

Republic of the Philippines
SANGGUNIANG PANGLUNGSOD
City of Legazpi



PRESENT:

Hon. Vicente F. Baltazar III	-	Acting Vice-Mayor & Presiding Officer
Hon. Jaime R. Andes	-	City Councilor
Hon. Jose Alfonso V. Barizo	-	City Councilor
Hon. Ismael B. Buban III	-	City Councilor
Hon. Lilibeth M. Dimaculangan	-	City Councilor
Hon. Gregorio Fernand M. Imperial III	-	City Councilor
Hon. Diego E. Obido	-	City Councilor
Hon. Lilian R. Ramirez	-	City Councilor
Hon. Ismael G. Santillan	-	Representative, Liga ng mga Barangay Legazpi City Chapter, Ex-Officio Member

ON OFFICIAL BUSINESS:

Hon. Oscar Robert H. Cristobal	-	Vice-Mayor
Hon. Jose Gregorio R. Ojano	-	City Councilor
Hon. Alex J. Sy	-	City Councilor

ABSENT:

Hon. Mae Ling A. Teh	-	Representative, SK Federation President, Legazpi City Chapter, Ex-Officio Member
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On motion of Councilor Diego E. Obido, as proponent, with Councilor Lilian R. Ramirez and Councilor Ismael G. Santillan as co-proponents and seconders; Councilor Jaime R. Andes and Councilor Jose Alfonso V. Barizo as co-proponents, duly seconded by Councilor Ismael B. Buban III and Councilor Gregorio Fernand M. Imperial III, the following Ordinance was enacted:

ORDINANCE NO. 15-0018-2019

**“AN ORDINANCE OPERATIONALIZING THE FREEDOM OF INFORMATION
LAW IN LEGAZPI CITY”**

WHEREAS, on July 23, 2016, the President of the Philippines signed Executive Order No. 2 which mandates all executive departments, agencies, bureaus, and offices to establish a mechanism that would allow full public disclosure of information, except those which would compromise one's right to privacy and national security matters;

WHEREAS, as an off-shoot, the Presidential Communications Operations Office and the Department of the Interior and Local Government issued Joint Memorandum Circular No. 2018-01 which encourages provinces, cities, and municipalities to enact an ordinance or issue an Executive Order Operationalizing the Freedom of Information Program in their respective Local Government Units;

WHEREAS, finding the purpose of the law to be beneficial to the general public, the City Mayor issued an Executive Order Operationalizing the Freedom of Information Program in Legazpi City;

WHEREAS, in order to afford the program a permanent character, an ordinance is necessary;

BE IT, ORDAINED by the Sangguniang Panglungsod of the City of Legazpi in session assembled, that:

Section 1. Definition of Terms. As used in this Ordinance, the following terms shall mean:

- A. Information** – shall mean any records, documents, papers, reports, letters, contacts, 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 archives 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 city government of Legazpi 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 City Government of Legazpi.
- B. Official Record/Records** - 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/Records** – shall include information required by laws, executive orders, rules, or regulations to be entered, kept and made publicly available by a government office.

Section 2. Coverage – this ordinance shall cover all government offices/divisions/units under the City Government of Legazpi.

Section 3. Proactive Disclosure – the City Government of Legazpi shall exercise proactive disclosure of information not subject to the exceptions and shall adopt the “Disclosure to One, Disclosure to All” policy for the information requested through this ordinance. The City Government of Legazpi shall also adopt open contracting principles that aim to proactively publish and make procurement documents available to the public, preferably in machine readable formats, procurement information shall include datasets produced in the formation, award, executive, performance and completion of public contracts.

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 for policy development which are in the custody of the City Government of Legazpi or any of its offices/divisions/units.

Section 5. – Exceptions. The following information, records, documents and papers, however, are exempted from the coverage of the immediately preceding section:

5.1 Information Covered by Executive Privilege:

A. Minutes of Closed-Door Department Head Meetings;

5.2 Matters Covered by Deliberative Process Privilege:

- A. Advisory opinions and recommendations given to the City Mayor as part of his decision-making process;
- B. Minutes of deliberation of the Sangguniang Panlungsod prior to the passage of a resolution or ordinance;
- C. Minutes of Committee Hearings prior to the passage of a resolution or ordinance;
- D. Minutes of Deliberation of the Public-Private Partnership Selection Committee prior to the issuance of resolution, bid bulletin, notices and awards;
- E. Minutes of deliberation of the Local Appraisal Committee prior to the issuance of the resolutions;
- F. Minutes of Deliberation of the Personnel Selection Board.
- G. Such other Inter-Office recommendations and communications during the stage when common assertions are still in the process of being formulated or are in the exploratory stage;
- H. Information, record, or document comprising drafts of ordinances, resolutions, executive orders, memoranda;
- I. Information, record or document comprising drafts of decisions, orders and ruling in administrative cases;

5.3 Privilege Information Relating to National or Local Security and Defense

5.4 Information Deemed Confidential for the Protection of the Privacy of Persons

- A. Administrative Complaints against the LGU's employee during the pendency of the case, except when requested by any of the parties to the case;
- B. Interim Orders and issuances in pending Administrative Cases against the LGU's employees, except when requested by any of the parties to the case;
- C. Any document which forms part of the records of a case where the LGU is a party, except when requested by any of the parties to the case;
- D. Unless requested by the parties thereto, contracts entered into by the LGU except those which are required by law to be made public;
- E. Case portfolio of minor victims and minor offenders;
- F. Case portfolio involving cases of violence against women and their children;
- G. Case portfolio on adoption cases;
- H. Birth records, school records, medical or health records, unless requested by the person concerned or his duly authorized representative;
- I. Sensitive personal information as defined under the Data Policy Act of 2012, except that disclosure of personal information about any individual who is or

was an officer or employee of a government institution may be allowed when such information relates to the following:

1. the fact that an individual is or was an officer or employee of the Government Institution;
2. The title, business address and office telephone number of the individual;
3. The classification, salary range and responsibilities of the position held by the individual; and
4. The name of the individual on a document prepared by him in the course of his employment with the government.

- J. Source of published news or information obtained in confidence;
- K. Identity, status and medical records of individuals with HIV, as well as results of HIV/AIDS Testing;
- L. List of voluntary drug surrenderees;
- M. List of drug users who have undergone or who are undergoing rehabilitation as well as their clinical portfolio;
- N. Statement of account from the city treasurer's office, unless requested by the concerned person himself or his duly authorized representative;

5.5 Information, documents or records known by reason of official capacity and are deemed confidential, such as:

- A. Unsolicited proposals in PPP projects;
- B. Plans, designs and feasibility studies, the publication of which infringe the copyright of the person/s who conceptualized them;
- C. Supporting documents submitted to the City Engineer's Office as part of a person's application for building permit, occupancy permit, certificate of annual inspection, fencing permit, or demolition permit;
- D. Applications and supporting documents filed pursuant to the Local Investment and Incentive Code of Legazpi City;
- E. Applications and supporting documents filed to secure Mayor's Permit/Business Permit;
- F. Applications and supporting documents filed to secure tax declarations;

5.6 All other information, documents or records which may later on be identified as exempted by law, jurisprudence or executive order issued by the City Mayor.

Section 6. Application and Interpretation The determination of the applicability of any of the exceptions herein provided is the responsibility of the Head of Office or his duly designated FOI receiving officer which is in custody or control of the information public record or official record in making such determination, the Head of Office or his duly designated officer shall exercise reasonable diligence to ensure that no exception is invoked primarily and purposely to cover up a crime or wrong doing.

Further, in case of ambiguity whether a particular information falls under the exception or not, the Head of Office or his duly designated officer shall decide in favor of allowing access to information.

Section 7. 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, 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 laws, 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;
- 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 executive order or pursuant to existing laws, rules or regulations.

Section 8. FOI Focal Person and FOI Receiving Officers

- A. The focal person and an alternate focal person shall be designated by the City Mayor thru an Executive Order as such they will be tasked to oversee the implementation of this ordinance

It is also incumbent upon or to develop the standard forms for the submission of the request and for the proper acknowledgement of such request.

- B. The FOI Focal Person shall also monitor the status of all requests for access to information filed in the City Government of Legazpi 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 to access to information filed through their office. The designation of an FOI Receiving Officer shall be done through an Office Memorandum to be issued by the department. This Office Memorandum must be submitted to the FOI focal person within 10 Days from the effectivity of this law.

Section 9. Procedure. The Following Procedures 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/she 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 law, existing rules or regulation or it is one of the exceptions contained in the inventory of exceptions 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 request for information received by it.
- E. The concerned office shall respond to a request fully compliant with the requirements 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 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 the extension shall 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 10. Remedies in Cases of Denial of Request for Access to Information.

- A. Denial of any request for access of 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 (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 of 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 11. Fees – A minimal fee of Php 5.00 pesos per page but not to exceed Php 15.00 pesos per page shall be charged for the reproduction of the information or document under this Ordinance.

Section 12. Keeping of Records. Subject to existing laws, rules and regulations, government offices shall create and/or maintain accurate and reasonably complete records of information in appropriate formats, and implement a records

management system that facilitates easy identification, retrieval and communication of information to the public.

Section 13. Penalties. Failure of any government officer to comply with the provisions of this Ordinance shall be a ground for the following penalties;

- | | | |
|-------------------------|---|--|
| 1 st Offense | - | Reprimand |
| 2 nd Offense | - | Suspension of one (1) to thirty (30) days; and |
| 3 rd Offense | - | 6 Months suspension without pay |
| 4 th 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 14. 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 15. Repealing Clause. All other orders, issuances, rules and regulations, which are inconsistent with the provisions of this Ordinance are hereby repealed, amended or modified accordingly.

Section 16. Effectivity. This ordinance shall take effect immediately upon compliance with the publication requirement under the Local Government Code.


Enacted: December 09, 2019


Approved:


Nominal voting: Councilor Andes "Yes"; Councilor Barizo, "Yes"; Councilor Buban, "Yes"; Councilor Dimaculangan, "Yes"; Councilor Imperial, "Yes"; Councilor Obido, "Yes"; Councilor Ramirez, "Yes" and Councilor Santillan, "Yes".

Unanimously approved.

WE HEREBY CERTIFY to the correctness of the foregoing Ordinance duly enacted by the 15th Sangguniang Panlungsod of the City of Legazpi during its **20th Regular Session** held on **December 09, 2019**.


MARIA LETICIA A. BUENAFLOR-BELLO
Secretary to the Sanggunian


DIEGO E. OBIDO
City Councilor / Co-Proponent


VICENTE F. BALTAZAR III
Acting Vice-Mayor and Presiding Officer

APPROVED: DEC 19 2019


NOEL E. ROSAL
City Mayor