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Republic of the Philippines
CITY OF CAGAYAN DE ORO
OFFICE OF THE CITY COUNCIL

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ORDINANCE NO. 13418-2018

AN ORDINANCE ENACTING THE CITY OF CAGAYAN DE ORO LOCAL INVESTMENTS INCENTIVE CODE OF 2018

BE IT ORDAINED by the 18th City Council (*Sangguniang Panlungsod*) of Cagayan de Oro in session duly assembled that:

TITLE I
TITLE, DECLARATION OF POLICY AND OBJECTIVES

SECTION 1. TITLE - This Ordinance shall be known as the “Cagayan de Oro City Investments Incentive Code of 2018.”

SECTION 2. DECLARATION OF POLICY – It is the declared policy of this City to actively encourage the participation of the private sector in the promotion of economic growth and prosperity in the City, and for the purpose, it shall grant fiscal and non-fiscal incentives to investors, both local and foreign, particularly in identified investment priority areas, to attract new investors and keep and retain existing investments and encourage their expansion, in addition to generally creating and maintaining a business-friendly environment that will accelerate economic progress, generate employment opportunities, increase revenues and income, reduce poverty, and improve the over-all quality of life for the people of the City of Cagayan de Oro.

SECTION 3. PURPOSES AND OBJECTIVES. – The purposes and objectives of “The City of Cagayan de Oro Local Investments Incentive Code of 2014” are as follows:

- a. To provide guidelines, standards, and procedures for the grant, administration, and availment of local incentives;
- b. To define the scope and breadth of incentives that the City may grant in its effort to attract investments to the City consistent with the policy of this Code, as well as promote and support micro-small medium enterprises (MSMEs) and create business opportunities that can pave the way to an improved utilization of local resources, develop markets for local products, and ignite the ingenuity of the entrepreneurs and other stakeholders;
- c. To provide the guidelines and criteria for the identification of Investment Priority Areas (IPAs);
- d. To provide for the promotion of the IPAs of the City;
- e. To establish the Local Investments and Incentives Board (Board) and the Cagayan de Oro Trade and Investment Promotions Center (Oro-TIPC) to implement this Code and all the investments promotion programs of the City for business attraction, retention, expansion and/or diversification; and
- f. To identify the conditions for the grant of incentives to investors and their continued enjoyment of the same, subject to the maximum term of the incentives thus granted.



SECTION 4. STATEMENT OF POLICIES ON THE IDENTIFICATION OF POLICIES AND APPROVAL OF INCENTIVES APPLICATIONS - In line with the foregoing declared policy, the City of Cagayan de Oro hereby adopts the following policies:

1. **Grant of incentives** – The grant of incentives shall be based on categorical criteria, time-bound, and in conformance with national laws. The incentives shall be fairly administered to ensure a level playing field for investors in the locality. The incentives shall be extended only to business activities that support and promote the development vision of the City as expressed in its Comprehensive Development and Land Use Plan and those which are consistent with the investment thrust of the region and national government.

The determination of areas of investment to be included in the list of IPAs (**IPA List**) shall be based on long-term comparative advantage, taking into account the value of social objectives and employing economic criteria along with market, technical, and financial analysis. As far as practicable, the City shall consider an economic activity an IPA if it is shown to be economically, technically, and financially sound after thorough investigation and analysis by the Board, without prejudice, however, to the determination of the same by the national government as such.

2. **Policy in the Identification of IPAs** – Business activities shall be considered for inclusion in the IPA List on the basis of the following criteria:
 - a. significant potential contribution to the growth of priority industry clusters or to a vital industry in the City or the Region which will have positive impact to the City;
 - b. alignment of the business activity with the development vision of the City
 - c. capacity to generate employment, whether direct or indirect, particularly for those within the City;
 - d. substantial amount of additional capital investment that will be brought into the City;
 - e. application of modernizing technology in the business that will result in improved productivity and market expansion;
 - f. ability to promote the dispersal of business/commercial activities to new growth areas and to less developed areas within the City as identified in the CLUP;
 - g. ability to promote the City's environmental sustainability;
 - h. significant contribution to the infrastructure development of the City especially through Public Private Partnership (**PPP**);

Provided, That in the case of Existing Businesses (as defined in Section 5 hereof), in the interest of maintaining the current revenue sources of the City, they shall only be qualified to avail of incentives in case they undertake an Expansion or Modernization or New Project, as defined in Section 5.

3. **Identification of Investment Priority Areas** – The business activities entitled to incentives should be limited to those included in the list of Mandatory Investment Priority Areas (MIPA List) or the list of Local Investment Priority Areas (LIPA List); provided that, the local incentives of those in the MIPA List shall generally be limited to those granted and subject to the terms and conditions under the relevant Incentive Law, as hereinafter defined.



4. **On continuing conditions of the grant of incentives** – The Board may impose any of the following minimum continuing conditions on Registered Enterprises as a condition to their continued entitlement to the incentives granted at the time of their registration.
- efficient use of natural resources to conserve and protect those indigenous to the City;
 - enhance the positive effect and/or minimize the adverse impact of their operation on the environment by undertaking business practices that adhere to the country's environmental laws, such as efficient solid waste and pollution management, adopting technologies that reduce greenhouse gas emissions, and implementing climate change adaptation measures and disaster risk reduction and management, among others;
 - compliance with all applicable labor law and standards, including those relating to occupational health and safety; and
 - In the case of Registered Enterprises enjoying fiscal incentives beyond three (3) years, adoption of a corporate social responsibility program to be implemented one year after its registration.
5. **On the procedure for the grant of incentives** – The procedure for the application, processing, and grant of applications for incentives shall be transparent and reasonable, and must be completed within a reasonable period not exceeding three (3) months from Date of Official Acceptance, as defined below. No requirement shall be imposed unless there is categorical ample basis, reason or purpose for imposing the same. Where the applicant for registration anchors its application on its status as an entity registered under an Incentive Law with a Registering Agency, as defined in this Code, the procedure for its registration under this Code shall be simplified and shall be made mainly dependent on the fact of its registration with the Registering Agency.

TITLE II DEFINITION OF TERMS

SECTION 5. – DEFINITIONS - For purposes of this Code -

- “Barangay Micro Business Enterprise”/“BMBE”*** shall be as defined under the Barangay Micro Business Enterprises (BMBEs) Act of 2002 (Republic Act No. 9178), *i.e.*, any business entity or enterprise engaged in the production, processing or manufacturing of products or commodities, including agro-processing, trading and services, whose total assets including those arising from loans but exclusive of the land on which the particular business entity's office, plant and equipment are situated, shall not be more than Three Million Pesos (P3,000,000.00).
- “Board”*** shall mean the Cagayan de Oro Local Investment and Incentives Board created under this Code, the powers and composition of which shall be as provided under Section 7.
- “Board of Investments”/“BOI”*** shall refer to the implementing agency for Books 1 to 5 of the Omnibus Investments Code (EO No. 226 dated 27 February 1987) as created under the latter.



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- d. **"City"** shall mean the City of Cagayan de Oro covering all the areas within its territorial jurisdiction as provided for by law and its charter.
- e. **"Code"** shall refer to The City of Cagayan de Oro Local Investments Incentive Code of 2013 promulgated pursuant to this Ordinance.
- e. **"Date of Official Acceptance"** refers to the date the application for registration was received by the receiving personnel of the LEIPC and recorded in a logbook for the purpose.
- f. **"Date of Registration"** refers to the date when the Certificate of Registration is issued by the Board, which information shall be recorded in a Registration Logbook to be maintained by the Board.
- g. **"Diversification"** refers to the introduction and production of a distinct line of products or services by an Existing Business, whether or not a Registered Enterprise; Provided, That, to be considered distinct, it should require new investment in terms of machinery or equipment or would involve the use of new skills set not currently used in the existing product or services, Provided further, That a new service or product may constitute a diversification even if such service or product is already within the scope of its original or existing business purposes.
- h. **"ECOZONE"** shall be as defined under the Special Economic Zone Act of 1995 (PEZA Law, Republic Act No. 7916), i.e., selected areas with highly developed or which have the potential to be developed into agro-industrial, industrial, tourist/recreational, commercial, banking, investment and financial centers.
- i. **"Existing Businesses"** are businesses engaged in activities included in the IPA List but are already operating in the City and are intending to expand and/or diversify to other business ventures falling within the IPAs as defined herein.
- j. **"Expansion"** shall mean installation of additional facilities/equipment that will result in the increase in the production capacity of an Existing Business. It may include modernization and rehabilitation. No expansion for additional capacity shall be allowed unless applicant has attained, in general, 85% utilization of its existing capacity.
- k. **"Incentive Law"** shall refer to a law, such as the Omnibus Investments Code, granting incentives to specific businesses at both the national and local levels, by virtue of the nature of their business activity pursued or the location where such business is going to be pursued or undertaken, as administered by a designated government agency or office (Registering Agency), such as the BOI.
- l. **"Investment Priorities Plan"/"IPP"** shall refer to the annual listing of specific activities that have been identified as priority investment areas and thus encouraged by granting those engaging in the activities in the list the incentives under the Omnibus Investments Code, approved by the President of the Philippines, subject to the recommendation of the BOI.



- m. ***“Investment Priority Areas”*** shall refer to the business activities which are entitled to incentives granted by the City, which investment area or business activity is specifically included in the Mandatory Investment Priority Areas (**MIPAs**) or Local Investment Priority Areas (**LIPAs**), and summarized in an Investment Priority Areas List (**IPA List**) which shall be amended, as necessary, once every two (2) years.
- n. ***“Oro-TIPC”*** refers to the Cagayan de Oro Trade and Investments Promotion Center with the responsibilities and functions provided under Title IV of this Code.
- o. ***“Local Investment Priority Areas”/“LIPAs”*** are investment areas/business activities identified by the Board to be priority investment areas specifically in the City which are not yet among the Mandatory Investment Priority Areas and are encouraged to be pursued within the City by granting to them incentives in accordance with the policy on the grant of incentives provided under subparagraph (1) of Section 5 above.
- p. ***“Local Applicants”*** refer to applicants for incentives under this Code which have no outstanding registration with a Registering Agency under an Incentive Law, provided that its proposed business is under the IPA List.
- q. ***“Local Staff”*** refers to a worker or personnel who is a *bona fide* resident of the City for at least six (6) months where proof of residency consists of the presentation of voter's ID/Registration and a Barangay Clearance from the barangay where he resides. Where the eligibility of an applicant to avail of incentives is anchored on its ability to generate employment, it should meet the minimum ratio of Local Staff to non-Local Staff, as the Board may prescribe.
- r. ***“Mandatory Investment Priority Areas”/“MIPA”*** are investment areas/business activities identified by the National Government as priority areas of investment and thus encouraged through the extension of incentives not only at the national but also at the local level pursuant to applicable Incentive Law, such as those included in the annual Investment Priorities Plan.
- s. ***“Micro, Small, and Medium Enterprises”/“MSME”***, for purposes of this Code shall refer to businesses that meet the criteria below and which are to engage in a business activity included in the IPA List:

By Asset Size:

Micro Enterprise:	Up to Php3,000,000.00
Small Enterprise:	Php3,000,001 – Php15,000,000
Medium Enterprise:	Php15,000,001 – Php100,000,000

Provided, that, in the case of Micro Enterprises, including BMBEs, land which is not officially contributed into the business as capital or purchased by the business shall not form part of the assets of the business for purposes of determining the asset size above.

Provided further, that, for purposes of securing incentives, in lieu of meeting the foregoing criteria, an enterprise may qualify as an MSME using the following criteria:



By Number of Employees:

Micro Enterprise:	1-9 employees
Small Enterprise:	10 - 50 employees
Medium Enterprise:	51- 199 employees

In the event that an enterprise falls under different classifications foregoing categories, the classification that will entitle it to more incentives shall be controlling.

The foregoing categories may be amended, from time to time, to render the definitions consistent with national laws and other issuances pertaining to MSMEs.

- t. ***“Modernization or Rehabilitation Projects”*** refer to projects of Existing Businesses or Registered Enterprises, which projects are registrable and thus, eligible to incentives if any of following conditions are met:

- i. at least twenty percent (20%) reduction in production cost, which if sold in the Philippines should result in the reduction of the selling price of the product; or
- ii. significant increase in productive efficiency including de-bottlenecking; or
- iii. meaningful upgrading of product quality; or
- iv. upgrade in the technology used in production to bring it at par with the technology used by leading manufacturers of the product manufactured by the Registered Enterprise.

The modernization or rehabilitation contemplated may or may not result in increase in the operating capacity/actual production output to be eligible for registration.

- u. ***“New Projects”*** refer to projects or activities in the IPA List that have not started commercial operation, undertaken by (1) a newly organized/formed enterprise; or 2) an Existing Business that proposes to engage in an entirely distinct activity from its existing business as would qualify as a Diversification.
- v. ***“PEZA”*** shall refer to the Philippine Economic Zone Authority, as created under the PEZA Law.
- w. ***“Project Study”*** refers to a project profile which presents, among others, highlights of the projected financial viability and environmental and socio-economic impact of the proposed business.
- x. ***“Registered Enterprise”*** refers to any individual, partnership, cooperative, or corporation, whether a domestic or foreign corporation licensed to do business in the Philippines that has been issued a Certificate of Registration by the Board pursuant to this Code.
- y. ***“Registering Agency”*** refers to any other government agency/office/instrumentality that is authorized to administer incentives under and register and regulate corporations that are enjoying incentives at the national level pursuant to an applicable Incentive Law, such as but not limited to the BOI and the PEZA.



TITLE III

LOCAL INVESTMENTS AND INCENTIVES BOARD

SECTION 6. THE LOCAL INVESTMENTS AND INCENTIVES BOARD; CREATION - The Board is hereby created to implement the provisions of this Code and to supervise and manage the operation of the Oro-TIPC.

SECTION 7. COMPOSITION OF THE BOARD - The Board shall be composed of seven (7) members as follows:

- a. City Mayor as Chairperson
- b. The City Administrator or any of the Department Heads as designated by the Chairperson as Vice Chairperson
- c. The Local Economic and Investments Promotion Officer (**LEIPO**) or the City Planning and Development Coordinator;
- d. Sanggunian Chairperson of the Committee on Trade, Commerce and Industry;
- e. Sanggunian Chairperson of the Committee on Ways and Means;
- f. Private Sector Representative from significant business/industry sectors in the locality to be appointed by the City Mayor for a term of three (3) years
- g. A member of the City Development Council from civil society (**CSO**) to be appointed by the Mayor for a term of three years

The Board may likewise invite, from time to time, representatives from pertinent national government agencies (**NGAs**), including but not limited to Regional Officers of the BOI/Department of Trade and Industry (**DTI**), and other relevant stakeholders for advice or consultation in their areas of expertise.

SECTION 8. MEETINGS AND QUORUM - The Board shall meet at least once quarterly and upon the call of the Chairperson whenever he deems it necessary on such day and time as the Board may fix. Notice of meetings shall be given to all members of the Board. The presence of at least a majority of the members of the Board shall constitute a quorum and the affirmative vote of a majority of the quorum shall be necessary for the exercise of its powers and the performance of its duties, including the approval of all decisions and policies issued by the Board.

SECTION 9. POWERS AND FUNCTIONS - The primary functions of the Board are to establish a favorable and stable policy for business, encourage and support private sector investment, and encourage business retention and expansion. Pursuant to this, the Board is generally vested with the following powers:

- a. Promulgate rules and regulations as may be necessary to implement the intent and provisions of this Code;
- b. Every three (3) years, review LIPAs eligible for incentives, taking into consideration the developmental needs of the City, relevant economic and technical factors of the City, available resources, prospects of an industry, among other relevant considerations;
- c. Adopt an investments promotion program;



- d. Act on applications for registration of projects and availment of local incentives as well as suspend or cancel, as appropriate and consistent with this Code, the enjoyment of incentives so granted after hearing and with due notice to the Registered Entity;
- e. Recommend to the Sanggunian any amendments to the Code;
- f. Supervise, manage and direct the operations of the Oro-TIPC;
- g. Establish cooperative undertakings with other local government units (LGUs), the private sector, non-governmental organizations (NGOs) or other institutions as may be necessary;
- h. Establish trade and investment satellite offices in such other places as may be necessary to effectively carry out its mandate;
- i. Decide controversies concerning the implementation of this Code that may arise between the Registered Enterprise and the City government agencies or other governmental agencies within sixty (60) days after the controversy has been submitted for decision;
- j. Coordinate and consult with the Local Development Councils (LDCs) in the identification of LIPAs and the formulation of local incentives;
- k. Perform such other tasks necessary and incidental to the performance of its functions.

SECTION 10. POWERS AND FUNCTIONS OF THE CHAIRPERSON – The Chairperson of the Board shall have the following powers and duties:

- a. Preside over the regular and special meetings of the Board;
- b. Sign the Certificate of Registration in accordance with the rules and regulations of the Code;
- c. Render a semi-annual report to the Mayor and the Sanggunian regarding the results of the operation of the Board and its on-going efforts to implement this Code and achieve its mandate; and
- d. Exercise such other powers and perform such other duties as the Board may direct it to perform to carry out the objectives of this Code.

SECTION 11. POWERS AND FUNCTIONS OF THE CHAIRPERSON - The Vice Chairperson shall have the following powers and duties:

- a. To preside over the regular and special meetings of the Board in the absence of the Chairperson;
- b. To perform such other duties and functions as may be necessary for and in behalf of the Chairperson; and
- c. To exercise such other powers and perform such other duties as the Board may direct it to perform to carry out the objectives of this Code.

TITLE IV
THE CAGAYAN DE ORO TRADE AND INVESTMENTS
PROMOTION CENTER

SECTION 12. CREATION - The Oro-TIPC is created as the lead office on investments promotion and shall assist the Board in carrying out the objectives of the Code.



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SECTION 13. COMPOSITION OF THE ORO-TIPC - The Board shall appoint the head of the Oro-TIPC who may be the Local Economic and Investments Promotion Officer (LEIPO) in accordance with Department of Interior and Local Government (DILG) Memorandum Circular No. 2010-113, the Local Planning and Development Coordinator, or another senior officer of the City.

SECTION 14. FUNCTIONS - The Oro-TIPC shall function as a one-stop-shop for investors and shall serve as the technical secretariat of the Board, taking an active role in implementing the Code. In addition, it shall have the following duties and responsibilities:

- a. Prepare and implement, in coordination with the LDC, the annual investments promotion plan as approved by the Board;
- b. Receive, process and evaluate applications for registration and applications for the availment of local incentives and submit its recommendation to the Board within a specified period from the official receipt of the application;
- c. Assist in: (1) securing licenses and permits; (2) identifying business or joint venture partners, raw materials suppliers and possible business sites; (3) sourcing skilled manpower and service providers; and (4) facilitating the resolution of issues and concerns encountered by business enterprises, among others;
- d. Render after-care services to Registered Enterprises as well as to investors in general;
- e. Monitor and supervise compliance of Registered Enterprises with their undertakings and the terms of their Certificate of Registration, as well as properly administer the grant of incentives to investors;
- f. Prepare and disseminate investments promotion collaterals, *e.g.*, brochures and a website or specific pages of the website of the City for the purpose of information dissemination, including issuing reminders to Registered Enterprises, and providing information relevant to investors, among other information generally relevant to doing business in the City;
- g. Conduct briefings to potential investors;
- h. Represent the City in trade and investments meetings, conferences, conventions and other similar gatherings in both domestic and foreign venues as directed by the Board;
- i. Collate, analyze, and compile pertinent data and studies concerning areas that have been or may be declared as IPAs;
- j. Establish cooperative undertakings with other LGUs, the private sector, NGAs/NGOs, or other institutions as may be necessary, useful, and incidental to the effective and efficient implementation of the Code; and
- k. Perform such other functions as may be necessary to implement the intent of the Code.



TITLE V

INVESTMENTS PRIORITY AREAS

SECTION 15. THE IPA LIST - The IPA List, which shall consist of two parts, the MIPA List and the LIPA List, shall be consolidated by the Board and posted on the website of the City and in a newspaper of general circulation in the City at least once in two (2) years. The initial IPA List is as provided under Annex "A".

The MIPA List shall be automatically amended upon the issuance of the revised annual IPP and/or the issuance of any other law granting incentives, fiscal or otherwise, at the national as well as at the local level. Business activities in the MIPA List shall be dropped in accordance with applicable provisions of national law or the repeal of the law that granted local incentives to a particular business activity. No addition or deletion from the MIPA List shall be made in the absence of a corresponding statutory or other basis issued by the national government. The entitlement to incentives of applicants for registration whose business activity belong to the MIPA List shall be mainly governed by the national law or other issuance pursuant to such law.

The LIPA List shall be determined in accordance with the policies and criteria for the identification of priority investment areas and the grant of incentives provided under Section 4 of this Code, and shall be subject to approval by the Sanggunian Panglungsod.

SECTION 16. PERIODIC REVIEW OF THE LIPA LIST - The Board shall undertake periodic review of the IPAs taking into consideration the socioeconomic development plan and public investment plans formulated by the LDC of the City and the preferred areas of investments as provided under pertinent national laws and may amend the same from time to time based on the results of such periodic review. The policies laid down in Section 4 shall likewise govern each and every subsequent amendment of the LIPA List.

The Board may recommend the removal of a business activity from the LIPA List (a) as soon as the sufficient investments in the area has been attained; and (b) continued extension of incentives is no longer to the interest and benefit of the locality.

TITLE VI

REGISTRATION

SECTION 17. REGISTRATION PRE-REQUISITE TO AVAIL OF INCENTIVES

- In the interest of orderly administration of local incentives, in all cases, prior registration with the Board is required in order to avail of local incentives. Those entitled to local incentives under Incentive Laws shall complete their registration with the Board at the soonest time possible after they have secured their Certificate of Registration under the applicable Incentive Law to avoid any inconvenience and disallowance of their claims for local incentives for the period prior to their registration with the Board.

SECTION 18. TYPES OF PROJECTS FOR REGISTRATION – The following are the types of projects eligible for registration, provided they involve business activities included in the IPA List:



- a. New Projects;
- b. Expansion Projects;
- c. Modernization Projects; and
- d. Diversification Projects.

SECTION 19. REGISTRATION REQUIREMENTS – The procedure and requirements for application for local incentives shall vary depending on whether or not the applicant has a Certificate of Registration from a Registering Agency pursuant to an Incentive Law.

1. General Requirements

- a. Duly accomplished and notarized application form;
- b. Certified true copy of the primary registration of the applicant to do business in the Philippines as issued by the DTI, SEC, or the CDA, as applicable;
- c. If the applicant has already commenced operation, its latest available comparative audited financial statements acknowledged received by the BIR and the SEC (in the case of corporations); and
- d. Proof of proposed place of business which shall show that the main operating facility, whether a services/manufacturing/production facility or plantation, and not just the warehouse or the administrative office of the applicant is located within the territorial jurisdiction of the City.

2. Additional Requirements for Those Registered Under An Incentive Law

In general, no additional requirements or conditions shall be imposed on those whose activities are under the MIPA List and have subsisting registration with a Registering Agency under an Incentive Law as would diminish their right to the local incentives granted them by virtue of their registration under said Incentive Law. Nonetheless, in addition to the general requirements in the immediately preceding provision, the following requirements are required to be submitted:

- a. Certified true copy of its Certificate of Registration with the appropriate Registering Agency pursuant to the applicable Incentive Law granting applicant's business, investment incentives, including the terms and conditions of the same;
- b. Proof of commencement of commercial operation, if commercial operation has commenced; and
- c. Copy of the feasibility study/Project Study submitted to the Registering Agency.

3. Additional Requirements for Local Registrants

- a. Project Study;
- b. Proof that the applicant meets the criteria pursuant to which it is claiming eligibility to avail of incentives; and



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- c. Other specific permits applicable to the business of the applicant by virtue of its location or the nature of its activity, e.g., environmental clearance certificate (ECC).

SECTION 20. REGISTRATION PROCEDURE – The procedure for the processing of registration under this Code is as follows:

1. Filing of Applications

All applications shall be filed with the Oro-TIPC together with all the documentary requirements listed above. Prior to acceptance of the application, the Oro-TIPC shall already evaluate the completeness of the application form and the other requirements so that the applicant can be advised immediately of any erroneous or missing documentary requirement. It is only upon the determination of completeness of the application form and the supporting documents that the application may be logged in the Registration Application Logbook and the application form is stamped "Received". The date stamped on the application and entered in the Registration Application Logbook shall be considered as the Date of Official Acceptance of the application.

2. Assessment

Simultaneous with the official acceptance of the application, the Oro-TIPC shall issue an Order of Payment for the applicant to already pay a non-refundable filing fee as may be determined by the Board, provided Micro Enterprises shall be exempt from the payment of said Filing Fee.

3. Publication

Except for Micro Enterprises, the application shall be published once in a newspaper of general circulation in the province at the applicant's own expense, in a format indicating the name of the applicant, the area of investment, the capacity applied for and the plant site. Micro Enterprises shall, in lieu of publication, post the fact of application and the same information required to be published in the provincial hall and in the [city/municipal] hall where the registered place of business is located.

4. Evaluation/Approval of Application

Once an application is officially accepted, the proposed project will be evaluated by the Oro-TIPC, which may conduct ocular inspection at the premises of the business, if necessary. The results of the evaluation by and the recommendation of the Oro-TIPC shall be submitted to the Board and included in the agenda for the immediately succeeding meeting of the Board. The Oro-TIPC shall inform the applicant in writing of the Board action on its application, together with the terms and conditions of the approval/registration.

The Board shall approve or disapprove the application sixty (60) calendar days from the Date of Official Acceptance, in the case of Local Registrants and thirty



(30) days for those already registered with Registering Agencies. If no approval or disapproval is issued within the periods indicated, at no fault attributable to the applicant, the Board is deemed to have approved the application, thus the Board shall nonetheless issue a Certificate of Registration with the usual terms and conditions.

5. Issuance of Certificate of Registration

Upon approval, an enterprise shall be issued a Certificate of Registration by the Board through the Oro-TIPC, which shall state, among others, the following:

- a. Name of the Registered Enterprise;
- b. The IPA in which the registered enterprise will engage;
- c. The incentives granted and the respective term of each incentive; and
- d. Such other terms and conditions to be observed by virtue of its registration.

The Certificate of Registration shall be issued not later than five (5) working days from the date of approval of the application by the Board or the lapse of the prescribed processing period. The fact of issuance of the Certificate of Registration under this Code shall be recorded in the Registration Book.

**TITLE VII
INCENTIVES**

SECTION 21. LOCAL FISCAL INCENTIVES UNDER INCENTIVE LAWS – Registered Enterprises enjoying incentives under an Incentive Law pursuant to a subsisting Certificate of Registration with a Registering Agency shall only enjoy the fiscal and non-fiscal incentives at the local level that are expressly granted under the Incentive Law under which it is registered and specifically included among the incentives in its Certificate of Registration with the Registering Agency.

A Registered Enterprise which ceases to be registered with a Registering Agency or wishes to avail of local incentives other than those provided under the Incentive Law under which it is registered may apply for incentives under this Code, subject to the registration procedure applicable to Local Applicants.

SECTION 22. ADMINISTRATION OF LOCAL INCENTIVES GRANTED UNDER INCENTIVE LAWS – The local incentives of Registered Enterprises pursuant to Incentive Laws shall be subject to the following general policies.

1. Local incentives mandated under national laws shall not be diminished and shall be valid for such period as are allowed under the relevant Incentive Law or as provided under the pertinent Certificate of Registration, provided prior registration is made with the Board, accordingly.



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- a. The term and extent of local incentives as provided under Section 133(g) of the Local Government Code (**LGC**) shall be observed, unless the registration of the Registered Enterprise with the BOI is earlier revoked.
 - b. Unless otherwise amended, duly registered Regional or Area Headquarters or Regional Operating Headquarters of multinational companies shall be exempt from all kinds of local taxes, fees, or charges imposed by the City except real property tax on land improvements.
 - c. Art. 61 of the Cooperative Code, as amended, provides tax exemptions on the transactions of cooperatives with their members. Unless otherwise amended, cooperatives with accumulated reserves and undivided net savings of not more than Ten Million Pesos (Php10,000,000.00) shall be exempt from all local taxes of whatever name and nature.
 - d. Unless otherwise amended, the pertinent provisions of The Special Economic Zone Act of 1995 (Republic Act No. 7916, as amended; "**PEZA Law**") provide for exemption from all taxes, including local taxes, of specific ECOZONE locators but in lieu thereof, the concerned ECOZONE locators shall pay a special tax rate of five percent (5%) on gross income.
2. The withdrawal of incentives for violation of the conditions for the grant of the same under the relevant Incentive Law or the pertinent Certificate of Registration shall automatically result in the withdrawal of local incentives granted pursuant to such Incentive Law or by virtue of the issuance of the Certificate of Registration by a Registering Agency.
 3. The City, through its LDC upon recommendation or coordination with the Board, may provide for incentives in addition to incentives provided under the Incentive Laws.

SECTION 23. GENERAL POLICIES IN THE ADMINISTRATION OF INCENTIVES – Unless specifically provided under an applicable Incentive Law or the LGC, the grant of incentives shall be governed by the following general policies:

1. The grant of local tax exemptions shall not extend to fees and charges imposed for services rendered by the City, such as garbage fees, sanitary inspection fees, electrical inspection fees and other similar fees, as well as rental for use of public utilities owned and operated by the local government such as charges for actual consumption of water, electric power and toll fees for use of public roads and bridges and the like, and those levied for the use of government facilities and properties.
2. Incentives granted shall take effect from—
 - (a) the Date of Registration until the lapse of the term of such incentive, unless another reckoning date is approved by the Board on justifiable grounds, but in no case beyond six (6) months from the Date of Registration; or



- (b) such other reckoning as may be prescribed under an applicable Incentive Law; *Provided, That* in the case of BOI-registered enterprises, their local incentives shall be reckoned from the date of their registration with the BOI, as provided under Section 133(g) of the LGC.
3. In case of change of ownership of the enterprise, the local incentives which it is enjoying shall continue to be enjoyed by the enterprise provided that the terms and conditions of the registration of the project are assumed by the new owner/s, *Provided further, That* if a Registered Enterprise is enjoying local incentives pursuant to an Incentive Law, the Certificate of Registration issued by the Registering Agency remains valid despite the change of ownership. Any change in the controlling shareholders of a Registered Enterprise shall be reported to the Board.
4. The local incentives to which a Registered Enterprise is entitled shall be limited to those specified under its Certificate of Registration from the Board, regardless of the enumerated incentives under this Code.

SECTION 24. FISCAL INCENTIVES – Local Applicants who have been registered with the Board (Registered Local Applicants) may be entitled to the following fiscal incentives, provided that in each case, the actual incentives that a Registered Enterprise may enjoy shall be those that are specifically granted under its Certificate of Registration:

1. Local Business Tax Holiday (LBT Holiday)

Registered enterprises shall enjoy exemption from local business tax that is otherwise due on their gross receipts in accordance with the Cagayan de Oro Revenue Code. The exemption shall be for a term of at least two (2) years but not more than five (5) years. The actual duration of the LBT Holiday shall be determined by the average term using the following criteria:

Criteria	4 years	3 years
a. Projected average number of Local Staff starting on the 2 nd year of operation	More than 50	25- 49
b. Capitalization	More than 60 M	3 M – less than 60 M
c. Nature of technology used	Pioneering or highly advanced technology	Advanced technology which is not yet widely available
d. Location	Located in less developed areas	Located in new growth areas

The Local Applicant shall include the foregoing information and the basis thereof in its Project Study, for further verification by the LEIPC.

2. Real Property Tax (RPT) Exemption



Buildings, machinery and equipment and other real property otherwise subject to real property tax used actually, directly and exclusively in the registered activity of Registered Enterprise.

The real property tax exemption shall have the same duration as the LBT Holiday of the Registered Enterprise. The real property tax exemption herein provided shall not be deemed to include exemption from Special Education Fund (SEF).

SECTION 25. NON-FISCAL INCENTIVES – The Board, through the LEIPC, shall provide the following non-fiscal incentives to Registered Enterprises:

1. Assistance in site selection and negotiation for right of way;
2. Joint venture partner identification, partner referral, and identification of possible source of required labor and raw materials;
3. Networking with concerned national agencies such as Technical Education Skills and Development Authority (**TESDA**) and other similar institutions for training of workers to enhance manpower skills of the enterprise and assistance in identifying and sourcing of skilled human resources;
4. Facilitation and/or referral of existing technical and financial assistance programs available through national and local government;
5. Such other aftercare services that may be accorded to investors;
6. Micro Enterprises shall be given opportunities to participate in LGU/Non-governmental agency/organization-organized trade fairs and exhibits, entrepreneur development and training, and inclusion in business matching.

TITLE VIII

CONDITIONS FOR AVAILMENT OF INCENTIVES

SECTION 26. GENERAL CONDITIONS – Registered Enterprises shall abide by the provisions of this Code and its implementing regulations as well as the terms and conditions specifically imposed in their respective Certificates of Registration. Compliance with the continuing conditions for the availment of the incentives, shall be subject to verification by the Board, and for which reason it shall have visitorial power. Noncompliance by a Registered Enterprise with the conditions of its registration shall be sufficient basis for the Board to exercise its authority under Title XII of this Code.

SECTION 27. VISITORIAL POWER AND SCOPE OF POWER – Without prejudice to the regulatory powers of the City over businesses within its jurisdiction, as provided under the LGC, the visitorial power of the City provided under this Code shall be exercised solely for the purpose of ensuring that the Registered Enterprises continue to satisfy all the terms and conditions of its registration with the Board and continues to meet or satisfy the basis or criteria that rendered them eligible for registration with the Board.

SECTION 28. CONTINUING ELIGIBILITY FOR REGISTRATION – A Registered Enterprise shall continue to satisfy whatever criteria rendered it eligible for



registration under this Code. Accordingly, if a Local Applicant was qualified for registration under this Code on account of the amount of manpower, nature of technology, or local raw material that it represented will be used in its production, the Board, through the Oro-TIPC, shall have the authority to inspect the Registered Enterprise to verify that it is in fact using the technology or local material that it represented will be used. If the Registered Enterprise ceases to meet the said registration criteria that rendered it eligible for registration under this Code, the Board shall have the authority to suspend all or some of the incentives of the Registered Enterprise or to revoke its registration subject to the provisions of Title XII below.

SECTION 29. PERIODIC AND OTHER COMPLIANCE REQUIREMENTS –

Nothing under this Code exempts a Registered Enterprise from applicable requirements of the City on businesses, as generally applicable to all businesses or specifically applicable to the business activity or circumstances of the Registered Enterprise. Accordingly, Registered Businesses, except those specifically exempt under applicable law, shall secure and comply with all the requirements to secure a Business Permit and renew the same annually.

Except as expressly provided under this Code or the Incentive Law under which they are likewise registered, Registered Enterprises shall comply with all applicable laws as other enterprises engaged in the same business as they are engaged in are required to comply with.

Other than as provided under Section 27 above, Registered Enterprises shall not be required to comply with any other requirements that businesses not registered under this Code are not required to comply with.

SECTION 30. ADDITIONAL CONDITIONS ON REGISTERED ENTERPRISE UNDER THE MIPA LIST – Those enjoying incentives by virtue of their registration with a Registering Agency and pursuit of a business activity in the MIPA List shall submit annually to the Oro-TIPC an original copy of a certification from the Registering Agency that it continues to be registered with said Registering Agency and that it remains in good standing as such and thus fully entitled to all the incentives granted under its Certificate of Registration. Failure to submit such certificate to Oro-TIPC on or before every anniversary date of the Registered Enterprise's registration with the Registering Agency shall authorize the Board to exercise its authority under Title XII of this Code

TITLE IX
CORPORATE SOCIAL RESPONSIBILITY

SECTION 31. CSR REQUIREMENT – BOI-registered enterprises with projects under pioneer status must undertake CSR activities which shall be monitored starting on the fourth year of operation of the business enterprise. Those on non-pioneer status are encouraged, in the course of their operations, to undertake CSR activities in accordance with the development plan of the community where the registered project is located.

Registered Local Applicants, on the other hand, are encouraged to pursue CSR projects as soon as they can afford to allocate resources for the purposes; however, it shall be mandatory for Registered Local Applicants to pursue CSR projects starting on their fourth year of operation if they enjoy local incentives for a term of more than three (3) years.



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SECTION 32. ELIGIBLE CSR PROJECTS – CSR projects which a Registered Enterprise may undertake include but shall not be limited to the following:

1. Urban Renewal, Greening or Re-greening
 - a. Rehabilitation and restoration of buildings or other structures in accordance with the urban renewal or restoration plan of the City;
 - b. Reforestation, rehabilitation, and urban greening or landscaping of major road sides; areas with historical or tourism value; areas in bio-geographic zones, especially key biodiversity areas; eroded slopes as technically appropriate based on assessment by competent authorities; public open spaces especially in residential and commercial areas including street islands, parks, promenades, parking area peripheries, and the like, provided that the enterprise takes care of the maintenance of the trees and plants. Otherwise, reimbursement of the incentive granted shall be due and demanded should the trees and plants die due to poor maintenance.
2. Social Projects
 - a. Housing for employees;
 - b. Educational projects;
 - c. Cultural revivals;
 - d. Programs for women, children, elderly, disabled, out of school youth and indigenous people;
 - e. Community infrastructure projects aligned with the development plan of the City; and
 - f. Such other projects or activities based on the development needs of the community where the project is located or as identified by the National Anti-Poverty Commission (NAPC).

TITLE X
ENVIRONMENTAL PROTECTION

SECTION 33. ENVIRONMENTAL POLICY – Environmentally critical projects or enterprises locating their activities or expansion projects in environmentally critical areas must comply with the requirements of Presidential Decree No. 1586 (Philippine Environmental Impact Statement System) and related issuances of the Department of Environment and Natural Resources (DENR).

Projects involving the handling, transport, processing and storage of toxic, hazardous substances and/or nuclear waste shall be subject to strict regulations as provided under applicable local issuances and national laws. The Sanggunian of the City shall have the option to exclude such projects from being entitled to local incentives except to the extent that they fall under the MIPA List.



TITLE XI BUDGET APPROPRIATIONS

SECTION 34. APPROPRIATIONS – The expenditures to operationalize the Board and the LEIPC shall be provided through regular or supplemental budget. The City shall appropriate the funds necessary for the implementation of the provisions of this Code based on a budget that may be presented by the Board to include Personal Services, Maintenance and Other Operating Expenses (MOOE), Capital Outlay, and Contingency.

SECTION 35. REVENUES FROM THE OPERATION OF THE CODE – Income derived from the operation of this Code shall go to a special account captioned “Local Economic and Investments Promotion Fund” (LEIP Fund), which shall be used solely for the operation and maintenance and other operating expenses of the Board, LEIPC, including investments promotion expenses of the City.

SECTION 36. IMMEDIATE RELEASE OF FUND – For purposes of expediting the operations of the LEIPC, its allocation for the Local Economic and Investments Promotion Fund shall be released, subject to the usual government accounting and auditing rules and regulations.

TITLE XII PENALTIES

SECTION 37. PENALTIES - The Certificate of Registration issued under this Code may be cancelled/revoked or the incentives of the Registered Enterprise temporarily suspended upon any of the grounds provided in Section 33 hereof. The cancellation or revocation of the Certificate of Registration shall mean withdrawal of all incentives granted under this Code.

In case of cancellation or revocation of its Certificate of Registration due to fraudulent misrepresentation relating to a matter that would have otherwise disqualified from or rendered it ineligible for registration under this Code, the Board shall require the refund of all incentives availed of. The effect of the cancellation or revocation of the Certificate of Registration of a Registered Enterprise shall retroact to the day when the continuing condition for registration under the Code, as provided in the terms and conditions of the Certificate of Registration is proven to have been violated/had ceased to exist.

The Board shall adopt a table of fines and penalties for violations that may be committed by Registered Enterprises of a less serious nature that do not justify the imposition of the penalty of cancellation of the Certificate of Registration. The Board is likewise authorized to give Registered Enterprises a grace period within which they have to remedy any violation committed, whenever such grace period is justified or the violation is of a nature that can be remedied.

Nothing under this Code prevents the imposition of other penalties that are properly imposable under applicable law depending on the nature of violation committed by a Registered Enterprise, as determined by the appropriate regulatory authority.



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SECTION 38. GROUNDS FOR CANCELLATION OF CERTIFICATE OF REGISTRATION – The grounds for cancellation of Certificate of Registration are as follows:

1. Violation of the provisions of the Code and such other violation of the relevant laws, rules and regulations or ordinances issued pursuant to or in relation to this Code;
2. Violation of material term/condition specified in the Certificate of Registration issued under this Code; or
3. Material fraudulent misrepresentation by an enterprise in relation to its application for the grant of incentives under this Code or in any other document required to be submitted pursuant to this Code.

The Board may impose a lesser penalty of temporary suspension of the incentives granted to the Registered Enterprise if the gravity of the violation, act, or omission committed by a Registered Enterprise is not of a serious nature, or the subsequent conduct or other relevant circumstances of the Registered Enterprise would justify the imposition of a less grave penalty than revocation of the Certificate of Registration of the Registered Enterprise.

SECTION 39. PROCEDURE FOR SUSPENSION OF INCENTIVES, CANCELLATION, OR REVOCATION OF CERTIFICATE OF REGISTRATION - The Board, upon a written complaint filed by any interested party or *motu proprio*, may commence proceedings for the cancellation or revocation of the Certificate of Registration issued to an enterprise under this Code. Within ten (10) working days from receipt of a written complaint, the Board shall assess whether there is a *prima facie* case for cancellation or revocation based on such complaint. Should it find that there is a *prima facie* case for cancellation or revocation, the Board shall issue a show cause notice indicating the ground for cancellation or revocation and the specific circumstances constituting such ground, and directing the enterprise to explain within ten (10) working days from receipt of the notice why its Certificate of Registration should not be revoked. A copy of the written complaint shall be attached to the show cause notice. Within ten (10) working days from receipt of explanation of the enterprise together with its supporting documents, if any, the Board shall schedule a hearing and notify the enterprise of such hearing. Within five (5) days from the conduct of such hearing, the Board shall decide whether or not to cancel or revoke the enterprise' Certificate of Registration based on evidence on record. The enterprise concerned shall be notified in writing of the decision of the Board.

SECTION 40. MOTION FOR RECONSIDERATION - The applicant or business enterprise whose Certificate of Registration has been cancelled or revoked may file a motion for reconsideration with the Board within fifteen (15) days from receipt of the Board's decision, otherwise the decision shall become final and executory.

TITLE XIII
FINAL PROVISIONS

SECTION 41. COORDINATION AMONG LGUS - The City shall as much as possible modify its systems and procedures in the issuance of applicable permits and licenses to be consistent with the provisions of this Code. The Sanggunian of the City shall coordinate



or consult with the Sanggunian or Board of concerned LGUs on matters pertaining to incentives such as real property tax, to allow them to align or harmonize their incentives.

SECTION 42. CONSTRUCTION OF THIS CODE – The provisions of this Code shall be construed in harmony with the provisions of existing laws such as but not limited to the Omnibus Investment Code, the PEZA Law, and the Foreign Investments Act of 1991 (Republic Act No. 7042, as amended).

SECTION 43. SEVERABILITY – If, for any reason, any portion or provision, section or part of the Code is declared not valid by a court of competent jurisdiction or suspended or revoked by the Sanggunian, such judgment shall not affect or impair the remaining portions, provisions, sections, or parts hereof which shall remain or continue to be in full force and effect.

SECTION 44. REPEALING CLAUSE – All ordinances, rules and regulations or parts thereof which are in conflict or inconsistent with the provisions of this Code are hereby considered repealed, amended or modified, accordingly.

SECTION 45. IMPLEMENTING RULES AND REGULATIONS – Within six (6) months from the approval of this Code, the Board may issue such implementing rules and regulations as it deems necessary to aid in the orderly implementation of this Code and administration of incentives allowed to be extended under this Code.

SECTION 46. PROSPECTIVE APPLICATION – No ordinance shall be passed removing any incentive that is currently being enjoyed by a Registered Enterprise. All ordinances amending this Code, including the IPA List shall take effect prospectively and shall not be construed to adversely affect or impair the rights granted to Registered Enterprises pursuant to their Certificate of Registration.

SECTION 47. TRANSITORY PROVISION – All enterprises already enjoying incentives from the City at the time this Code takes effect shall be required to comply with the requirements of the Code prospectively. In the interest of ensuring uniformity of treatment, registration in accordance with this Code shall still be required, however, their belated registration shall not result in any impairment or diminution of their incentives or imposition of any penalty. The enterprises covered under this provision shall have thirty (30) days to comply with the registration requirement and shall provide the latest available version of the documentary requirements listed under Section 18 of this Code, provided further that the following documents which are otherwise required shall likewise be dispensed with:

- a. Requirement under Section 18(1)(d);
- b. Requirement under Section 18(2)(c); and
- c. Requirements under Section 18(3).

SECTION 48. EFFECTIVITY – This Code shall take effect after fifteen (15) days following its publication once a week for two (2) consecutive weeks in a local newspaper of general circulation.

UNANIMOUSLY APPROVED.



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AUTHOR: COUNCILOR GEORGE S. GOKING
CO-AUTHORS: CITY VICE MAYOR RAINEIR JOAQUIN V. UY
COUNCILOR IAN MARK Q. NACAYA

Present:

<u>1st District:</u>	- Councilor Lordan G. Suan	- Councilor George S. Goking
	- Councilor Edna M. Dahino	- Councilor Romeo V. Calizo
	- Councilor Reuben R. Daba	
<u>2nd District:</u>	- Councilor Ian Mark Q. Nacaya	- Councilor Maria Lourdes S. Gaane
	- Councilor Dometilo C. Acenas, Jr.	- Councilor Teodulfo E. Lao, Jr.
	- Councilor Enrico D. Salcedo	

Out of Session Hall:

On Leave:

On Official Business:

- Councilor Jay R. Pascual	- Councilor Annie Y. Daba
- Councilor Yan Lam S. Lim (<i>President, Liga ng mga Barangay</i>)	

Absent:

- Councilor Zaldy O. Ocon	- Councilor Leon D. Gan, Jr.
- Councilor Nadya B. Emano-Elipe	

ENACTED this 23rd day of April 2018 in the City of Cagayan de Oro.

I hereby certify to the correctness of the foregoing Ordinance.

ARTURO S. DE SAN MIGUEL
CITY COUNCIL SECRETARY

Attested as duly enacted:

RAINEIR JOAQUIN V. UY
CITY VICE-MAYOR
PRESIDING OFFICER

Approved:

OSCAR S. MORENO
CITY MAYOR

Attested:

TEODORO A. SABUGA-A, JR.
ACTING CITY ADMINISTRATOR