



Republic of the Philippines
Province of Davao Oriental
OFFICE OF THE SANGGUNIANG PANLALAWIGAN
SP Complex, Government Center, Dahican
CITY OF MATI



EXCERPTS FROM THE MINUTES OF THE 73RD REGULAR SESSION OF THE 16TH SANGGUNIANG PANLALAWIGAN OF DAVAO ORIENTAL, HELD ON WEDNESDAY, NOVEMBER 18, 2020, AT THE CITY OF MATI, THIS PROVINCE.

PRESENT:

Hon. Niño Sotero L. Uy, Jr. Vice Governor - Presiding Officer

Regular Members:

District I

Hon. Nelson R. Dayanghirang, Jr.
Hon. Dante M. Caubang
Hon. Marietta D. Palmera
Hon. Joselito B. Villademosa
Hon. Laureano B. Taya

District II

Hon. Louis N. Rabat
Hon. Anacleto P. Macatabog
Hon. Enrico M. Antopuesto
Hon. Dennis V. Roflo, Jr.

Ex-Officio Members:

Hon. Charlie S. Ambasan

Indigenous Peoples' Mandatory Representative

Hon. Ronald T. Lara, Jr.

Sangguniang Kabataan Provincial Federation President

ABSENT:

Hon. Lemuel Ian M. Larcia
Hon. Rabsalon M. Lamarin

SP Member, District II
President, Philippine Councilor's League – O.B. Banaybanay

Hon. Rustan R. Castillones

President, Liga Ng Mga Barangay

PROVINCIAL ORDINANCE NO. 16-49-11-2020

Author : Hon. Anacleto P. Macatabog

Sponsor : Hon. Louis N. Rabat

AN ORDINANCE OPERATIONALIZING FREEDOM OF INFORMATION IN THE PROVINCIAL GOVERNMENT OF DAVAO ORIENTAL AND PROVIDING GUIDELINES THEREFORE AND FOR OTHER PURPOSES.

WHEREAS, on July 23, 2016, the President of the Republic of the Philippines, His Excellency 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;

WHEREAS, recognizing the importance of the people's right to government information, and guided by the President's Executive Order, the Provincial Government deems it necessary to provide a local mechanism for its offices where the people's right

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to information is respected and upheld, subject to exceptions provided by law and jurisprudence;

WHEREFORE, on motion of SP Member Louis N. Rabat, duly seconded by SP Member Dennis V. Roflo, Jr., it was

Be it ordained by the 16th Sangguniang Panlalawigan of Davao Oriental in session duly assembled that:

SECTION 1. TITLE. This ordinance shall be known as the “Davao Oriental FOI Ordinance of 2020.”

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

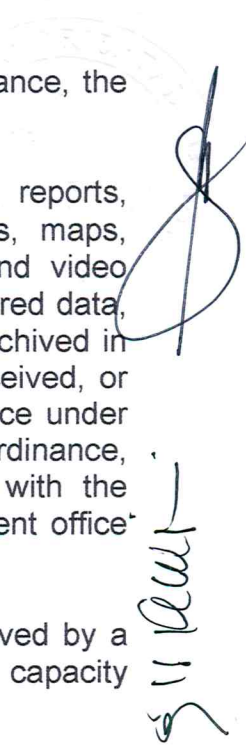
- (a) **“Information”** – shall mean any records, documents, papers, reports, letters, contracts, minutes and transcripts of official meetings, maps, books, photographs, data, research materials, films, sound and video recording, magnetic or other tapes, electronic data, computer stored data, any other 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 Provincial Government of Davao Oriental 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 Provincial Government of Davao Oriental;
- (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;
- (d) **“SALN”** – refers to the Statement of Assets, Liabilities and Net Worth.

SECTION 3. COVERAGE. This order shall cover all government offices under the Provincial Government of Davao Oriental.

SECTION 4. ACCESS TO INFORMATION. Every Filipino resident of the Province of Davao Oriental shall have access to information, official records, and 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 Provincial Government of Davao Oriental or any of its offices.

SECTION 5. EXCEPTIONS. The request for access to information of records or documents as provided under Section 4 of this Ordinance shall be denied when the information falls under any of the following:

- 1) When the information is covered by the communication privilege of the Chief Executive;



The image shows a circular official stamp of the Provincial Government of Davao Oriental, partially overlapping a handwritten signature in blue ink. The signature appears to be 'Louis N. Rabat'.

- 2) When the privileged information relates to internal relations and security of the Province as determined by the PNP and other military agencies;
- 3) Information concerning law enforcement and protection of public and private personal safety;
- 4) Information deemed confidential for the protection of individual's privacy, such as minors, victims of crimes, or the accused and privileged communications in legal proceedings as determined by law or by the Rules of Court;
- 5) Prejudicial premature disclosure (of information/documents)
- 6) Records of proceedings or information from proceedings which, pursuant to law, or relevant rules and regulations are treated as confidential or privileged. The Minutes of Meetings of the Sangguniang Panlalawigan, considering that it is for the convenience, reference and consumption of the SP Members is hereby clothed with a privileged character; and
- 7) Such other information as may be declared privileged/confidential by local laws, rules and regulations.

SECTION 6. AVAILABILITY OF SALN. Subject to the provisions contained in Sections 4 and 5 of this ordinance, all public officials of the Provincial Government of Davao Oriental are reminded of their obligation to file and make available for scrutiny, their Statements of Assets, Liabilities and Net Worth (SALN) in accordance with the existing laws, rules and regulations, and the spirit and letter of 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 Freedom of Information (FOI) exceptions.

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 provincial or field officer duly designated by him 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 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;
- (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. 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 Provincial Administrator's Office 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 law, existing rules and regulations, or it is one of the exceptions;
- (b) The public official receiving the request shall be designated as the Freedom of Information (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 Provincial Administrator's Office (PAdO) or the concerned government 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 government office shall establish a system to trace the status of all requests for information received by it;
- (d) The Provincial Administrator's Office 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 Provincial Administrator's Office 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;



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- (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 10. FEES.

- (a) Concerned agency/s shall not charge any fee for accepting requests for access to information, except those fees imposed under Section 4A.01, Article A, Chapter IV of the Provincial Ordinance No. 15-25-08-2018, otherwise known as the "Revised Revenue Code of the Province of Davao Oriental";
- (b) The fee shall be paid to the Provincial Treasurer at the time of the request, 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 Provincial Administrator's Office 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 11. NOTICE OF DENIAL. If the Provincial Administrator's Office or the concerned government office decides to deny 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, 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 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 Office of the Governor, following the procedure mentioned in Section 9 of this ordinance: 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 Office of the Governor within thirty (30) working days from the filing of said written appeal. Failure of the Office of the Governor to decide within the aforesated period shall be deemed a denial of the appeal;
- (c) Upon exhaustion of administrative appeal remedies, the requesting part 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:

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

SECTION 15. FOI OFFICE. The Provincial Administrator's Office is designated to be the FOI Office tasked to oversee the implementation of this ordinance. The PAdO is further directed to formulate the implementing rules and regulations (IRR), which shall include, among others, the following provisions:

- (a) The name, location, 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;
- (e) The procedure for the administrative appeal of any denial;

SECTION 16. 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 17. 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 18. EFFECTIVITY. This ordinance shall take effect fifteen (15) days after publication.

ENACTED: NOVEMBER 18, 2020.

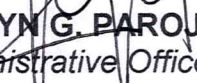
CARRIED, by eleven (11) affirmative votes of SP Members Nelson L. Dayanghirang, Jr., Louis N. Rabat, Anacleto P. Macatabog, Enrico M. Antopuesto, Dennis V. Roflo, Jr., Dante M. Caubang, Marietta D. Palmera, Joselito B. Villademoso, Laureano B. Taya, Charlie S. Ambasan, and Ronald T. Lara, Jr.; negative votes – none; and abstention - none.

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**I hereby Certify to the Correctness
of the foregoing Ordinance.**


GENELYN G. PAROJINOG
Administrative Officer V
Acting Secretary

**Attested and Certified
to be duly Adopted:**


NIÑO SOTERO L. UY, JR.
Vice Governor and Presiding Officer

APPROVED:


NELSON L. DAYANGHIRANG
Governor

Date approved
and signed NOV 26 2020

