

CM. ABALOS-VARGAS
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REPUBLIC OF THE PHILIPPINES
SANGGUNIANG PANLUNGSOD
CITY OF MANDALUYONG
ISO 9001:2015 CERTIFIED



BM. ABALOS III
DISTRICT II

ORDINANCE NO. 883, S-2022

AN ORDINANCE OPERATIONALIZING THE FREEDOM OF INFORMATION (FOI) IN THE CITY OF MANDALUYONG, AND PROVIDING GUIDELINES THEREFOR

AE. YAP
DISTRICT I

CL. PABLO-SANTOS
DISTRICT II

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 prescribed by law;

D. DE GUZMAN
DISTRICT I

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

B. BACAR
DISTRICT II

WHEREAS, on 23 July 2016, President Rodrigo Roa Duterte issued Executive Order No. 2 (EO 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";

GM. ANTONIO
DISTRICT I

WHEREAS, the Executive Order is limited in scope to government offices under the Executive Branch, and merely enjoins local government units to observe and be guided accordingly;

J. CRUZ
DISTRICT II

WHEREAS, heeding to the call, on March 28, 2019, Honorable City Mayor Carmelita A. Abalos issued Executive Order No. 08, Series of 2019 to institutionalize Freedom of Information in the City Government of Mandaluyong by promulgating the "FOI Manual of Mandaluyong City";

R. POSADAS
DISTRICT I

WHEREAS, recognizing the importance of the people's right to government information, and guided by the President's Executive Order, the City Government of Mandaluyong 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.

F. OCAÑO
DISTRICT II

NOW, THEREFORE, BE IT ORDAINED, by the Sangguniang Panlungsod of Mandaluyong, in session assembled:

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SECTION 1. TITLE. This Ordinance shall be known as the "FOI Ordinance of Mandaluyong City".

ME. CUEJLO
DISTRICT II

SECTION 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

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kept in or under the control and custody of any government office under the City Government of Mandaluyong 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 Mandaluyong.

- (b) *"Filipino"* shall refer to every (1) individual born in the Philippines, (2) those who have acquired it in modes provided by law, (3) those who have lost it but subsequently reacquired through processes allowed by law, (4) foreigners who have chosen Filipino Citizenship by virtue of marriage, repatriation and other modes who have legally applied and was adjudged to have possessed it, and (5) among others as stated in Article IV, Sections (1) (2) (3) (4) of the Philippine Constitution.
- (c) *"Official record"* shall refer to information produced or received by a public officer, employee or by a government office of the City Government of Mandaluyong in an official capacity or pursuant to a public function or duty.
- (d) *"Public record"* shall include information required by laws, executive orders, rules, or regulations to be entered, kept and made publicly available by the City Government of Mandaluyong.

SECTION 3. **COVERAGE.** This Ordinance shall cover all departments and offices under the City Government of Mandaluyong.

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, in the custody of the City Government of Mandaluyong or any of its departments and offices.

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

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

Thereafter, the Sangguniang Panlungsod 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 City Legal Officer and the Sangguniang Panlungsod.

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SECTION. 6. INITIAL LOCAL INVENTORY OF FOI EXCEPTIONS. The following shall be the initial listing of FOI exceptions which may not be accessible to the public:

1. Information involving the Local Chief Executive's conversation, correspondence and discussions in closed door meeting with Department Heads and Heads of Offices.
2. Privileged information relating to national and local security, defense or international relations.
3. Information concerning law enforcement and protection of public and personal safety.
4. Information where the disclosure of such will put the life and safety of individual in imminent danger.
5. Information is specifically exempted from release by statutes or laws passed by Congress, including relevant jurisprudence in relation thereto.
6. Information involving trade secrets or privileged or confidential commercial or financial information.
7. Information and documents kept by various offices and departments of the City Government covered by the deliberative process privilege.
8. Information consisting of internal deliberation of the Sangguniang Panlungsod, Executive meetings by the City Mayor with the city officials and employees as well as private individuals on official businesses, deliberations of the members of various boards, committees, council and similar bodies exercising quasi-judicial and administrative functions, official meetings and conferences by heads of offices and departments with his staff or personnel, and other similar activities where there involves advisory opinions, recommendations and deliberations forming part of a process by which governmental decisions and policies are formulated, shall be covered by the deliberative process privilege.

The deliberative process privilege applies even if its purpose is served such as when the decision has been reached or policy already has been finalized, because the policy of the City Government is to protect the frank exchange of ideas and opinions critical to the decision-making process. (G.R. No. 210858, June 29, 2016)

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9. Information involving personnel, medical, health or similar records or files, the disclosure or release of which would constitute a clearly unwarranted invasion of personal privacy.
10. Information provided in confidence and there is an obligation to hold the information in confidence for a period of time, such as when a confidentially and non-disclosure agreement has been executed
11. Information involving professional privileges, such as attorney-client and physician-patient privileges.
12. Information involving records of proceedings, documents or information obtained in official capacity, which pursuant to law or relevant rules and regulations, are treated as confidential or privileged.
13. Information deemed confidential for the protection of the privacy enshrined under the Republic Act No. 10173 or the Data Privacy Act of 2012.
14. Information involving records or documents submitted through the Government Electronic Procurement System.
15. Information accessible to the requestee by other means and from other government agencies
- Although this is written as an exemption, it does not mean that the requestee cannot obtain the information. It means that the FOI Receiving Officer should direct the requester to the concerned government office or agency, and provide advice and assistance to enable him or her to access the information.
16. Information mentioned in the Inventory of Exceptions to Executive Order No 2 (S. 2016) issued by the Executive Secretary on November 24, 2016, insofar as applicable to the City Government of Mandaluyong.

SECTION 7. AVAILABILITY OF SALN. Subject to the provisions contained in Sections 4 and 5 of this Ordinance, all public officials of the City Government of Mandaluyong 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.

SECTION 8. 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.

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The determination of the applicability of any of the exceptions to the request shall be the responsibility of the Head of the Office, which is in custody or control of the information, public record or official record, or the responsible city employee duly designated in writing.

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

SECTION 9.

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 Republic Act No. 10173 otherwise known as 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; and
- (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 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 shall submit a written request to City Public Information Office (PIO) or the government office concerned. 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 laws, existing rules and regulations or it is one of the exceptions.

- (b) The public official receiving the request shall be designated as the FOI Receiving Officer and 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.
- (c) The request shall be stamped by the PIO or the concerned government office, indicating the date and time of receipt and the name, rank, title and position of the receiving officer with the corresponding signature, and a copy thereof furnished to the requesting party. Each government office shall establish a system to trace the status of all requests for information received by it.
- (d) The PIO or the concerned government office shall respond to a request fully compliant with requirements of sub-section (a) hereof as soon as practicable but not exceeding fifteen (15) working days from the receipt thereof.
- (e) The period to respond may be extended whenever the information requested requires extensive search of the government office's records facilities, examination of voluminous records, the occurrence of fortuitous cases or other analogous cases. The PIO or the concerned government 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.
- (f) 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. FOI REQUEST FORM. For systematic, uniform, concise, efficient and swift response to any information requests from a respective government office, an FOI Request Form must be readily available which shall be created by the FOI Office upon approval of this Ordinance.

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SECTION 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.). 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 1st copy and P5.00/page for succeeding copies.
Printing	P5.00/page
Photocopying	
Long	P3.00/page
Short/A4	P2.00/page

- (b) The fee shall be paid to the City 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.

- (c) The PIO or the concerned government office may exempt any requesting party from payment of fees, upon request stating the valid reason why such party should not pay the fee.

SECTION 13. NOTICE OF DENIAL. Upon receiving the application, the PIO or the concerned government office must provide reasonable assistance to the requesting party. If the former decides to deny the request, in whole or in part, it shall as soon as practicable, communicate the decision within fifteen (15) working days from the receipt of the request, or within twenty (20) working days in case of extension, whichever is applicable, 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.

SECTION 14. 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 Office of the Mayor or to his or her designated representative/s. Format of a written appeal must include the details of the appellant enumerated in Section 9(a): 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.

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(b) The appeal shall be decided within thirty (30) working days from the filing of said written appeal stating the grounds for the denial must also be stated in the decision.

(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 15. 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 16. ADMINISTRATIVE PROCEDURES. A complaint may be filed against erring government officers who violated the provisions of this Ordinance. A written complaint shall be filed before the FOI Office through any of his designated representative, stated therein are the complainant's name and contact information and the violation committed by the said government officer. Thereafter, notice and hearing shall be conducted to the erring official or employee as provided under existing laws or regulations. Decision on the complaint shall be rendered within fifteen (15) calendar days. The decision must state the facts, issues and the legal grounds on which the decision was based. Parties to the case shall be given copies of the decision.

SECTION 17. PENALTIES. After the conduct of administrative procedure set forth in the preceding section, penalties to erring government official or employee shall be penalized in the following manner:

- | | | |
|-------------|---|--|
| 1st Offense | - | Reprimand; |
| 2nd Offense | - | Suspension of one (1) to thirty (30) days; and |
| 3rd Offense | - | Dismissal from the service. |

SECTION 18. FOI OFFICE. The City Public Information Office (PIO) is designated to be the FOI Office tasked to oversee the implementation of this Ordinance.

SECTION 19. IMPLEMENTING RULES AND REGULATIONS. All government offices in the Executive Branch are directed to formulate their respective implementing details taking into consideration their mandates and the nature of information in their custody or control, within one hundred twenty (120) days from the effectivity of this Ordinance. After the crafting of the said implementing rules by the respective government offices, the Sangguniang Panlungsod shall be furnished a copy for its adoption.

The Implementing Rules and Regulations (IRR), shall include, among others, the following provisions:

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- (a) The name, office, and contact information of FOI receiving officers;
- (b) The procedure for the filing and processing of the request;
- (c) The standard forms for the submission of requests;
- (d) The process for the disposition of requests; and
- (e) The procedure for the administrative appeal of any denial.

SECTION 20. 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 21. 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 22. EFFECTIVITY. This Ordinance shall take effect fifteen (15) days after publication.

ENACTED on this 11th day of April, 2022 in the City of Mandaluyong.

I HEREBY CERTIFY THAT THE FOREGOING ORDINANCE WAS ENACTED AND APPROVED BY THE SANGGUNIANG PANLUNGSOD OF MANDALUYONG IN A REGULAR SESSION HELD ON THE DATE AND PLACE FIRST ABOVE GIVEN.


MA. TERESA S. MIRANDA
Sanggunian Secretary

ATTESTED BY:

APPROVED:


ANTONIO DLS. SUVA
City Vice Mayor &
Presiding Officer


CARMELITA A. ABALOS
City Mayor

Date: APR 11 2022

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