

## **DRAFT ORDINANCE – 2007-028**

### **AN ORDINANCE OPERATIONALIZING FREEDOM OF INFORMATION IN THE MUNICIPAL GOVERNMENT OF TAYTAY, RIZAL AND PROVIDING GUIDELINES THEREFOR**

Sponsored by : Hon. Sophia Priscilla L. Cabral

**WHEREAS**, Section 28, Article II of the 1987 Constitution, declares that the State adopts and implements a policy of full public disclosure of all its transactions involving public interest to subject reasonable conditions prescribed by law;

**WHEREAS**, Section 7, Article III of the 1987 Constitution guarantees the right of the people to information on matters of public concern;

**WHEREAS**, on 23 July 2016, President Rodrigo R. Duterte issued Executive Order No. 2 entitled "Operationalizing In the Executive Branch the People's Right to Information and the State Policies to Full Public Disclosure and Transparency in the Public Service and Providing Guidelines Therefor";

**WHEREAS**, the said 'Executive Order is limited in scope to government offices under the Executive Branch, and merely enjoins local government units to observe and adopt a similar policy;

**WHEREAS**, recognizing the importance of the people's right to government information and guided by the President's Executive Order, it is necessary to provide a local mechanism for offices at the Municipal Government of Taytay, Rizal where the people's right to information is respected and upheld, subject to exceptions provided by law and jurisprudence;

**NOW THEREFORE**, be it Ordained that by the Sangguniang Bayan of Taytay, Rizal that;

**SECTION 1. SHORT TITLE.** This Ordinance shall be known as the ***"FOI ORDINANCE OF TAYTAY"***.

**SECTION 2. DEFINITION OF TERMS.** For the purpose of this Ordinance, the following terms shall mean:

- a) **"Information"** - any records, documents, papers, reports, letters, contracts minutes and transcripts of official meetings, maps, books, photographs, data, research materials, films, sound and video recording, magnetic or other tapes, electronic data computer restored data, any other like or similar data or materials recorded, stored or archived in whatever format, whether offline or online, which are made, received or kept on or under the control and custody of any government office under the Municipal Government of Taytay, Rizal pursuant to law, ordinance, executive order and rules and regulations or in connection with the performance or transaction of official business by any government office under the Municipal Government of Taytay, Rizal.

- b) **"Official Record"** - information produced or received by a public officer or employee, or any government office in an official capacity or pursuant to a public function or duty.
- c) **"Public Record"** shall include information required by laws, executive orders, rules or regulations to be entered, kept and made publicly available by a government office.

**SECTION 3. COVERAGE.** This order shall cover all local government offices of Taytay, Rizal.

**SECTION 4. ACCESS TO INFORMATION.** Every Filipino shall have access to information, official records, public records and to documents and papers pertaining to official acts, transactions or decisions, as well as to government research data used as basis of policy development, In the custody of the Municipal Government or any of its offices.

**SECTION 5. EXCEPTIONS.** Access to information shall be denied when the information falls under any of the exceptions enshrined in the Constitution, existing law or jurisprudence.

Pursuant to this, the Municipal Legal Officer is directed to prepare a local inventory of FOI exceptions and submit the same to the Sangguniang Bayan within thirty (30) calendar days from the date of effectivity of this Ordinance, for its approval.

Thereafter, the Sangguniang Bayan Secretary shall cause the publication of the local inventory of FOI exceptions for the guidance of all government offices covered by this Ordinance. Said local inventory of FOI exceptions shall be periodically updated by the Municipal Legal Officer and the Sangguniang Bayan.

**SECTION 6. AVAILABILITY OF SALN.** Subject to the provisions contained in Section 4 and 5 of this Ordinance, all public officials of the Municipal Government of Taytay, Rizal are reminded of their obligation to file and make available for scrutiny their Statements of Assessments, Liabilities and Net Worth (SALN) in accordance with existing laws, rules and regulations and this Ordinance.

**SECTION 7. APPLICATION AND INTERPRETATION.** There shall be a legal presumption in favor of access to information, public records and official records. No request for information shall be denied unless it clearly falls under any of the exceptions in the inventory of FOI exceptions. The Municipal Government shall adopt the "disclose to one, disclose to all" policy for the information requested Through this Ordinance and shall exercise proactive disclosure of information not subject to the exceptions. The determination of the applicability of any of the exceptions to the request shall be the responsibility of the Head of Office, which is in custody or control of the information, public record or official record, or the responsible Municipal or field officer duly designated writing.

In making such determination, the Head of Office or his designated officer shall exercise reasonable diligence to ensure that no exception shall be used or availed of to deny any request for information or access to the public records or official records if the denial is intended primarily and purposely to cover up a crime, wrongdoing, graft or corruption.

**SECTION 8. PROTECTION OF PRIVACY.** While providing access to information, public records and official records, responsible officials shall afford full protection to the right to privacy of the individual, pursuant to the Data Privacy Act of 2012 (Republic Act No. 10173), as follows:

- a) Each government office shall ensure that personal information in its custody or under its control is disclosed or released only if it is material or relevant to the subject matter of the request and its disclosure is permissible under this Ordinance or existing law, rules or regulations;
- b) Each government office must protect personal information in its custody or control by making reasonable security arrangements against leaks or premature disclosure of personal information, which unduly exposes the individual, who's personal information is requested, to vilification, harassment or any other wrongful acts.
- c) Any employee, official or director of a government office who has access, authorized or unauthorized, to personal information in the custody of the office, must not disclose that information except when authorized under this Ordinance or pursuant to existing laws, rules or regulation.

#### **SECTION 9. FOI FOCAL PERSON AND FOI RECEIVING OFFICERS**

- a) The Public Information Officer is designated to be the FOI Focal Person. He is tasked to oversee the implementation of this FOI Ordinance. The focal person shall also develop the standard forms for the submission of requests and for the proper acknowledgement of such requests.
- b) The FOI Focal Person shall monitor the status of all requests for access to information filed in the local government and its offices. Thus, the FOI Focal Person shall establish a system to trace the status of all requests for information in the LGU.
- c) Each of the offices under the LGU shall also designate a FOI Receiving Officer who will accommodate requests for access to information filed through their office.

**SECTION 10. PROCEDURE.** The following procedure shall govern the filing and processing of request for access to information:

- a) Any person who requests access to information may consult the LGU's FOI Focal Person to identify the concerned office who keeps the information being requested. The requestor may also go directly to the concerned office which he thinks has the information being requested.

- b) The requestor shall submit a written request to the FOI Receiving Officer of the concerned office using the standard form of the LGU. The request shall state the name and contact information of the requesting party, provide valid proof of his identification or authorization, reasonably describe the information requested and the reason for, or purpose of the request for information: Provided, that no request shall be denied or refused acceptance unless the reason for the request is contrary to the law, existing rules and regulations or it is one of the exceptions contained in the inventory or updated inventory of exception as hereinabove provided.
- c) The FOI Receiving Officer receiving the request shall provide reasonable assistance, free of charge, to enable all requesting parties and particularly those with special needs, to comply with the request requirements under this Section.
- d) The request shall be stamped by the concerned office, indicating the date and time of receipt and the name, rank, title and position of the FOI Receiving Officer with the corresponding signature and a copy thereof furnished to the requesting party. Each office shall establish a system to trace the status of all requests for information received
- e) The concerned office shall respond to a request fully compliant with requirements of sub-section (b) hereof as soon as practicable but not exceeding fifteen (15) working days from the receipt thereof. The response mentioned above refers to the decision of the concerned office to grant or deny access to the information requested.
- f) The period to respond may be extended whenever the information requested requires extensive search of the office's records facilities, examination of voluminous records, the occurrence of fortuitous cases or other analogous cases. The concerned office shall notify the person making the request of the extension, setting forth the reasons for such extension. In no case shall the extension go beyond twenty (20) working days unless exceptional circumstances warrant a longer period.
- g) Once a decision is made to grant the request, the person making the request shall be notified of such decision and directed to pay any applicable fees.

## **SECTION 11. FEES.**

- a) Local government offices shall not charge any fee for accepting requests for access to information. Likewise, there shall be no charge for obtaining information in digital format (i.e. PDF, JPEG, etc.). However, the following schedule of fees is imposed for printing, photocopying and certification services rendered by a government office:

Certification of Official Records	-	P50.00/page for the 1 <sup>st</sup> copy and 5.00/page for succeeding copies.
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Printing - P5.00/page

Photocopying

Long - P3.00/page

Short/A4 - P2.00/page

- b) The fees shall be paid to the Municipal Treasurer at the time of the requests whether written or verbal. The Official Receipt number, the amount of the total fees and the date of payment shall be indicated at the bottom of the certificate.
- c) The concerned office may exempt any requesting party from payment of fees, upon requesting stating the valid reason why such party should not pay the fee.

## **SECTION 12. REMEDIES IN CASES OF DENIAL OF REQUEST FOR ACCESS TO INFORMATION.**

- a) Denial of any request for access to information may be appealed to the Local Chief Executive: Provided, that the written appeal must be filed by the same person making the request within fifteen (15) calendar days from the notice of denial or from the lapse of the relevant period to respond to the request.
- b) The appeal shall be decided by the Local Chief Executive within thirty (30) working days from the filing of said written appeal. Failure of the person or office next higher in the authority to decide within the afore-stated period shall be deemed a denial of the appeal.
- c) Upon exhaustion of administrative appeal remedies, the requesting party may file the appropriate case in the proper courts in accordance with the Rules of Court.

**SECTION 13. KEEPING OF RECORDS.** Subject to existing laws, rules and regulations government offices shall create and/or maintain accurate and reasonably complete records of important information in appropriate formats and implement a records management system that facilitates easy identification, retrieval and communication of information to the public.

**SECTION 14. PENALTIES.** Failure of any government officer to comply with the provisions of this Ordinance shall be a ground for the following penalties:

1<sup>st</sup> Offense - Reprimand

2<sup>nd</sup> Offense - Suspension of one (1) to thirty (30) days; and

3<sup>rd</sup> Offense - Dismissal from the service.

The FOI Focal Person shall submit the list of government officers who fail to comply with the provisions of this Ordinance to the Local Chief Executive who shall decide on the appropriate administrative and disciplinary sanctions.

**SECTION 15. 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 16. 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 17. EFFECTIVITY.** This Ordinance shall take within ten (10) days upon posting in the bulletin board at the entrance of the Municipal Building and in at least two (2) conspicuous places in the municipality.