3) "Psychological violence" refers to acts or omissions causing or likely to cause mental or emotional suffering of the victim such as but not limited to intimidation, harassment, stalking, damage to property, public ridicule or humiliation, repeated verbal abuse and mental infidelity. It includes causing or allowing the victim to witness the physical, sexual or psychological abuse of a member of the family to which the victim belongs, or to witness pornography in any form or to witness abusive injury to pets or to unlawful or unwanted deprivation of the right to custody and/or visitation of common children.

(4) "Economic abuse" refers to acts that make or attempt to make a woman financially dependent which includes, but is not limited to the following:

(a) withdrawal of financial support or preventing the victim from engaging in any legitimate profession, occupation, business or activity, except in cases wherein the other spouse/partner objects on valid, serious and moral grounds as defined in Article 73 of the Family Code;
(b) deprivation or threat of deprivation of financial resources and the right to the use and enjoyment of the conjugal, community or property owned in common; 
(c) destroying household property; 
(d) controlling the victims' own money or properties or solely controlling the conjugal money or properties.

(B) "Safe place or shelter" refers to any home or institution maintained or managed by the Department of Social Welfare and Development (DSWD) or by any other agency or voluntary organization accredited by the DSWD for the purposes of this Act or any other suitable place the resident of which is willing temporarily to receive the victim.

(C) "Children" refers to those below eighteen (18) years of age or older but are incapable of taking care of themselves as defined under Republic Act No. 7610. As used in this Ordinance, it includes the biological children of the victim and other children under her care.

(D) "VAWC Desk" refers a facility that would address VAWC cases in a gender-responsive manner, managed by a person designated by the punong barangay. It is situated within the premises of the barangay hall. In the absence of a barangay hall, the VAWC Desk shall be established within the premises where the punong barangay holds office.

(E) Protection Orders — a protection order is an order issued under RA 9262 for the purpose of preventing further acts of violence against a woman or her child as specified in the said Act and granting other necessary relief. The protection orders that may be issued are the barangay protection order (BPO), temporary protection order (TPO) and permanent protection order (PPO).

The definition of terms provided for in Republic Act (RA) 9262, otherwise known as "Anti-Violence Against Women and Their Children Act of 2004," as far as applicable, are hereby made part of this Ordinance.

SECTION 3. Statutory Construction. — This Ordinance shall be liberally construed to promote the protection and safety of victims of violence against women and their children.

SECTION 4. Acts of Violence Against Women and Their Children. — The crime of violence against women and their children is committed through any of the following acts:

(a) Causing physical harm to the woman or her child;
(b) Threatening to cause the woman or her child physical harm;
(c) Attempting to cause the woman or her child physical harm;
(d) Placing the woman or her child in fear of imminent physical harm;
(e) Attempting to compel or compelling the woman or her child to engage in conduct which the woman or her child has the right to resist from or resist from conduct which the woman or her child has the right to engage in, or attempting to restrict or restricting the woman's or her child's freedom of movement or conduct by force or threat of force, physical or other harm or threat of physical or other harm, or intimidation directed against the woman or child. This shall include, but not limited to, the following acts committed with the purpose or effect of controlling or restricting the woman's or her child's movement or conduct:

(1) Threatening to deprive or actually depriving the woman or her child of custody to her/his family;
(2) Depriving or threatening to deprive the woman or her children of financial support legally due her or her family, or deliberately providing the woman's children insufficient financial support;
(3) Depriving or threatening to deprive the woman or her child of a legal right;
(4) Preventing the woman in engaging in any legitimate profession, occupation, business or activity or controlling the victim's own money or properties, or solely controlling the conjugal or common money, or properties;

(f) Inflicting or threatening to inflict physical harm on oneself for the purpose of controlling her actions or decisions;

(g) Causing or attempting to cause the woman or her child to engage in any sexual activity which does not constitute rape, by force or threat of force, physical harm, or through intimidation directed against the woman or her child or her/his immediate family;

(h) Engaging in purposeful, knowing, or reckless conduct, personally or through another, that alarms or causes substantial emotional or psychological distress to the woman or her child. This shall include, but not be limited to, the following acts:

(1) Stalking or following the woman or her child in public or private places;
(2) Peering in the window or lingering outside the residence of the woman or her child;
(3) Entering or remaining in the dwelling or on the property of the woman or her child against her/his will;
(4) Destroying the property and personal belongings or inflicting harm to animals or pets of the woman or her child; and
(5) Engaging in any form of harassment or violence;

(i) Causing mental or emotional anguish, public ridicule or humiliation to the woman or her child, including, but not limited to, repeated verbal and emotional abuse, and denial of financial support or custody of minor children of access to the woman's child/children.

SECTION 5. Scope and Coverage. — This ordinance shall be enforced in all barangays under the jurisdiction of the City of Alaminos, Pangasinan.

SECTION 6. Establishment of VAWC Desk in Every Barangay. —

(6.1) Setting up the VAWC Desk — The Punong Barangay shall designate an area within the barangay hall for the VAWC Desk. She shall provide for the necessary furniture and fixtures such as, but not limited to, table, chairs, separate filing cabinet and log book for record-keeping of cases. Likewise, the Punong Barangay shall ensure the confidentiality of the cases and privacy and safety of the victim/s-survivor/s.

(6.2) Designation of VAWC Desk Officer — The Punong Barangay shall designate a VAWC Desk Officer who is trained in handling gender-sensitive cases; preferably a female barangay kagawad or a female member of the barangay CVO. In cases where there are no trained personnel, the punong barangay shall ensure that the person assigned shall undergo basic gender sensitivity training and orientation on anti-VAWC laws.

SECTION 7. Functions of the Barangay VAWC Desk. — The VAWC Desk shall perform the following tasks:
OFFICE OF THE SANGGUNIANG PANLUNGSOD

(Cont. Ord. No. 2015-06, enacted on 14th day of July, 2015)

(7.1) Respond to gender-based violence cases brought to the barangay;
(7.2) Keep VAWC case records confidential and secured, and ensure that only authorized personnel can access it;
(7.3) Assist victims of VAWC in securing Barangay Protection Order (BPO) and access necessary services;
(7.4) Develop the barangay’s gender-responsive plan in addressing gender based violence, including support services, capacity building and referral system;
(7.5) Coordinate with and refer cases to government agencies, non-government organizations (NGOs), institutions, and other service providers as necessary;
(7.6) Address other forms of abuse committed against children and women, especially senior citizens, women with disabilities, and other marginalized groups;
(7.7) Lead advocacies on the elimination of VAWC in the community;
(7.8) Perform other related functions as may be assigned.

SECTION 8. Protocol in Handling VAWC Cases at the Barangay Level. — The following protocols shall be observed by the Barangay VAWC Desk person when responding to VAWC situations:

(8.1) When a possible VAWC (RA 9262) victim-survivor either alone or accompanied by somebody reports an alleged abuse the barangay VAWC desk shall:

(a) Make the woman (and children, if applicable) comfortable in a safe and private room giving her water and other immediate needs, if any;
(b) Assess the situation and get initial information to determine the risks on hand and if immediate medical attention is needed, facilitate referral to the nearest medical facility;
(c) After the victim-survivor had stabilized, the punong barangay/kagawad shall conduct an investigation in a gender sensitive and non-judgmental manner in a language understood by victim-survivor;
(d) Inform her of her rights and the remedies available and the processes involved particularly the issuance of Barangay Protection Order. If the victim-survivor so desires, shall assist her to file application for BPO.
(e) Record the incident using the National VAWC Documentation System (barangay form).
(f) If victim-survivor desires to be in a safe shelter, seek the assistance of the other barangay officials, barangay CVO or the police in securing her personal belongings and refer the same to a shelter/women’s center or to the CSWDO;
(g) Assist the victim-survivor to file for a Temporary Protection Order (TPO) or Permanent Protection Order (PPO) with the nearest Family Court within 24 hours after issuance of the BPO, if the victim-survivor so desires
(h) Report the incident within four hours to the PNP and the CSWDO.

(8.2) If a victim-survivor of VAWC is reported by a community member,

(a) Verify the information and if needed, seek assistance from the PNP.
(b) Assess the situation and facilitate the rescue of the victim-survivor when necessary to ensure her safety, and when applicable the safety of her children;
(c) Inform the victim-survivor about her rights and remedies available particularly the BPO and its processes. Assist her to apply for a BPO, if she so desires;
(d) Refer victim-survivor for medical care and temporary shelter and other needs when needed based on the assessment done;
(e) Record the incident using the National VAW Documentation System barangay form.
(f) If not done earlier, report the incident within four hours to the PNP and the CSWDO.

(8.3) For rape cases, trafficking of persons and other cases which do not fall under the jurisdiction of the barangay, assist the victim-survivor to file a complaint at the PNP Women and Children Protection Center or the National Bureau of Investigation (NBI).

SECTION 9. Who may file Petition for Protection Orders. — A petition for protection order may be filed by any of the following:

(a) the offended party;
(b) parents or guardians of the offended party;
(c) ascendants, descendants or collateral relatives within the fourth civil degree of consanguinity or affinity;
(d) officers or social workers of the DSWD or social workers of Local Government Units (LGUs);
(e) police officers, preferably those in charge of women and children's desks;
(f) Punong Barangay or Barangay Kagawad;
(g) lawyer, counselor, therapist or healthcare provider of the petitioner;
(h) At least two (2) concerned responsible citizens of the city or municipality where the violence against women and their children occurred and who has personal knowledge of the offense committed.

SECTION 10. Where to Apply for a Protection Order. — Section 409 of the Local Government Code of 1991 shall govern on the rules on the venue for application for BPO:

(a) Disputes between persons actually residing in the same Barangay shall be brought for amicable settlement before the lupon of said Barangay.
(b) Those involving actual residents of different Barangays within the same city or municipality shall be brought in the Barangay where the respondent or any of the respondents actually resides, at the election of the complainant.
(c) All disputes involving real property or any interest therein shall be brought in the Barangay where the real property or the larger portion thereof is situated.
(d) Those arising at the workplace where the contending parties are employed or at the institution where such parties are enrolled for study, shall be brought in the Barangay where such workplace or institution is located.

Objections to venue shall be raised in the mediation proceedings before the punong barangay; otherwise, the same shall be deemed waived. Any legal question which may confront the punong barangay in resolving objections to venue herein referred to may be submitted to the Secretary of Justice, or his duly designated representative, whose ruling thereon shall be binding.
SECTION 11. How to Apply for a Protection Order. — The application for a protection order must be in writing, signed and verified under oath by the applicant. A standard protection order application form, written in English with translation to the Ilocano and Pangasinan, will be available at the VAWC Desk to facilitate applications for protections order, and shall contain, among other, the following information:

(a) names and addresses of petitioner and respondent;
(b) description of relationships between petitioner and respondent;
(c) a statement of the circumstances of the abuse;
(d) description of the reliefs requested by petitioner as specified in Section 8 of RA 9262;
(e) request for counsel and reasons for such;
(f) request for waiver of application fees until hearing; and
(g) an attestation that there is no pending application for a protection order in another court.

If the applicant is not the victim, the application must be accompanied by an affidavit of the applicant attesting to (a) the circumstances of the abuse suffered by the victim and (b) the circumstances of consent given by the victim for the filling of the application. When disclosure of the address of the victim will pose danger to her life, it shall be so stated in the application. In such a case, the applicant shall attest that the victim is residing in the municipality or city over which court has territorial jurisdiction, and shall provide a mailing address for purpose of service processing.

An application for protection order filed with a court shall be considered an application for both a TPO and PPO.

Barangay officials shall assist applicants in the preparation of the application. Philippine National Police (PNP) personnel and the Public Order and Safety Office (POSO) personnel shall also extend assistance in the application for protection orders in cases brought to their attention.

SECTION 12. Who May Issue Barangay Protection Orders and How. — Barangay Protection Orders refer to the protection order issued by the punong barangay ordering the perpetrator to desist from committing acts under Section 5 (a) and (b) of RA 9262.

A punong barangay who receives applications for a BPO shall issue the protection order to the applicant on the date of filing after ex parte determination of the basis of the application. If the punong barangay is unavailable to act on the application for a BPO, the application shall be acted upon by any available barangay kagawad assisted by the VAWC Desk Officer. If the BPO is issued by a barangay kagawad, the order must be accompanied by an attestation by the barangay kagawad that the punong barangay was unavailable at the time for the issuance of the BPO. BPOs shall be effective for fifteen (15) days. Immediately after the issuance of an ex parte BPO, the punong barangay or barangay kagawad shall personally serve a copy of the same on the respondent, or direct any barangay official to effect is personal service.

SECTION 13. Notice of Sanction in Protection Orders. — The following statement must be printed in bold-faced type or in capital letters on the protection order issued by the punong barangay.

"VIOLATION OF THIS ORDER IS PUNISHABLE BY LAW."
SECTION 14. Mandatory Period For Acting on Applications For Barangay Protection Orders — Failure to act on an application for a barangay protection order within the reglementary period as specified in Section 12 without justifiable cause shall render the concerned barangay official administratively liable.

SECTION 15. Priority of Application for a Protection Order. — Ex parte and adversarial hearings to determine the basis of applications for a protection order under RA 9262 shall have priority over all other proceedings. Barangay officials shall schedule and conduct hearings on applications for a barangay protection order above all other business and, if necessary, suspend other proceedings in order to hear applications for a BPO.

SECTION 16. Violation of Protection Orders. — A complaint for a violation of a BPO must be filed directly with the Municipal Trial Court in cities which has territorial jurisdiction over the barangay that issued the BPO. Violation of a BPO shall be punishable as provided for in RA 9262.

SECTION 17. Healthcare Provider Response to Abuse. — Any healthcare provider, including, but not limited to, an attending physician, nurse, clinician, barangay health worker, therapist or counselor who suspects abuse or has been informed by the victim of violence shall:

(a) properly document any of the victim's physical, emotional or psychological injuries;
(b) properly record any of victim's suspicions, observations and circumstances of the examination or visit;
(c) automatically provide the victim free of charge a medical certificate concerning the examination or visit;
(d) safeguard the records and make them available to the victim upon request at actual cost; and
(e) provide the victim immediate and adequate notice of rights and remedies provided under RA 9262, and services available to them.

SECTION 18. Confidentiality. — All records pertaining to cases of violence against women and their children including those in the barangay shall be confidential and all public officers and employees and public or private clinics to hospitals shall respect the right to privacy of the victim. Whoever publishes or causes to be published, in any format, the name, address, telephone number, school, business address, employer, or other identifying information of a victim or an immediate family member, without the latter's consent, shall be liable to the contempt power of the court.

Any person who violates this provision shall suffer the penalty as provided for under RA 9262.

SECTION 19. Prohibited Acts. — A punong barangay or barangay kagawad hearing an application for a protection order shall not order, direct, force or in any way unduly influence the applicant for a barangay protection order to compromise or abandon any of the reliefs sought in the application for protection under RA 9262. Section 7 of the Family Courts Act of 1997 and Sections 410, 411, 412 and 413 of the Local Government Code of 1991 shall not apply in proceedings where relief is sought under RA 9262.

SECTION 20. Funding and Operation. — The amount necessary to implement the provisions of this Ordinance shall be included in the annual budget of the barangay under the Gender and Development (GAD) Budget or allocation of 5% for its operations.
SECTION 21. Duties of the City Government and Other Government Agencies. — The City Government and other government agencies shall establish programs such as, but not limited to, education and information campaign and seminars or symposia on the nature, causes, incidence and consequences of such violence particularly towards educating the public on its social impacts.

It shall be the duty of the concerned government agencies and the city government to ensure the sustained education and training of their officers and personnel on the prevention of violence against women and their children under the Act.

The Local Chief Executive shall ensure the establishment of a VAWC Desk in every Barangay within their jurisdiction, and provide technical and financial assistance subject to availability of funds based on the City Government’s GAD appropriation.

The City Social Welfare and Development Office (CSWDO) shall be the lead agency in charge of implementing services for victims of violence against women and their children and monitoring and implementation of this Ordinance, including the information dissemination campaign in coordination with the VAWC Desk Officer.

The CSWDO shall provide the victims temporary shelters, provide counseling, psycho-social services and/or recovery, rehabilitation programs and livelihood assistance.

The City Health Office (CHO) shall provide medical assistance to victims.

SECTION 22. Training of Persons Involved in Responding to Violence Against Women and their Children Cases. — All agencies involved in responding to violence against women and their children cases shall be required to undergo education and training to acquaint them with:

(a) the nature, extent and causes of violence against women and their children;
(b) the legal rights of, and remedies available to, victims of violence against women and their children;
(c) the services and facilities available to victims or survivors;
(d) the legal duties imposed on police officers to make arrest and to offer protection and assistance; and
(e) techniques for handling incidents of violence against women and their children that minimize the likelihood of injury to the officer and promote the safety of the victim or survivor.

The PNP, in coordination with the City Government and the barangay councils, shall establish an education and training program for police officers and barangay officials to enable them to properly handle cases of violence against women and their children.

SECTION 23. Monitoring and Reporting. — All punong barangays or VAWC Desk Officers within one month after the passage of this Ordinance shall submit a report on the establishment of Barangay VAWC Desk in their respective barangay to the Office of the Sangguniang Panlungsod under the Committee on Family and Women and City Social Welfare and Development Office.

Furthermore, all designated VAWC Desk Officers shall record and file all VAWC cases in their respective barangay and a Quarterly Report be likewise submitted to the above mentioned offices including the Action Taken and Status for each cases. VAWC case records should be treated with utmost confidentiality and security, and ensure that only authorized personnel can have an access to these records.