

Republic of the Philippines
 PROVINCE OF NEGROS ORIENTAL
City of Bayawan
Office of the Sangguniang Panlungsod

EXCERPT FROM THE MINUTES OF THE SPECIAL SESSION HELD BY THE CITY COUNCIL OF BAYAWAN, NEGROS ORIENTAL ON FEBRUARY 23 AT 2 0' CLOCK PM AT THE SP SESSION HALL.

Present:

HON. ISMAEL MARTINEZ	Presiding Officer	Present
HON. VICTORIANO ALABASTRO		Present
HON. ERNESTO TIJING		Present
HON. MARK ANTHONY DUQUE		Present
HON. FRANCIS FLOYD ARAULA		Present
HON. PETER PAUL RENACIA		Present
HON. ALEX TIZON		Present
HON. MARK FIDENCIO AURELIA		Present
HON. DANILO LAMIS		Present
HON. SHARLOU JAMIN		Present
HON. LUIS SUMALPONG		Present
HON. JONAS TRIAS	(ABC Vice President)	Present
HON. ALSHIEBA TANASAN	(SK Fed. Pres.)	Present

RESOLUTION NO.

“On motion of Honorable Councilors Ernesto T. Tijing and duly seconded by Honorable Councilor Mark Anthony A. Duque, the City Council in session assembled

“RESOLVED, to enact, as it hereby enacts the following ordinance, to wit:

ORDINANCE NO. 4

AN ORDINANCE ESTABLISHING THE BAYAWAN CITY INVESTMENT CODE OF 2011

Be it ordained by the Sangguniang Panlungsod of the City of Bayawan, that:

CHAPTER I

Title, Declaration and Purpose

Section 1. *Short Title* - This Act shall be known as the BAYAWAN CITY INVESTMENT CODE OF 2011.

Section 2. *Declaration of Policy* - It is hereby declared a policy of the City Government to attract investors, both local and foreign, by creating a good climate for investments and providing incentives for investments that will promote development, income generation and employment for the people of Bayawan.

Section 3. *Purpose, Intent and Objective* - It is the purpose, intent and objective of this Act:

- a) To mandate the legal agenda and mechanism for integrating the investment incentives laws of the national government with the local development initiative.
- b) To spread development from the urban areas to the undeveloped and underdeveloped areas of the city.
- c) To promote the flow of investors, both foreign and local into Bayawan City, thus generating, employment opportunities and providing a two-way channel linking the various business sectors in the city, province and the rest of the country.
- d) To transform chosen areas of Bayawan city into highly developed agri-industrial, small scale environment friendly industries, commercial, tourist, investment and financial centers of the province, the region and the country.
- e) To promote balanced development and the general welfare of the people of Bayawan through a rationalized land use.

CHAPTER II

Definition of Terms

Section 4. Definition of Terms - For purpose of this Code, the following definition of terms shall apply:

- a) "BOI" refers to the Board of Investment under Executive Order No. 226, otherwise known as the Omnibus Investment Code.
- b) "Capitalization" refers to total project cost, (excluding land).
- c) "Center" refers to Bayawan Business Development and Promotions Center.
- d) "Board" refers to the Local Investment Board.
- e) "Foreign Investment" shall mean equity investments owned by a non-Philippine national.
- f) "Local Investment Code" refers to the Bayawan Investment Code of 2011.
- g) "Investment" means expenditure for future benefits.
- h) "National Laws" refers to the following:

OIC OF 1987	OMNIBUS INVESTMENT CODE OF 1987
RA 7844	EXPORT DEVELOPMENT ACT OF 1994
RA 7916	SPECIAL ECONOMIC ZONE OF 1995
RA 7718	BUILD-OPERATE TRANSFER LAW OF 1994
RA 8289	MAGNA CARTA FOR SMALL ENTERPRISES

- i) "Preferred Investment" refers to investments listed in Section 11 of this Code and those that may hereafter be identified by the Board.
- j) "Business Plan" refers to a project profile in prescribed form, which presents the marketing, technical, financial and socio-economic aspects of the project.
- k) "Registered Enterprise" shall mean any individual, partnership, cooperative, corporation or other entity incorporated and/or organized and existing under Philippine laws that is registered with the Board of Investment (BOI), Department of Trade and Industry, Securities and Exchange Commission, Cooperative Development Authority, and other registering agencies.
- l) "Registered Eligible Enterprise" shall mean any individual, partnership, cooperative, corporation, or other entity incorporated and/or organized and existing under Philippine laws that is registered with the Local Investment Board and granted a Certificate of Eligibility to avail of the benefits under this Code.

CHAPTER III The Local Investment Board

Section 5. - *Local Investment Board* - There shall be created a Local Investment Board (LIB) for the function of overseeing the implementation of this Local Investment Code.

Section 6. - *Composition of the Local Investment Board* - The Board shall be composed of the following:

- a) City Mayor or His Representative as Chairman
- b) City Vice Mayor as Vice Chairperson
- c) City Administrator
- d) City Treasurer
- e) City Assessor
- f) City Budget Officer
- g) City Planning and Development Officer
- h) City Accountant
- i) City Engineer
- j) Chairperson, SP Committee on Accounts and Appropriations
- k) Chairperson, SP Committee on Trade, Commerce, Industry & Cooperatives
- l) Chairperson, SP Committee on Fisheries and Agriculture
- m) Chairperson, SP Committee on Ways and Means
- n) Chairperson, SP Committee on Rules, Ordinance and Legal Matters
- o) Chairperson, SP Committee on Environment and Natural Resources
- p) Chairperson, SP Committee on Infrastructure, Zoning, Housing and Urban Development
- q) Chairperson, SP Committee on Tourism, Culture and Special Events
- r) Representative from accredited associations with the LGU which is duly elected by the group
- s) Representative from the banking industry in Bayawan City
- t) Chairman, Bayawan City Cooperative Development Council.

Section 7. - *Meetings of the Board* - The Board shall meet quarterly, on such a day as it may fix, but the Chairperson or at least three members of the Board may call for a meeting when necessary.

Section 8. - *Powers and Duties of the Local Investment Board* - The Board shall be responsible for the regulation and promotion of investments in the City. The majority of the members of the LIB shall constitute a quorum sufficient for it to exercise its powers and perform its duties which shall be as follows:

- a) Establish and oversee the Bayawan Business Development and Promotions Center.
- b) Recommend approval of the applications for incentive availment.
- c) Recommend the granting of incentives to qualified investor applicants.
- d) Decide issues and controversies regarding the interpretation and implementation of this Code.
- e) Regulate the making of investments and the doing of business within the City in accordance with the Constitution and law.
- f) Check and verify compliance by registered enterprises.
- g) In cases of violation of this Code, recommend the cancellation or suspension of incentives given and/or require refund of incentives enjoyed by an investor who has violated the provisions of this Code.

- h) Make arrangements with National Government Agencies and/or Private Organizations for the purpose of promoting investments.
- i) Submit to the Sangguniang Panlungsod applications for incentives as recommended by the Board for approval of the City Council pursuant to the provisions of Book III, Section 458 (2)(xii) of Republic Act No. 7160ⁱ.
- j) Render an Annual Report to the Sangguniang Panlungsod.
- k) Exercise all powers necessary or incidental to attain the purpose of this Code.

CHAPTER IV

Incentives for Preferred Investments, and Others

Section 9. - This Chapter grants incentives to investors in preferred investments.

Section 10. - *Incentives* – Incentives shall be granted, provided they meet the capital and employment generation requirements. Investors enjoying incentives under this Chapter shall be exempted from:

- a) Payment of building permit fees, business fees and other fees and charges imposed by existing city ordinance, but only for fees and taxes that fall due after approval of the application for incentives. For investors in Preferred Investments, the exemption for business fees and other fees shall be for the period not to exceed five (5) years to be reckoned from the date of approval of the application by the Board.
- b) Payment of basic real property tax imposed by existing City Ordinance on improvements, but only for new improvements introduced by the investors.
- c) In the case of an existing improvement, the exemption shall apply only to the increase in the assessment because of rehabilitation, adoption, expansion and/or diversification shall be for the period prescribed under and not to exceed to five (5) years to be reckoned from the date of the approval of the application by the Board.

Section 11. - *Investors under Preferred Investment* - The incentives in Section 10 shall be available to those investing the new projects under preferred investments listed below, to wit:

a) Manufacture of Agro-based products such as but not limited to:

1. Canned food products
2. Dried fruit processing
3. Sweets, candies and condiments
4. Ethnic food products and delicacies
5. Rubber Processing
6. Jathropa Processing Plant
7. Bio-Diesel Plant
8. Essential Oil and Herbal Extract Production
9. Agro-Forest Products

b) Manufacture of handicraft products such as but not limited to:

1. Toys
2. Ceramics
3. Furniture
4. Garments, bags, and other native clothing products using indigenous raw materials
5. Fashion accessories, jewelries, stone craft, etc...

c) Tourism and Education related business such as but not limited to:

1. Mid-range hotels and other tourist related facilities
2. Beach resorts
3. Theme parks
4. Marina
5. Tourist transport equipments and facilities
6. Vocational and technical skills training centers for out-of -school youth
7. English proficiency training centers.

d) Property Development projects such as but not limited to:

1. Commercial complexes
2. Retirement villages
3. Convention centers
4. Private industrial estates
5. Economic zones
6. Agricultural food terminals
7. Hospitals and modern laboratories/diagnostic equipment
8. Health Services-Clinics and the likes
9. Memorial Park/Garden

e) Transshipment facilities such as but not limited to:

1. Airport and Seaport infrastructure
2. Common bonded warehouses
3. Shipping facilities
4. Ship repair
5. Ship breaking

f) Information Communication Technology (ICT) and Business Processing Outsourcing (BPO) – related business.**g) Metal and foundry shops****h) Manpower Services****i) Education-related entities but not limited to new educational facilities and bookstores****j) Printing/Publishing****k) Others: High Value Crops**

Section 12. (A). - *Addition of Preferred Investments*- The Board may, if necessary, add investments to the list after a study made either by the LIB or study group engaged by the LIB. The bases for addition to the list found in Section 11 are:

- a) It must generate high levels of employment.
- b) It must feature a high degree of added value to raw materials.
- c) It must create linkages with local industries.
- d) It must be environment friendly.

Section 12. (B). - *Removal of a Preferred Investment* - The Board may recommend to the Sangguniang Panlungsod the removal of any activity from the list of preferred investments under Section 11 or additional thereto under Section 12(A) in the following cases:

- a) Sufficient investments in the preferred area of activity have been attained as determined by the Local Investment Board.
- b) The continued extension of incentives for the specific investment is no longer to the interest of Bayawan City.
- c) The investment or activity does not attract investors within a reasonable length of time or may result in an unfavorable business climate.

Section 12. (C). *Capitalization and Employment Generation Requirements, Period Exemption for Preferred Investments* – To qualify for incentives as an investor in a preferred investment, the following requirements with respect to capitalization and employment must be complied with for the period during which the incentives are granted:

CAPITALIZATION (YRS)	REQUIRED CAPITAL EMPLOYMENT/ RATIO	EMPLOYEE SIZE	INCENTIVE
P 30M – 150M	1 per P500,000	AT LEAST 10 175% REQUIRED 250 % REQUIRED	1 YEAR 2 YEARS 3 YEARS
Over P150 M – 250 M	1 per MILLION	MINIMUM REQUIRED 175% REQUIRED 250 % REQUIRED	1 YEAR 2 YEARS 3 YEARS
Over P 250 M	1 per 1.5 MILLION	MINIMUM REQUIRED 175% REQUIRED 250 % REQUIRED	1 YEAR 2 YEARS 3 YEARS
Over P 400 M – 500 M	1 per 2 MILLION	MINIMUM REQUIRED 175% REQUIRED 250 % REQUIRED	1 YEAR 2 YEARS 3 YEARS
Over P 500 M	1 per 2.5 MILLION	MINIMUM REQUIRED 175% REQUIRED 200 % REQUIRED 250 % REQUIRED	1 YEAR 3 YEARS 4 YEARS 5 YEARS

Provided, that for capitalization over and above Php500M, the Investor can still avail and qualify for the maximum five (5) years period of incentives after having attained a labor force of 500 employees.

Provided again that the labor force employed through agencies and those employed directly by tenants/lessee of the Investor shall be considered as labor force of the Investor.

Provided again that the Investors shall exert its best efforts to employ majority of the total workforce from those who are bona-fide residents of Bayawan City for the period which the incentives are granted.

Provided again that any and all improvements embedded or permanently adhered to the land or building introduced by the tenants/lessees of the Investor may still qualify for incentives under this Code provided the required capital employment ratios are met by the tenant.

Provided again that pioneering and innovative enterprise such as new inventions, breakthrough technology, award winning business concepts maybe exempted from capitalization and employment ratio as determined by the Local Investment Board.

Provided further, that the LIB may recommend to the Sangguniang Panlungsod such other measures in the event that matters other than the above stated capitalization and employee requirement may arise.

CHAPTER V

Other Incentives

Section 13. - *Tax Credit for Persons Donating Property to the City* - Persons donating land or real property to the City for its priority projects shall be entitled to tax credit which can be used to pay tax obligations to the City Government. Priority projects contemplated herein include but are not limited to: housing projects, resort projects, public markets, bus terminals, health projects, educational institutions, scholarships, government centers, and sports facilities. Land swapping and pure donations contemplated under B.P. 220ⁱⁱ and P.D. 957ⁱⁱⁱ are excluded in the coverage of the above section.

Section 14. - *Basis of Tax Credit* - The amount of tax credit shall be 60% of the fair market value of the property as determined by the Appraisal Committee.

Section 15. - *Rules of Donation* - The following rules shall govern the implementation of Section 13 and 14 of the Code:

- a) For the determination of qualification under Section 13, the prospective donor shall submit to the Board through the Investment Promotions Center, his/her intent to donate.
- b) The Board shall submit the resolution recommending the grant of incentive together with the Deed of Donation to the Sanggunian for ratification.
- c) The donor shall avail of the tax credits until the entire 60% is consumed starting from the date the donation is ratified by the Sanggunian.

CHAPTER VI

Requirements, Application, and Approval Process

Section 16. – *Requirements* - For persons or firms to enjoy the incentives under this Code, they must comply with the following:

- a) Period of filing of applications - Applications for incentives under Chapter IV may be filed before the start of construction or commencement of business operations but in no case later than six months after commencement of business operations.
- b) Requirements common to Single Proprietorships, Partnerships, Corporations, and Cooperatives:
 1. Three (3) copies of completed application form available from the Business Development and Promotions Center.
 2. Business Plan of the proposed Investment (prescribed form available from the Center.)
 3. A certified copy of the Certificate of Business Name Registration from the Department of Trade and Industry, or the SEC or CDA registration.
 4. A certification from the City Treasurer that the applicant has no outstanding obligation with the City.
 5. Certification of Registration if enjoying incentives under the National Laws.
- c) Additional requirements for Partnerships, Corporations, and Cooperatives:
 1. Authority from the partnership or Board of Directors to file application.
 2. Partnership or incorporation documents.
 3. Cooperatives Development Authority documents in the case of cooperatives.

- d) Proof of compliance with the pertinent provisions of Section 9 to 15 as to capitalization, employment generation, nature of investment, and project or business location, as the case may be.

Section 17. - *Application, Evaluation and Approval* -

- a) Time for filing of applications - Applications must be filed within the period provided in Section 16 (a).
- b) Venue for filing of applications - All applications shall be filed with the Local Investment Board through the Business Development and Promotions Center under the Mayor's Office.
- c) Processing Time - The Board shall act upon applications within thirty (30) working days from official acceptance.
- d) Procedure for Filing, Processing/Evaluation and Approval;
1. The Center provides pre-counseling/advice to prospective applicants as to the various provisions of the Code.
 2. The Center issues a checklist of requirements and forms for the applicant to accomplish.
 3. The applicant presents all the required documents to the Center.
 4. If the Center determines that the documents submitted are complete, it requires the applicant to pay the non-refundable filing fee of Two Thousand Pesos (P2,000.00).
 5. The Center accepts the application and supporting documents, indicating the date of acceptance and official receipt number in the application form and the Application and Registration Book.
 6. The Center forwards the application and its Evaluation Report and Recommendation to the Board, through the Chairperson. The Board shall deliberate and decide on the application.
 7. The Center records the action of the Board in the Application and Registration Book.
 8. The Center informs the applicant of the decision of the Board and if the application is subsequently approved by the Sangguniang Panlungsod, requires payment of the registration fee as provided in Section 18 hereof.
 9. The Certificate of Eligibility is issued and the business is registered as an eligible enterprise.

Section 18. - The Approved Eligible Enterprises shall pay a one-time registration fee as follows:

P 30 M - P 50 M	P 15,000.00
Over P 50M - P 100 M	P 25,000.00
Over P100M - P 200 M	P 35,000.00
Over P200M - P 300 M	P 45,000.00
Over P300M - P 400 M	P 55,000.00
Over P400M - P 500 M	P 65,000.00
Over P500M	P 100,000.00

Section 19. - *Certificate of Eligibility* - A qualified enterprise under this Code shall be issued a Certificate of Eligibility with the signature of the Chairperson and/or such other officer as the Board may designate for the purpose. The Certificate shall be in such form and style as the Board may determine and shall state among others, the following:

- a) The name of the eligible enterprise
- b) The area of investment that the eligible enterprise will engage in.
- c) The type and period of incentive availed.

CHAPTER VII
Submission of Reports and Other Documents

Section 20. - *Submission of Reports and Other Documents* - Every registered eligible enterprise shall, for each investment availing of incentives under this Code, submit to the Board through the Center the following reports and/or documents within the time prescribed:

- a) Amendments of Articles of Incorporation or by-laws, or Articles of Partnership, or Article of Cooperation, within thirty calendar days from the date of approval of said amendments by the Securities and Exchange Commission or Cooperative Development Authority and Department of Labor and Employment (DOLE);
- b) Change of Directors within 30 days from the change;
- c) Report on alien officers and/or employees within 30 days from the date of registration as an eligible enterprise, or from the appointment of the aliens/replacements, with the added requirement that alien officers and employees are registered as such with the Bureau of Immigration and Deportation (BID) and with the Department of Labor and Employment (DOLE);
- d) Report on employment of bona-fide Bayawan City residents within 30 calendar days from the date of registration as eligible enterprise and/or from the appointment of their replacements;
- e) Quarterly report on business operations including production or gross sales or receipts, to be submitted within 30 calendar days from end of each quarter;
- f) Audited Annual Financial Statements with Bureau of Internal Revenue (BIR) stamp acknowledging receipt within 30 calendar days after submission of the same to the Bureau of Internal Revenue (BIR), but not later than 30 calendar days after the deadline for filing such audited statements with the BIR.

CHAPTER VIII
Bayawan Business Development and Promotion Center

Section 21. (A) *Bayawan Business Development and Promotions Center* – The City Mayor shall establish a Bayawan Business Development and Promotions Center with adequate personnel and budget for personal services, operation and maintenance, equipment, promotions, and other needs. The Center shall perform the following functions:

- a) Prepare investment Promotion Plan for approval of the Board.
- b) Assist the Board in the promotional aspect of the Code such as: establishing business linkages and networking, conducting and coordinate investment missions, preparing trade and investment promotion collateral, conducting/coordinate investment or economic briefings.
- c) Provide pre-counseling/advice to prospective applicants and answer their inquiries.
- d) Receive applications of firms/establishments, seeking to avail of incentives under this code.
- e) Evaluate applications on the basis of documents submitted. The Center shall forward complete applications of qualified investors to the Board, otherwise it shall inform applicants of the rejection of their applications and the reason/s therefore.
- f) In the event the application is approved by the Board, furnish the City Treasurer and the City Assessor, copies of the Board resolution granting incentives and Certificate of Eligibility, for their information and guidance in the implementation thereof.

- g) Have custody and responsibility for filing and safekeeping of all records and documents.
- h) Provide administrative and secretariat services to the Board.
- i) Facilitate the issuance of business permits of registered eligible enterprises.
- j) Conduct ocular inspection of the premises of the business establishments and perform necessary examination pursuant to Section 23 (Visitorial Power).
- k) Receive required reports and other documents from registered eligible firms.
- l) When appropriate, as when a registered business has violated the Code, recommend the cancellation or revocation of the Certificate of Eligibility and withdrawal of all incentives granted.
- m) Perform such other functions and responsibilities as may be authorized.

Section 21. (B) *Pending the establishment by the City Mayor of the BBDPC (or the Center) - its duties and functions shall be handled by the City Mayor's Office or its personnel or such other offices, offices or personnel as may be designated by the Mayor;*

**CHAPTER IX
Appropriations**

Section 22. - Appropriations - The City shall appropriate the funding requirement which is necessary for the implementation of the provisions of this Code based on the budget presented by the Board, to include Personnel Services, Maintenance and other Operating Expenses (MOOE), Capital Outlay and Contingency.

**CHAPTER X
Miscellaneous Provisions**

Section 23. - Visitorial Power of the Board or Center - The Board, the Center, or any duly authorized member thereof, is hereby empowered and authorized to conduct an ocular inspection of the premises and examine the books and business activity of any enterprise, registered or applying for registration as eligible enterprises, provided that such inspection or examination is done at a reasonable time of the day, during office hours.

Section 24. - Transitory Provision - Establishments, firms or business entities that may have already commenced business operations six (6) months before the effectivity of this Code but who are qualified to avail of the incentives under this ordinance are given three (3) months from effectivity of this ordinance to submit their applications for incentives to the Local Investment Board.

**CHAPTER XI
Final Provisions**

Section 25. - Sanctions for Late Submission of Reportorial Requirements – For late submission of the reportorial requirements, every registered eligible enterprise shall be fined as follows:

1st Violation	P2,000
2nd Violation	P3,000
3rd Violation and subsequent violation	P5,000

Section 26. - Penal Clause - Any violation of the provision of this Code, existing laws, ordinances, rules and regulations shall be ground for the cancellation or revocation of the

Certificate of Eligibility of the business and the withdrawal of all incentives granted under the Code.

The Certificate of Eligibility, as provided under the Code, may also be cancelled or revoked due to failure to commence actual project development within one (1) year from registration as an eligible enterprise under this Code.

Section 27. (A) - Cancellations or revocation of the Certificate of Eligibility shall mean the withdrawal of all incentives granted under the Code; and all fees and charges previously unpaid because of the exemption shall become due and demandable.

Section 27. (B) - The Board may cancel or revoke the Certificate of Eligibility of the concerned business enterprise through a formal written notice to that effect. The revocation shall become effective on the 16th day from receipt thereof.

Section 28. – *Appeal* - The applicant adversely affected by any decision of the Board may within 15 days from the receipt of such decision, appeals the same to the Mayor, whose decision shall be final and executory.

Section 29. - *Separability Clause* - The provisions of these Codes are hereby declared separable. The invalidity of one or more provisions shall not affect the invalidity of the other provisions thereof.

Section 30. – *Effectivity* - This Code shall take effect on the day following completion of the posting of the ordinance in strategic, highly populated areas, including the City Hall for two weeks in Bayawan City.

Enacted.

* * *

I hereby certify to the correctness of the foregoing resolution.

* * *

HANNAH LUE O. TIJING
LSO III

ATTESTED:

APPROVED:

ISMAEL MARTINEZ
City Vice-Mayor
Presiding Officer

RENE G. GAUDIEL
City Mayor

Copy for:

- The Honorable Governor Roel Degamo, Dumaguete City

ⁱSection 458. *Powers, Duties, Functions and Compensation.*

(a) The Sangguniang Panlungsod, as the legislative body of the city, shall enact ordinances, approve resolutions and appropriate funds for the general welfare of the city and its inhabitants pursuant to Section 16 of this Code and in the proper exercise of the corporate powers of the city as provided for under Section 22 of this Code, and shall:

(2) Generate and maximize the use of resources and revenues for the development plans, program objectives and priorities of the city as provided for under Section 18 of this Code, with particular attention to agro-industrial development and city-wide growth and progress, and relative thereto, shall:

(xii) With the concurrence of at least two-thirds (2/3) of all the members of the Sangguniang Panlungsod, grant tax exemptions, incentives or reliefs to entities engaged in community growth-inducing industries, subject to the provisions of Chapter 5, Title I, Book II of this Code;

ⁱⁱ

Batas Pambansa Blg. 220 March 25, 1982 "An Act Authorizing The Ministry Of Human Settlements To Establish And Promulgate Different Levels Of Standards And Technical Requirements For Economic And Socialized Housing Projects In Urban And Rural Areas"

ⁱⁱⁱ Presidential Decree No. 957 July 12, 1976 "Regulating The Sale Of Subdivision Lots And Condominiums, Providing Penalties For Violations Thereof"