

Osaka City Ordinance on Dealing with Hate Speech

(unofficial translation)

(Purpose)

Article 1. Given the fact that hate speech is likely to impair individual dignity and generate discriminatory attitudes, the present Ordinance aims to protect the human rights of the citizens or the members of relevant organizations and to curb hate speech by introducing necessary measures that the City should take in order to deal with hate speech.

(Definitions)

Article 2

1. For the purpose of the present Ordinance, the term “hate speech” means an act of expression that meets all the following criteria:

- (a) that it is undertaken for the purpose of any of the following
 - i. to exclude individuals with particular racial or ethnic attributes or groups of such individuals (hereafter referred to as “particular individuals or groups”) from society;
 - ii. to restrict the rights or freedoms of particular individuals or groups; or,
 - iii. to incite hatred or discriminatory attitudes or violence against particular individuals or groups (when such a purpose is explicitly acknowledged).
- (b) that its content or style falls under any of the following
 - i. it amounts to significant contempt or slander targeting particular individuals or groups; or,
 - ii. it threatens particular individuals or a significant number of the individuals of such groups.
- (c) that it is undertaken at a place or in a manner that makes it possible for the public to know its content.

2. For the purpose of the present Ordinance, the term “act of expression” includes any of the following activities:

- (a) selling, distributing or putting on the screen printed materials, optical disks (including the mediums that can securely record certain matters in a similar way) or other materials that have recorded other acts of expression;
- (b) making the documents or drawings or pictorial images that have recorded other acts of expression accessible to, or viewable by, the public by using the Internet or any of other advanced telecommunication networks; or,
- (c) any other activities that disseminate other acts of expression.

3. For the purpose of the present Ordinance, the term “citizens” means individuals who live in the City, who commute to the City or who attend any of the schools in the City.

4. For the purpose of the present Ordinance, the term “citizens or the members of relevant organizations” means the citizens or members of an organization that is composed of citizens with particular racial or ethnic attributes.

(Awareness-raising)

Article 3. Given the fact that hate speech is likely to impair individual dignity and generate discriminatory attitudes, the City shall conduct awareness-raising activities aiming at advancing the interests in, and the understanding of, human rights violations through hate speech among the citizens.

(Guiding principles of the measures)

Article 4. Given the fact that the preventive and announcement measures under Articles 5 and 6 aim at protecting the human rights of citizens or members of relevant organizations, such measures should be taken in coordination with the national mechanisms on remedies for human rights violations, with a view to supplementing the remedial measures taken by such mechanisms.

(Measures to prevent the dissemination of hate speech as well as the announcement of the official acknowledgement and other matters)

Article 5. In acknowledging that any of the following acts of expression amounts to hate speech, the Mayor shall take necessary measures appropriate to the nature of the case to prevent the dissemination of the content of the act of expression. In addition, the Mayor shall announce that the particular act of expression is acknowledged as hate speech, along with the summary of its content, the measures that have been taken to prevent its dissemination and the name of the persons or organizations who were involved in the act of expression:

- (a) An act of expression undertaken in the City; or,
- (b) An act of expression undertaken outside the City (including an act that cannot be determined whether it was undertaken in the City or not) that falls under any of the following:
 - i. An act of expression whose content obviously concerns the citizens or the members of relevant organizations; or,
 - ii. An act of expression, other than the one defined in the previous subclause, which disseminates within the City the content of hate speech that was made in the City.

However, the names of the persons or organizations who are involved in the act of expression may be withheld from the public when the purpose of Article 1 may be hampered by making the names public; when the whereabouts of the persons or organizations concerned cannot be located; or when the Mayor finds other special reasons for withholding the names from the public.

2. The preventive and announcement measures under the previous paragraph shall be taken on the basis of the complaints by citizens or members of relevant organizations who are particular individuals or groups who consider the act of expression as amounting to hate speech against them, or on an *ex-officio* basis.

3. In making the announcement under paragraph 1 of the present Article, the Mayor shall send advance notice about the content of and the reasons for the announcement to the persons or organizations whose names will be announced because of their hate speech, while at the same time giving them the opportunity to send comments and submit evidence in their favor within a reasonable period of time. This will not apply however in case the whereabouts of the persons or the organizations concerned cannot be located; or when the content of the announcement is the same with the one that has been reviewed by the Osaka City Hate Speech Council (established under Article 7, hereafter referred to as “the Council”) in

accordance with Article 6, paragraph 3, and the Council has commented that the content of the announcement is appropriate.

4. The comments under the first sentence of the previous paragraph shall be made in writing, unless the Mayor allows them to be made orally.

5. In making the announcement under paragraph 1 of the present Article, the Mayor shall make adequate consideration to preventing the dissemination of the content of the hate speech concerned.

6. The announcement under paragraph 1 of the present Article shall be made through the Internet or other ways that the City regulations provide for.

(Hearing the views of the Council)

Article 6

1. When complaints are made in accordance with Article 5, paragraph 2 or when the Mayor considers that an act of expression mentioned in Article 5, paragraph 1, is likely to amount to hate speech, the Mayor shall ask for the views of the Council on the following issues before taking any measure:

- (a) Whether or not the act of expression falls under any of the clauses of Article 5, paragraph 1; and,
- (b) Whether or not the act of expression amounts to hate speech.

This will not apply, however, when it is obvious that the act of expression taken up in the complaints made in accordance with Article 5, paragraph 2, does not fall under any of the clauses of Article 5, paragraph 1.

2. When the Mayor did not get the views of the Council in accordance with the second part of the previous paragraph, the Mayor shall promptly report it to the Council. In this case, the Council can express its views to the Mayor on the matters concerning the report.

3. In seeking to take preventive and announcement measures under Article 5, paragraph 1 on cases commented on by the Council in accordance with the previous two paragraphs, the Mayor shall hear the views of the Council about the planned measures and contents of the announcement in advance. Such measures can be taken without hearing the views of the Council, however, when the Mayor considers them urgently necessary or there is a compelling need to do so in order to achieve the purpose under Article 1.

4. When the Mayor took the measures under Article 5, paragraph 1, without hearing the views of the Council in accordance with the second part of the previous paragraph, the Mayor shall promptly report it to the Council. In this case, the Council can express its views to the Mayor on the matters concerning the report.

5. When the Council expressed its views in accordance with the previous paragraph, the Mayor shall include the views in the announcement made in accordance with Article 5, paragraph 1.

(Establishment of the Council)

Article 7

1. The Council shall be established as an auxiliary body of the Mayor in order for it inquire into and consider, in response to the Mayor's inquiries, the matters within its competence in accordance with Article 6,

paragraphs 1-4, or to express its views on the Mayor's reports made in accordance with the said provisions.

2. In addition to the matters mentioned in the previous paragraph, the Council has the competence to inquire into and consider other important matters concerning the implementation of the present Ordinance, in response to the Mayor's inquiries, and to express its views to the Mayor on such matters.

(Organization of the Council)

Article 8

1. The Council shall be composed of not more than five members.
2. The members of the Council shall be appointed by the Mayor, with the consent of the City Parliament, from among persons with relevant knowledge and experience, or other appropriate persons.
3. The members of the Council shall be appointed for a term of two years. However, a substitute member shall serve the remainder of the term of the member whom he or she has replaced.
4. The members are eligible for re-appointment not more than once.
5. The members of the Council shall not divulge any confidential information which may have come to their knowledge in the course of their duties. This prohibition shall also be applied after they left their position.
6. The members of the Council should not be officers of a political party or other political organization, or actively engage in political activities, while in office.
7. The Mayor may dismiss a member of the Council when such member has acted in violation of any of the previous two paragraphs.

(Proceedings of the Council for its inquiries and consideration)

Article 9

1. When considered necessary, the Council may conduct proper inquiries, including having the Mayor or the citizens or the members of relevant organizations who have submitted complaints in accordance with Article 5, paragraph 2 concerning the act of expression under inquiry and consideration (hereafter referred to as "the complainants") submit written comments or relevant materials; or by having appropriate individuals state what they know.
2. The Council shall give the complainants of the act of expression under inquiry and consideration or those who were involved in the act of expression (hereafter referred to as "the parties concerned") the opportunity to make written comments and submit evidence in their favor within a reasonable period of time. When the whereabouts of any of the parties concerned cannot be located, however, the rule shall not apply to such party.
3. In addition to the proceedings under the previous paragraph, the Council shall give the parties concerned, upon their request, the opportunity to make oral comments within a reasonable period of time. This will not be the case, however, when the Council considers it unnecessary.
4. When an oral hearing is held in accordance with the first part of the previous paragraph, the parties concerned may attend the hearing with advisors of their choice subject to the permission of the Council.

5. When considered necessary, the Council may commission its members to undertake the following activities:

- (a) Inquiries under paragraph 1 of the present Article;
- (b) Hearing the statements of the parties concerned that are made in accordance with paragraph 3 of the present Article; and,
- (c) Receiving the reports under Article 6, paragraph 2.

6. The inquiry and consideration proceedings of the Council shall not be open to the public. However, the inquiry and consideration proceedings concerning the matters provided for in Article 7, paragraph 2, shall be open to the public unless particular hindrances exist.

(Other matters concerning the Council)

Article 10. The necessary matters concerning the organization and administration of the Council as well as the proceedings of the Council for its inquiries and consideration, which are not provided for in the previous three Articles, shall be dealt with in City regulations.

(Care that shall be taken in the implementation)

Article 11. In the implementation of the present Ordinance, care should be taken not to unjustly violate the freedom of expression and other freedoms and rights of the people guaranteed under the Constitution of Japan.

(Details of the implementation)

Article 12. The necessary details on how the present Ordinance should be implemented shall be provided for in City regulations.

Supplementary Provisions

1. The present Ordinance shall enter into force on the day of its promulgation. However, the date of the entry into force of Articles 4 to 6 as well as the next paragraph shall be determined by the Mayor.
2. The provisions of Articles 4 to 6 shall apply to acts of expression done after the entry into force of these provisions.
3. When legislative and institutional measures concerning hate speech are taken at the national level, the Mayor shall compare the contents of such national measures and the implementation status of the present Ordinance and, when necessary, review the provisions of the present Ordinance with a view to taking necessary measures on the basis of the outcome of the review.

Note from the translator: This ordinance was promulgated on 18 January 2016 and came into force on 1 July 2016.

Regulations for the Implementation of the Osaka City Ordinance on Dealing with Hate Speech (unofficial translation)

(Purpose)

Article 1. The Osaka City Ordinance on Dealing with Hate Speech (Osaka City Ordinance No.1 of 2016, hereafter referred to as “the Ordinance”) shall be implemented in accordance with the present Regulations, unless otherwise specified.

(Definitions)

Article 2. The terms used in the present Regulations shall be understood to have the same meaning as those used in the Ordinance.

(Complaints)

Article 3

1. Those who seek to make complaints under Article 5, paragraph 2, of the Ordinance shall submit written complaints in the prescribed form (Annex 1) to the Mayor.
2. The written complaints under the previous paragraph shall be submitted by postal mail or other ways that the Mayor finds appropriate.

(Ways to give the relevant opportunities to parties concerned)

Article 4

1. When the Mayor gives the persons or the organizations who were involved in hate speech the opportunity to make comments and submit evidence in their favor in accordance with the first part of Article 5, paragraph 3, the Mayor shall notify the persons or the organizations concerned of the following matters in writing, allowing them a reasonable period of time for the submission of the written comments and the evidence as well as, when they are given the opportunity to make oral comments in accordance with Article 5, paragraph 4, for the preparation for the oral hearing:
 - (a) The content of and the reasons for the announcement;
 - (b) The body to which written comments and evidence should be submitted and the final date for such submission;
 - (c) The date, time and venue of the oral hearing in case the persons or organizations concerned are given the opportunity to make oral comments; and,
 - (d) The case number (which shall be given by the Mayor to each case; the same case number shall be used hereinafter).
2. Notifications under the previous article shall be made using the Notification of the Opportunity Form (Annex 2).
3. The written comments to be submitted shall indicate their names, address or location (in case of a corporate body or other organization, its name, the location of its principal office and the name of its representative) and case number, in addition to their comments about the substance of the case.

(Change of the date of the oral hearing)

Article 5

1. In case the persons or the organizations who received the notice under Article 4, paragraph 1 and given the opportunity to make oral comments (hereafter referred to as “the parties”) cannot attend the oral hearing on the specified date for compelling reasons, they shall request for the change of date of oral hearing with reasons indicated the day before the specified date.
2. The Mayor can change the date of the oral hearing by considering the reasons for the request as compelling under the previous paragraph.
3. The Mayor can change the date or venue of the oral hearing when the oral comments of parties on the specified date is not possible or the venue of the oral hearing is not available due to disasters or other compelling reasons.
4. The Mayor shall promptly inform the parties of the change date or venue of the oral hearing in accordance with the previous two paragraphs,

(Means to announce the official acknowledgement and other matters)

Article 6. The Mayor shall determine on a case-by-case basis the ways by which the announcement provided for in Article 5, paragraph 6 of the Ordinance, taking into consideration the content of the announcement, shall be made including using mass media, the official bulletins or notification facility at the City Hall and other city offices that is accessible to the public.

(Details of the implementation)

Article 7. The Director of the Citizens’ Affairs Bureau shall provide the necessary details on how the present Regulations should be implemented.

Supplementary Provision

The present Regulations shall enter into force on 1 July 2016.

Annex 1 (concerning Article 3)

Complaint Form

Day/Month/Year

To the Mayor of Osaka City

Complainant

Address or location

(in case of a corporate body or other organization, the location of its principal office)

Name and contact details

(in case of a corporate body or other organization, its name, the name of its representative as well as the name and contact details of the person in charge)

Phone number

E-mail address

I (We) complain about the act of expression indicated in (1) below, which I (we) think amounts to hate speech, in accordance with Article 5, paragraph 2, of the Osaka City Ordinance on Dealing with Hate Speech.

- (1) State when and where the act of expression was done and what was said in the course of the act;
- (2) State who did the act of expression (if known to the complainant);
- (3) Provide other information related to (1) and (2) above (when necessary)
- (4) Provide evidence to substantiate (1)-(3) above (this should be annexed to the complaint form)

Annex 2 (concerning Article 4)

Notification of the Oral Hearing

No. XXX
Day/Month/Year

To:

From: Mayor of Osaka City (official seal)

In accordance with the first sentence of Article 5, paragraph 3, of the Osaka City Ordinance on Dealing with Hate Speech, I notify you of the opportunity for you to make comments and submit evidence in your favor regarding the complaint below.

Case number	
Content of the announcement	
Reasons for the announcement	
Where to submit written comments and evidence in favor of the person being notified	Phone number:
Deadline for the submission of written comments and evidence	Not later than: Date/Month/Year (Day of the week)
Whether or not the oral hearing will be held	
Date and time of the oral hearing	Date/Month/Year (Day of the week)
Venue of the oral hearing	Phone number:

Note: Please bring this notice with you when you attend the oral hearing.