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BAYAN**
MONCADA, TARLAC

EXCERPT FROM THE MINUTES OF THE 20TH REGULAR SESSION OF THE SANGGUNIANG BAYAN OF MONCADA, TARLAC FOR CY 2021 HELD ON THE 17TH DAY OF MAY 2021 AT THE SB SESSION HALL, LEGISLATIVE BUILDING

PRESENT:

HON. JAIME O. DUQUE .. VICE MAYOR/PRESIDING OFFICER

HON. CLEOFE D. FAVIS	.. MEMBER
HON. ALBERTO C. MARZAN, JR., MD	.. MEMBER
HON. RUBEN V. GAMBOA, JR	.. MEMBER
HON. THELMAFLOR A. ESPEJO	.. MEMBER
HON. GEORGE MICHAEL P. AGUILAR	.. MEMBER
HON. JANIUS M. YASAY	.. MEMBER
HON. CELESTE A. AYSON	.. MEMBER
HON. GEORGE R. CUCHAPIN, MD	.. LnB PRESIDENT
HON. EZEKIEL C. RIVERA	.. SKF PRESIDENT

ABSENT:

HON. RODOLFO C. ESPEJO, JR. .. MEMBER

MUNICIPAL ORDINANCE NO. 08
Series of 2021

**AN ORDINANCE OPERATIONALIZING FREEDOM OF INFORMATION IN THE
MUNICIPAL GOVERNMENT OF MONCADA AND PROVIDING GUIDELINES THEREFOR**

Sponsored by: COUN. JANIUS M. YASAY

PREAMBULAR CLAUSE

WHEREAS, pursuant to Section 28, Article II of the 1987 Constitution, the State adopts and implements a policy of full public disclosure of all its transactions involving public interest subject to reasonable conditions prescribe 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 encourages local government units to observe and be guided accordingly;





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

NOW, THEREFORE, on motion by Coun. Janius M. Yasay, duly seconded;

BE IT ENACTED by the Sanggunian Bayan of Moncada in session assembled, that:

SECTION 1. Title. This Ordinance shall be known as the **"FOI Ordinance of Moncada 2021."**

SEC. 2. Definition of Terms. For the purpose of this Ordinance, the following terms shall mean:

- a) "Information" shall mean 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 stored 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 in or under the control and custody of any government office under the Municipal Government of Moncada 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 Moncada.
- b) "Official record" shall refer to information produced or received by a public officer or employee, or by a 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.

SEC. 3. Coverage. This order shall cover all government offices under the Municipal Government of Moncada.

SEC. 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 for policy development, in the custody of the Municipal Government of Moncada or any of its offices.

SEC. 5. Exceptions. Freedom of Information (FOI) shall be denied when the information falls under any of the exceptions enshrined in the Constitution, existing law, or jurisprudence.





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Pursuant to this, the Municipal Legal Counsel 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 Counsel and the Sangguniang Bayan.

SEC. 6. Availability of SALN. Subject to the provisions contained in Sections 4 and 5 of this Ordinance, all public officials of the Municipal Government of Moncada are reminded of their obligation to file and make available for scrutiny their Statements of Assets, Liabilities and Net Worth (SALN) in accordance with existing laws, rules and regulations, and the spirit and letter of this Ordinance.

SEC. 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 of Moncada 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 officer duly designated by him/her in writing.

In making such determination, the Head of Office or his/her 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 public records, or official records, if the denial is intended primarily and purposely to cover up a crime, wrongdoing, graft or corruption.

SEC. 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, whose personal information is requested, to vilification, harassment or any other wrongful acts.





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(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 Ordinance or pursuant to existing laws, rules or regulation.

SEC. 9. FOI Focal Person and FOI Receiving Officers.

(a.) The Municipal Information Officer is designated to be the FOI Focal Person. He/She is tasked to oversee the implementation of the FOI Ordinance.

(b.) The FOI Focal Person shall monitor the status of all requests for access to information filed in the Municipal Government of Moncada 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 an FOI Receiving Officer who will accommodate requests for access to information filed through their office. The FOI Receiving Officer shall perform the following responsibilities:

- (i) provide assistance to the requestor in filling out the FOI Request Form;
- (ii) conduct initial evaluation of the request based on the validity and completeness of information;
- (iii) record all incoming requests through the FOI log;
- (iv) retrieve the requested information;
- (v) forward the request and the retrieved information to the Head of Office for further assessment and approval;
- (vi) release the requested information to the requestor; and
- (vii) submit the FOI Log to the FOI Focal Person every month.

SEC. 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.

(b.) The FOI Receiving Officer of the concerned office shall ask the requestor to completely fill out the appropriate items in the FOI Request Form and FOI Log which asks for his/her name and contact information, details of the information being requested (title of the document/information/record and period covered), the purpose of the FOI request, and the date of request.

(c.) The FOI Focal Person and the FOI Receiving officers shall provide reasonable assistance, free of charge. To enable all requestors and particularly those with special needs to comply with the request requirements.





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(d.) If the information requested is already available in the LGU's website, the FOI Focal Person or the FOI Receiving Officer shall direct the requestor to the specific web page containing the requested information. In such case, the requestor no longer needs to fill out the FOI Request Form; however, the FOI Focal Person or the FOI Receiving Officer shall still record the query in the FOI Log.

(e.) The FOI Request Form shall be stamped by the FOI Receiving Officer, indicating the date and time of receipt and the name, rank, title, and position of the FOI Receiving Officer with his/her corresponding signature. A copy of the stamped FOI Request Form shall be furnished to the requestor. The FOI Receiving Officer shall then record the request in the FOI Log.

(f.) Once the FOI Receiving Officer has retrieved the requested information, the Head of Office shall assess its completeness and verify if any exceptions apply to any of the retrieved information. The Head of Office may either instruct the Receiving Officer to release the retrieved information or deny the request if it is under the exceptions.

(g.) If the retrieved information has been fully-or partially-approved for release by the Head of Office, the FOI Receiving Officer shall immediately notify the requestor of the decision and release the information within fifteen (15) working days upon receipt of request.

(h.) If the retrieved information requires printing, photocopying and certification services rendered by the office, the FOI Receiving Officer shall immediately notify the requestor and direct him/her to the LGU's treasurer to settle the applicable fees for the service/s. The FOI Receiving Officer shall release the requested information as soon as the requestor settles the fees.

(i.) If the Head of Office or the responsible officer duly designated by him/her in writing denied the request, in whole or in part, it shall as soon as practicable, in any case within fifteen (15) working days from the receipt of the request, notify the requesting party the denial in writing. The notice shall clearly set forth the ground or grounds for denial and the circumstances on which the denial is based. Failure to notify the requesting party of the action taken on the request within the period herein stipulated shall be deemed a denial of the request for access to information.

(j.) 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 FOI Receiving Officer 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 the thirty-five (35) working days from the receipt of request unless exceptional circumstances warrant a longer period.





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SEC. 11. People's FOI Manual. For the effective implementation of this Ordinance, the FOI Focal Person with the assistance of the FOI Receiving Officers, Municipal Legal Counsel, Budget Office and Mayor's Office, are directed to prepare the People's FOI Manual of the LGU within one hundred twenty (120) calendar days from the date of effectivity of this Ordinance. The Manual shall contain the following:

- (a.) name, location, and official contact information of the FOI Focal Person and FOI receiving officers;
- (b.) procedure for the filing and processing of the request indicated in Section 10;
- (c.) administrative and disciplinary sanctions indicated in Section 14;
- (d.) standard forms for the submission of requests; and
- (e.) inventory of exceptions.

SEC. 12. Fees. (a) 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.) Likewise, the following schedule of fees is imposed for printing, photocopying, and certification services rendered by a government office:

- Certification of Official Records Php 50.00/page for the 1st copy
Php 5.00/page for succeeding copies

(b.) The fee shall be paid to the Municipal Treasurer at the time of the request. The Official Receipt number, the amount of the total fees, and the date of payment shall be indicated at the bottom of the certificate.

SEC. 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.

SEC. 14. Sanctions. Failure of any government officer to comply with the provisions of this Ordinance shall be a ground for the following sanctions:

1st Offense - Reprimand
2nd and succeeding offenses - Suspension of one (1) to thirty (30) days;

SEC. 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.

SEC. 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.





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SEC. 17. Effectivity. This Ordinance shall take effect fifteen (15) days following its posting in at least three (3) conspicuous places in the municipality and in the website or social media platform of the LGU.

ENACTED, this 17th day of May, 2021 at Moncada, Tarlac.

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I HEREBY CERTIFY to the correctness of the foregoing Municipal Ordinance which was enacted on THIRD and FINAL reading by the Sangguniang Bayan of Moncada, Tarlac during its 20th Regular Session held on the aforementioned date and place.

VICTOR SANDINO S. MOLINA
Secretary to the Sanggunian

**ATTESTED AND CERTIFIED
TO BE DULY ENACTED:**

JAIME O. DUQUE
Vice-Mayor & Presiding Officer

APPROVED by HER HONOR, this 25th day of May, 2021.

ESTELITA M. AQUINO
Municipal Mayor

