

EXCERPTS FROM THE MINUTES OF THE 72ND REGULAR SESSION OF THE 4TH SANGGUNIANG PANLUNGSOD OF THE CITY OF SAN FERNANDO, PAMPANGA HELD AT THE CITY SESSION HALL, CONSUNJI ST, STO. ROSARIO, CITY OF SAN FERNANDO, PAMPANGA ON THE 1ST DAY OF DECEMBER 2011

PRESENT:

Hon. EDWIN D. SANTIAGO	Presiding Officer
Hon. RENATO G. AGUSTIN	Member
Hon. JAIME T.LAZATIN	Member
Hon. NOEL T. TULABUT	Member
Hon. JOSELITO R. OCAMPO	Member
Hon. RUPERTO D. DURLAO	Member
Hon. REDENTOR S. HALILI	Member
Hon. ALEX F. PATIO	Member
Hon. ROSEMARY G. CALIMLIM	Member

ABSENT:

Hon. CARLA JEAN M. PANGANIBAN....	Member (SK Fed. Pres.)
Hon. AYZEL MARI-GRACE N. MACALINO	Member
Hon. ARNEL G. SICAT	Member (LBC Pres.)

ON OFFICIAL BUSINESS:

Hon. RALPH DANIEL M. HENSON ...	Member
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ORDINANCE NO. 2011-020

Co-authors/Co-sponsors:

**Hon. Joselito R. Ocampo
Hon. Jaime T. Lazatin**

AN ORDINANCE ADOPTING THE 2012 INVESTMENT INCENTIVES CODE OF THE CITY OF SAN FERNANDO, PAMPANGA

EXPLANATORY NOTE

WHEREAS, the Local Government Unit (LGU) of then Municipality of San Fernando, Pampanga through its Sangguniang Bayan has enacted its first Investment Code by virtue of SB Ordinance No. 199-010 on August 18, 1999 which was subsequently amended by SP Ordinance

No. 2003-006 on April 9, 2003, specifically to tailor-suit the needs of the time with the newly converted city and for other purposes;

WHEREAS, the City Government of San Fernando, Pampanga has envisioned to become the gateway to the north, a regional center of Central Luzon, a champion of good governance in 2015, a global gateway by 2020, and a Habitat for Human excellence by 2030;

WHEREAS, the City Government of San Fernando, Pampanga, gifted with good physical environment, competent labor force and a bustling multifarious businesses with a deeply involved private sector partner in local governance, is aptly capable of tapping and mobilizing more resources to improve its capability of rendering better socio-economic services to its constituents;

WHEREAS, a synergized executive-legislative branches of governance have committed to implement the long-ranged blueprint of development programs in the City Government of San Fernando, Pampanga vis-à-vis the generation and promotion of the business climate by granting investors better incentives when doing business in the city;

WHEREAS, by virtue of Executive Order No. 14, s. of 2009, the Honorable City Mayor of San Fernando, Pampanga has created a Technical Working Group composed of the City Officials and representatives from national agencies i.e. BOI, NEDA, DTI etc., and the business sector headed by the Pampanga Chamber of Commerce and the Multi-Sectoral Governance Council, among others, to formulate the City's 2012 Investment Incentives Code;

WHEREAS, after the conduct of in-depth studies, research and series of brainstorming activities, a landmark legislation --- the 2012 Investment Incentives Code of the City of San Fernando, Pampanga was completed and presented to the Sangguniang Panlungsod for deliberation and appropriate action;

NOW THEREFORE, the Sangguniang Panlungsod of the City of San Fernando, Pampanga is session assembled,

ADOPTS as it hereby adopts the following Ordinance:

“AN ORDINANCE ADOPTING THE 2012 INVESTMENT INCENTIVES CODE OF THE CITY OF SAN FERNANDO, PAMPANGA”

**CHAPTER I
TITLE, SCOPE & POLICY**

Section I. Title - This Ordinance shall be known as the “The 2012 Investment Incentives Code of the City of San Fernando, Pampanga”

Section II. Scope - This Ordinance covers all kinds of investment categories existing and potential within the territorial jurisdiction of the City of San Fernando, Pampanga

Section III. Declaration Policy - It is hereby the policy of the City Government of San Fernando, Pampanga to attract new investments, both local and foreign, keep and retain existing investments and encourage their expansion by creating a business-friendly environment that shall promote economic development and generate income for the people of the City of San Fernando, Pampanga. Along this line, the following are the city's investments' objectives, to wit:

- a. Encourage investments that optimize local human and physical and natural resources in the city within the context of sustainable and equitable development;
- b. Ensure investment-friendly and responsive local governance that fosters free enterprise and private initiatives;
- c. Provide a package of fiscal and non-fiscal incentives for investors in preferred investment areas;
- d. Market quality and affordable Fernandino products and services;
- e. Promote the active participation of non-government organizations and the private sector as partners of the city government in achieving its development goals and objectives; and
- f. spread the benefits of economic development to all the city's 35 barangays particularly in the growth and zonal areas as specified in the CLUP of the city;

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

- a. **Board** – the City of San Fernando Investment Incentives Board as enacted under this Ordinance;
- b. **New Enterprise** – new investment falling within the Investment Priorities Areas (IPA) as defined by the Board; refers to investors or enterprises;
- c. **Expanding Enterprise** – refers to the installation of additional facilities/equipment that will result to volume increase in production capacity;
- d. **Capitalization** – the total project cost which includes buildings, machineries, equipment and working capital as per line of business;
- e. **Registered Enterprise** – any individual, partnership, cooperative, corporation or other entity incorporated and/or organized and existing under Philippine laws, and registered with the Board in accordance with this code, provided however, that the term registered enterprise shall not include commercial banks, savings and mortgage banks, rural banks, savings and loan associations, building and loan associations, development banks, trust companies, investment banks, finance companies, brokers and dealers in securities, consumers' cooperatives and credit unions, and other business organizations whose principal purpose or principal source of income is to receive deposits, lend or borrow money, buy and sell or otherwise deal, trade or invest in common or preferred stocks,

debentures, bonds or other marketable instruments generally recognized as securities, or discharge other similar intermediary, trust or fiduciary functions.

- f. **Existing Enterprise** – an enterprise already operating in the City of San Fernando, Pampanga and has plans to diversify and/or expand to other business ventures falling with the Investment Priority Areas (IPA) as defined by the Board;
- g. **Fiscal Incentives** – refer to discounts from payment of local business taxes.
- h. **Non-fiscal Incentives** – refer to the services and assistance provided to investors by the Investment Board and other city government departments to facilitate a registered enterprise’ operationalization and entry in the market;
- i. **Labor Intensive Industry** – refers to the industry which requires substantial amount of human labor to produce the products; the proportion in which labor is used for the production is much higher than the proportion of capital.
- j. **CLUP** – Comprehensive Land Use Plan
- k. **Preferred Areas of Investments** – the economic activities that the Board shall have declared as such;
- l. **Expansion shall include Modernization and Rehabilitation** – increase of existing volume or value of production of upgrading the quality of the registered product or utilization of inefficient or idle equipment under such guidelines as the Board may adopt.
- m. **Investment Priorities Plan** – the overall plan prepared by the Secretariat and approved by the Board which includes and contains:
 - 1) The specific activities and generic categories of economic activity wherein investments are to be encouraged and the corresponding products and commodities to be grown, processed or manufactured pursuant thereto for the domestic export market;
 - 2) Specific public utilities can qualify for incentives under this Code and which shall be supported by studies of existing and prospective regional demands for the services of such public utilities in the light of the level and structure of income, production, trade, prices and relevant economic and technical factors of the regions as well as the existing facilities to produce such services;
 - 3) Specific activities where the potential for utilization of indigenous non-petroleum based fuels or sources of energy can be best promoted; and
 - 4) Such other information, analyses, data, guidelines or criteria as the Board may deem appropriate.

CHAPTER II

THE INVESTMENT INCENTIVES BOARD

Section 1. Investment Incentives Board – To ensure effective and efficient implementation of this Ordinance, the Investment Incentives Board of the City of San Fernando, Pampanga, is hereby created, with all its duties, functions and responsibilities thereof.

Section 2. Composition of the Board – The Investment Incentives Board shall be composed of the following:

- | | |
|---|----------------|
| a. The City Mayor | -Chairman |
| b. Chair, SP Committee on Trade & Industry | -Vice-Chairman |
| c. City Legal Officer | -Member |
| d. City Planning and Development Officer (CPDCO) | -Member |
| e. Rep., National Economic Dev't. Authority (NEDA 3) | -Member |
| f. Rep., Dept. of Trade & Industry (DTI Prov'l. Off.) | -Member |
| g. Rep., Pamp. Chamber of Commerce (PAMCHAM) | -Member |
| h. Rep., Federation of Pampanga
High School/Jose Abad Santos Alumni Associations
Foundation (FEPJAAF) | -Member |
| i. Rep., Federation of Homeowners of the CSFP | -Member |
| i. City Treasurer | -Member |

Section 3. Duties and Responsibilities of the Board – The Board shall be responsible for the regulation and promotion of investments in the City. It shall exercise its powers and perform its duties as follows, to wit:

- a. Formulate/approve policies governing the promotion of investments in the city;
- b. Formulate Investment Priority Areas;
- c. Prescribe the rules governing the rules and restrictions of incentives;
- d. Approve or deny applications for registration with the Board, prescribing such terms and conditions as it may deem necessary to promote the objectives of this Code;
- e. After due hearing, decide controversies concerning the implementation of this Code within 30 days after the same has been submitted for decision;
- f. Monitor and ensure compliance by the registered enterprise with the terms and conditions set forth in letter d above and with the provisions of this Code;
- g. Ensure compliance by the registered enterprises to the provisions of this Code;
- h. After due notice and hearing, cancel the registration or suspend the enjoyment of incentives of any registered enterprise and or require refund of incentives enjoyed by such enterprise including interests and fines, for (a) failure to maintain the qualifications required by this Code (b) for violation of any provisions of this Code, of the terms and conditions of registration; Provided that the registration of an enterprise whose project timetable, as set by the Board is delayed by one year, shall be considered automatically cancelled unless otherwise reinstated as a registered enterprise by the Board;
- i. Formulate and implement rationalization programs for certain industries whose operation may result in dislocation, overcrowding or inefficient use of resources, thus, impeding economic growth. For this purpose, the Board may formulate appropriate guidelines in consultation with the relevant government agencies and the private sector, to implement the programs;
- j. Enter into agreements with other agencies of government for the simplification and facilitation of systems and procedures involved in the promotion of investments, monitoring of compliance of registered enterprises with terms and conditions set forth and with the provisions of this Code and other activities necessary for the effective implementation of this Code;

- k. Promulgate such rules and regulations as may be necessary to implement the provisions of this Code;

Section 4. Powers and Functions of the Chairman – The Chairman of the Board shall have the following powers and functions, to wit:

- a. confirm the mandated members of the Investment Incentives Board;
- b. preside over the regular and special meetings of the Board;
- c. tender annual reports to the Board and such special reports as may be requested;
- d. recommend to the Board such policies and support measures that may be deemed necessary to carry out the objectives of the Ordinance; and
- e. exercise such other powers and perform such other duties as may be authorized by the Board;

CHAPTER III INVESTMENT PRIORITIES PLAN (IPP)

Section 1. Investment Priorities Plan – The Board, after consultation with appropriate government agencies and the private sector, shall formulate and submit to the Sangguniang Panlungsod an Annual Investment Priorities Plan for approval.

Section 2. Criteria in determining the IPP – Economic activity that shall be included in the IPP must be environmentally, socio-economically, technically and financially sound after thorough evaluation and analysis by the Board. The determination of preferred areas of investment to be listed in the IPP as well as the determination of their sites shall be in accordance with the 2012 Comprehensive Land Use Plan (CLUP) and Zoning Ordinance of the City, specifically on the following criteria:

- a) Long term comparative advantage;
- b) Economic soundness;
- c) Extent of contribution of the activity to the specific development goal;
- d) Value of social objectives;

CHAPTER IV INVESTMENT PRIORITY AREAS ACTIVITIES AND APPROPRIATE INCENTIVE AND SUPPORT MEASURES

Section 1. Investment Priority Areas – Incentives, upon the approval of the application by the Board shall be provided to new, expansion and diversification projects of registered enterprises in the following areas, to wit:

A. Manufacturing

- Electronic Precision Assembly
- Furniture/Furnishing
- Food Processing (excluding beverages – soft and hard drinks)
- Garments and Textile
- Gift and Holiday decors
- Agriculture and Aqua-Culture Machineries and Implements
- Pharmaceutical

B. Services

- Health and Wellness
 - Retirement Village
 - Spa
 - Medical Tourism
 - Medical Services/Facilities
- Information Communication Technology (ICT)
 - Financial Services
 - Engineering/Architectural
 - Contact Centers
 - Medical Transcription
 - Animation
 - Knowledge Process Outsourcing
- Human Resource Development

C. Industrial Estate

- Light Industries (such as but not limited to IT Parks Development)

D. Agri-Business

- Post harvest facilities
- Trading and Marketing Facilities
- High value crop production
- Feed mills
- Aquaculture
- Organic Fertilizer Production

E. Heritage Sites and Eco-Tourism

- Hotel and Convention Facilities

- Restaurants
- Nature Parks and Resort
- Heritage and Tourism Sites Development for Business Tourism
- Local Travel/Tour Operators

F. Waste Management Facilities

- Material Recovery and Recycling Facilities
- Biodegradable Waste Processing Facilities

G. Any Business Enterprises that produce and develop renewable and sustainable energy; engage in the production, manufacturing and/or marketing or sale of equipment and hardware; and construction of facilities, buildings, commercial establishments and residences that will promote the use of sustainable energy.

H. New and Expanding Labor Intensive Business Enterprises, included as Investment Priority Areas in Sec. 1 Chapter IV, with the capitalization of less than P30 Million, and employing at least 200 employees of which 60% are Fernandinos.

Section 2. Determination of Added Investment Priority Areas – In consultation with the national government agencies and the private sector, the Board may identify additional investment areas, for inclusion in the list of priority investment areas; and upon deliberation and approval, shall then be adopted for implementation under the City of San Fernando Investment Program, upon concurrence of the Sangguniang Panlungsod.

The following shall be the basis for the inclusion of the proposed investment areas:

- a. It must generate high levels of employment;
- b. It must create linkages with local industries; and
- c. It must not have deleterious effect on the environment

Section 3. Appropriate Incentives and Support Measures – The Board shall identify and recommend to the Sangguniang Panlungsod appropriate incentives and support measures which the city shall be willing to extend, in order to promote priority investment areas and activities, to targeted investors.

Section 4. Removal/ Deletion of Investment Priority Area-

With the concurrence of the Sangguniang Panlungsod, the Board may remove an area or activity from the list of Investment Priority Areas. Any of the following shall be sufficient ground for the removal from the list of the Investment Priority Areas:

- a. Sufficient investments in the area or activity have been attained;
- b. The continued extension of incentives or support measure for the specific investment area is no longer to the interest of the city;
- c. The investment area and activity can not attract investors within reasonable time and cost or may result in unfavorable business climate

**CHAPTER V
INCENTIVES TO REGISTERED ENTERPRISES**

Section 1. Incentives Guaranteed by the City Government of San Fernando, Pampanga among registered enterprises – Under this Ordinance, all registered enterprises with the following capitalization shall be granted fiscal incentives in terms of business taxes, to wit:

A. FOR NEW ENTERPRISE

Classification of Enterprise	Actual Capitalization	Year	Discount from business tax due
Labor Intensive	Less than P30 Million	5	50%
Medium	30,000,000 - 50,000,000	5	50%
Medium	50,000,001 – 100,000,000	5	75%
Large	100,000,001 - ABOVE	5	100%

B. FOR EXISTING ENTERPRISE

Classification of Enterprise	Additional Investment	Year	Discount from business tax due
Labor Intensive	Less than P30 Million	5	5%
Medium	30,000,000 - 50,000,000	5	5%
Medium	50,000,001 - 100,000,000	5	7.5%
Large	100,000,001. - ABOVE	5	10%

Section 2. Commencement of Granting of Incentive –

The computation of the period for the commencement of the approval of the incentives shall be reckoned from the first day of January of any year. Provided that the enterprise shall only be entitled with the incentives commensurate to the actual capitalization as cited in Section 1 of this chapter

Section 3. Labor Intensive Industries –

In case the business falls within the category of the Investment Priority Areas, the following non-fiscal incentives shall be added, such as:

- a. Site selection & regulation assistance;
- b. Assistance in the documentation procedure of exports;
- c. Labor Recruitment and Arbitration assistance;
- d. Other non-fiscal Incentives as may be determined by the Board

CHAPTER VI REGISTRATION OF ENTERPRISES

Section 1. Qualifications of a New Enterprise –

A new enterprise which intends to avail of the incentives provided for in this Code must satisfy the following qualifications, to wit:

- a) the new business enterprise must be qualified to do business and must have complied with all the requirements mandated under existing local and national laws and the Constitution and through presentation of certificates of registration issued by the Securities and Exchange Commission (SEC), Department of Trade and Industry (DTI) or Cooperative Development Authority (CDA) and other national government accrediting agencies, as the case may be;
- b) the prospective investor's place of operation or production must be located within the territorial jurisdiction of the City of San Fernando;
- c) the investment must be among the approved "preferred/priority areas of investments";
- d) the investment must provide employment amongst bonafide residents of the City of San Fernando;
- e) the new enterprise must have a capitalization of:
 - e1) at least Thirty Million Pesos (P30,000,000.00) but not more than fifty Million Pesos (P50,000,000.00), in case of medium scale enterprises;
 - e2) Over Fifty Million Pesos (P50,000,000.00) but not more than One Hundred Million Pesos (P100,000,000.00), in case of medium scale enterprises; and
 - e3) More than One Hundred Million Pesos (P100,000,000.00), in case of large scale enterprises
- f) the new enterprise must provide direct employment in accordance with the provisions of SP Ordinance No. 2004-025

Any Enterprise which opened and operated a business and qualified for incentives under this Ordinance and thereafter closed for any reason and thereafter re-opened, the Board shall exercise utmost prudence in determining the motive or intent of its re-opening before it could be considered as a new enterprise

Section 2. Qualifications of an Existing Enterprise –

The following shall be the qualifications of an existing enterprise:

- a) the existing enterprise whose place of operation or production is already situated within the territorial jurisdiction of the city;
- b) it must have complied with all the requirements mandated by existing local and national laws;
- c) the business falls under any of the activities under the investment priority areas;
- d) it expands its existing facilities such as construction of new buildings, installation of new machineries and equipment or improvements thereof which will result in the increase in production;
- e) it must have an additional investment of not less than 30M, per line of business which shall be the basis of the grant of incentives

Section 3. Application, Approval and Registration Procedure –

Applications shall be filed with the Tourism and Investments Promotions Office (TIPO), recorded in a registration book; and the date appearing therein and stamped on the application shall be considered the date of official acceptance. Applications shall be required to pay a one-time, non-refundable filing fee of:

30,000,000 – 50,000,000	P5,000
50,000,001 – 100,000,000	8,000
100,000,001 – ABOVE	10,000

Upon approval/acceptance, any applicant shall also be required to pay to the Board a non-refundable registration fee of 1/50 of 1% of the amount of investment

Section 4. Certificate of Registration – The Board shall issue a Certificate of Registration to the business concerned as registered enterprise duly stating the incentives and privileges granted under the provisions of this Code

**CHAPTER VII
PENAL PROVISIONS**

Section 1. Penalty – The following shall be the penalty imposed among violators of this Ordinance:

- a. Violation of any or all of the provisions of this Ordinance and other pertinent laws shall forfeit the incentives and privileges granted the registered enterprise, and shall be required to pay all taxes and fees due from the start of its business operation, upon the recommendation of the Board.
- b. Violation of the provisions of this Ordinance shall be penalized with a fine of not more than Five Thousand Pesos (P5,000.00) and or an imprisonment of not more than one year, or both such fine and imprisonment at the discretion of the court.

- c. In case, the violation is committed by a partnership, corporation, association, or cooperative, the manager or President or Chief Executive Officer, as the case may be, shall suffer the penalty provided herein.

CHAPTER VIII FINAL PROVISIONS

Section 1. Repealing Clause –

Local Ordinances, Resolutions, Orders, Rules and Regulations and other issuances of the City Government of San Fernando, Pampanga that are inconsistent with this Ordinance are hereby repealed, amended and modified accordingly.

Section 2. Separability Provision –

If for any reasons, any section of this Ordinance, or any portion hereof, or the application of such section or provision, or portion hereof to any person, group or circumstance is declared invalid or unconstitutional, the remainder shall be in full force and effect.

Section 3. Implementing Rules and Regulations (IRR) –

Within sixty (60) days after the effectivity of this Code, the City Mayor shall convene the Local Investment Board for the purpose of formulating the appropriate Implementing Rules and Regulation (IRR), subject to the concurrence of the Sangguniang Panlungsod through a resolution, necessary for the efficient and effective implementation of this Code.

Section 4. Effectivity –

This Ordinance shall take effect 15 days after its approval and satisfaction of its required publication of three (3) consecutive issues in the newspaper of general circulation in the province of Pampanga and the posting of the same in the City's 35 barangays and other conspicuous places in the city.

ADOPTED this 1st day of December 2011.

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I hereby certify to the correctness of the foregoing Ordinance adopted by the 4th Sangguniang Panlungsod of the City of San Fernando, Pampanga during its 72nd Regular Session held on December 1, 2011.

AVELINA M. LACANILAO-LAGMAN
Secretary to the Sanggunian

ATTESTED TO BE DULY ADOPTED:

Hon. EDWIN D. SANTIAGO

City Vice Mayor & Presiding Officer

APPROVED:

Hon. OSCAR S. RODRIGUEZ

City Mayor

Date /lynnsord2011020

4TH S.P. Ord. 2011-020

4TH SANGGUNIANG PANLUNGSOD MEMBERS

Hon. EDWIN D. SANTIAGO
Acting City Mayor

Hon. RENATO G. AGUSTIN
Acting City Vice-Mayor & Presiding Officer

Hon. JAIME T. LAZATIN
Member

Hon. NOEL T. TULABUT
MACALINO Member

Hon. AYZEL MARI-GRACE N.
Member

Hon. RALPH DANIEL M. HENSON
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Hon. RUPERTO D. DUMLAO
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Hon. JOSELITO R. OCAMPO

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