



Republic of the Philippines
Province of Aklan
MUNICIPALITY OF MALAY



Office of the Sangguniang Bayan

ORDINANCE NO. IIC-001

**AN ORDINANCE ENACTING THE MALAY MUNICIPAL
INVESTMENT INCENTIVE
CODE OF 2001**

Be it ordained by the Sangguniang Bayan of Malay, Aklan, that:

CHAPTER I

GENERAL PROVISIONS

SECTION 1. - **Title.** This Ordinance shall be known as the “Malay Municipal Investment Incentive Code”.

SECTION 2. - **Declaration of Policy.** The Municipal Government of Malay hereby declares, as a matter of policy, that the economic activities, particularly in identified investment priority areas shall encouraged, promoted and strengthened, in line with the Municipal Development Plan. To this end, the Municipal Government shall endeavor to spur this development by providing assistance to investors through tax exemption privileges and other appropriate incentives. It shall also ensure the establishment of adequate support facilities and services and assure investors of a peaceful environment for business.

CHAPTER II

DEFINITION OF TERMS

SECTION 3. - **Definition of Terms.**

- (a) **Board** - shall mean the Municipal Investment and Incentive Board;
- (b) **Code** - shall mean the Municipal Investment Incentive Code;

- (c) **New Enterprise** - shall mean the prospective enterprise intending to establish operation or intending to engage in business within the territorial jurisdiction of the Municipality of Malay for the first time.
- (d) **Tax** - shall mean a monetary exaction levied by the Municipal Government for revenue purposes to support its existence and carry out its legitimate objectives.
- (e) **Investment Priority Areas** - shall mean economic areas that the LGUs, private and government agencies, identify as areas of first preference for development as stated in the Municipal Development Plan of this Municipality.
- (f) **Registered Enterprise** - shall mean an enterprises registered in accordance with the provisions of this Code.
- (g) **Capitalization** - shall mean the total or initial investment in a business that has been paid-in a corporation, cooperative or partnership or invested in a single proprietorship, which may be in cash or in property.
- (h) **Existing Enterprise** - shall refer to a business enterprise whose place of operation is already within the territorial jurisdiction of the Municipality.

CHAPTER III

SCOPE AND LIMITATION

SECTION 4. - **Scope and Limitation.** - This Code shall not apply to banking and other financial institutions, which are governed and regulated by the General Banking Act and other laws under the supervision of the Bangko Sentral ng Pilipinas. This shall cover the following nature of business:

- (a) Labor Generating Enterprise;
- (b) Enterprises engaged in economic activities included in the investment priority areas;
- (c) Manufacturing Enterprises using local raw materials;
- (d) Tourism Oriented Enterprises;
- (e) Service Oriented Enterprises;
- (f) Water & Power Resources Development Enterprises;
- (g) Telecommunication Development Enterprises;
- (h) Agribusiness Enterprises; and
- (i) Other business activities identified by the Board pursuant to Section 15 of this Code.

CHAPTER IV

MUNICIPAL INVESTMENT INCENTIVE BOARD

SECTION 5. - **The Municipal Investment Incentive Board.** - The Malay Investment Incentive Board (MIIB) is hereby created to implement the provisions of this Code.

SECTION 6. - **Composition of the Board.** - The MIIB shall be composed of the following:

Chairman	-	The Municipal Mayor
Co-Chairman	-	The Municipal Vice Mayor
Secretariat	-	Head, Investment Promotion Center

Members:

- (a) SB, Chairman on Agriculture and Aquatic Resources Committee
- (b) SB, Chairman on Finance and Appropriations Committee
- (c) SB, Chairman on Ordinances, Rules and Privileges Committee
- (d) SB, Chairman on Tourism, Trade and Industry, Economic Enterprises and Cooperative Committee
- (e) SB, Chairman on Public Works and Public Utility Committee
- (f) Municipal Planning and Development Coordinator
- (g) Representative - Private Sector Representative preferably from the business – oriented group. Provided that, the selection of representative shall be in the manner provided for by applicable laws.
- (h) Representative

Provided further, that membership of the Board may be increased by the Sangguniang Bayan through the recommendation of the Board as it maybe deemed necessary for the effective implementation of this Code.

SECTION 7. - **Powers and Functions of the Board.** The Board, as its primary function, shall formulate a favorable and stable policy on business climate, which shall encourage and support private sector investments and operation of business activities consistent with the development needs of Malay. Pursuant to this, the Board shall be vested with the following powers:

- (a) To formulate the governing Implementing Rules and Regulations of this Code, subject to the approval of the Sangguniang Bayan;

- (b) To initiate the conduct of technical researches in the identified priority investment areas for promotion and extend appropriate incentives and support measures to investors thereby bringing about a more conducive investment climate in the Municipality;
- (c) To formulate and adopt a long-range investment promotion program and the corresponding incentives and support measures to attract probable investors;
- (d) To supervise the Investment Promotion Center in the implementation of Malay Investment Promotion Programs and provisions of this Code;
- (e) To source out additional fundings to supplement the budgetary allocations provided by the Malay Municipal Government for the operation of the Malay Investment Promotions Center;
- (f) To update the incentives granted in this Code;
- (g) To promote Malay as a primary investment destination;
- (h) To approve or deny any application for the grant of incentives as well as suspend or revoke any business registration for just cause; and
- (i) To enter into agreement with any entity for the purpose of simplifying application systems, procedures, and requirements of investments and business operations in the Municipality of Malay.

SECTION 8. - **Board Meetings and Quorum.** Within sixty (60) days upon approval of this Code, the Municipal Mayor , as Chairman, shall convene the Board. The Board shall meet at least once in every quarter, the day, the time and place of which shall be fixed by the Board during its first session immediately after constitution. When necessary, a special meeting may be called by the Local Chief Executive or by its Chairman or by two-thirds (2/3) vote of all its members. The presence of majority of its members shall constitute a quorum and a majority of the present members is required for the Board to transact official business.

SECTION 9. - **Powers and Functions of the Chairman.** The chairman of the Board shall:

- (a) Preside over the regular and special meetings of the Board.
- (b) Present annual or special reports to the members of the Board and to the Sangguniang Bayan.
- (c) Perform such other duties as the Board may prescribe.

SECTION 10. - **Powers and Function of the Co-Chairman.** The Co-Chairman shall perform the duties and functions of the chairman in case of the latter's absence or inability to perform his/her duties.

CHAPTER V
CREATION OF MUNICIPAL INVESTMENT
PROMOTION CENTER

SECTION 11. - **Creation of Malay Investment Promotion Center.** There shall be an established Malay Investment Promotion Center under the Office of the Mayor. The MIPC shall be manned by one (1) Investment Promotion Officer and a Staff and shall be tasked to implement the provisions of this Code and the promulgated policies, rules and regulations thereof. It shall also assist investors in the processing of investment related local permits.

SECTION 12. - **MIPC Services.** The Center shall extend the following services:

- (a) Provide information on investment opportunities, business procedures, permit requirements, government regulations and other pertinent data required by the investor.
- (b) Guide the investor in completing the requirements of government regulatory agencies.
- (c) Provide referrals to other government bodies, support organizations, service providers and important contacts.
- (d) Organize appointment, itineraries and site visits.
- (e) Arrange logistical support.
- (f) Render updates regarding the existing and/or projected major infrastructure projects in the Municipality as well as other programs and developments that shall bring an impact, favorable or otherwise, to the total business environment of the Municipality.
- (g) Carry out an active advocacy campaign to push infrastructure programs aimed at providing necessary facilities, as well as institute policy reforms to better enhance Malay investment climate.

CHAPTER VI
INVESTMENT PRIORITY PLAN

SECTION 13. - **Criteria for Investment Priority Determination.** - No economic activity shall be included in the investment priority plans unless it is shown to be economically, technically and financially sound as determined by the Board, after thorough investigation and analysis.

The determination of preferred areas of investment to be listed in the investment priority plan should be based on the following criteria:

- (a) Long-run comparative advantage
- (b) Economic soundness
- (c) Extent of contribution to the realization of a specific development goal
- (d) Market technical considerations
- (e) Value of social objectives
- (f) Other indicators of comparative advantage

SECTION 14. - **Preferred/Priority Areas.** The following are prioritized areas of investment opportunities identified by the investment advisory group. Appropriate plans and programs for these areas shall be drawn by the Board and with the concurrence of the Sangguniang Bayan. The Board shall adopt and implement the same under the Malay Investment Promotion Program.

a) PRIORITY AREAS

1. Agriculture

- ▶ Poultry/Livestock Production
- ▶ Vegetables/Fruits/Crops Production

2. Forestry

- ▶ Bamboo Crafts Production
- ▶ Piña Cloth Weaving
- ▶ Rattan Craft Production
- ▶ Nito Craft Production

3. Support Activities

- A. Infrastructures and Services
 - ▶ Port Improvement
 - ▶ Water Supply Improvement
 - ▶ Power Supply Improvement
 - ▶ Market/Slaughter House (BOT)
 - ▶ Sanitary Landfill (BOT)
 - ▶ Drainage System Improvement

4. Basic Industries

- A. Light Manufacturing Industry
 - ▶ Recycling Industry
 - ▶ Bottled Mineral Water

5. Eco-Tourism

- A. Tourism Site Development which shall include the stretch of beaches along seven coastal barangays in the Mainland of Malay as described under the Municipal Comprehensive Land Use Plan (MCLUP), Lupo-Lupo Lake, Bat Caves in the Barangays Poblacion and Yapak, and Water Falls located within the territorial jurisdiction of the Municipality of Malay.
- B. Tourist Accommodations Facilities on the aforementioned development sites which shall include, but not limited to:
 - ▶ Hotels
 - ▶ Resorts
 - ▶ Restaurants
 - ▶ Other tourist accommodation facilities such as Apartels, Pension Houses, Inns, and other related establishments.

b) PREFERRED AREAS

1. Agriculture

- ▶ Delicacies
- ▶ Aqua-culture

2. Support Activities

a. Infrastructure

- ▶ Telecommunications
- ▶ Airport
- ▶ Warehousing

SECTION 15. - **Determination of Other Investment Areas.** Investment areas other than those listed in Section 14 of this Code, may be included by the Board after due deliberation and approval. A program of development shall be prepared and implemented by the Board with the concurrence of the Sangguniang Bayan under the Malay Investment Promotion Program.

Basis of inclusion of investment areas are:

- a. Must generate high levels of employment
- b. Must feature a high degree of value-added

- c. Must create linkages with local industries
- d. Must not have negative impact on the environment

SECTION 16. – **Amendments and Revocation.** The Board at anytime, may amend or revoke the investment development plan, modify or recall the declaration of an investment area or the designation of measured capacities, or terminate the status of preference. In no case, however, shall any amendments, revocation, modification or recall or termination impair whatever rights may have already been legally vested upon registered enterprises, which shall continue to enjoy such rights to the full extent under this Code.

No investment application shall be accepted by the Board for an area of investment prior to the classification and approval of the same. This prohibition shall likewise apply to application for areas which classification and approval, as area of investment preference, have been revoked or recalled by the Board.

CHAPTER VII REGISTRATION OF ENTERPRISES

SECTION 17. - **Qualifications of New Enterprise.** This Code shall apply to any person, natural or juridical, partnership, corporation, association and cooperative, provided that the following qualifications are met:

- a) Must have complied with all the requirements mandated under existing local and national laws and the Philippine Constitution;
- b) Must be registered with appropriate government agencies;
- c) Must have an initial investment of not less than 5 million but not more than 15 million, for small-scale enterprises, more than 15 million but not more than 50 million for medium-scale enterprises. The aforementioned amount must be in Philippine Currency for local investors or its equivalent in US dollars for foreign investors. Provided that, the amount of investment shall be based on the total project cost, as stated in the investor's project study duly submitted to and approved by the Board.
- d) Must remit and actually deposit the required amount to any bank of their choice in the Municipality of Malay (Province of Aklan) and covered by a Certificate of Deposit duly certified by the bank manager.
- e) Must provide employment slots to bonafide residents of Malay, at least ten (10) slots in small scale industries; at least twenty (20) slots in medium industries; and at least fifty (50) slots in large scale industries.

SECTION 18. - **Qualifications of Existing Enterprises.** Any existing enterprise may be granted incentive benefits provided it has complied with the following qualifications:

- a) Such enterprise is operating within the territorial jurisdiction of the Municipality of Malay;
- b) Must have complied with all the requirements mandated by existing local and national laws;
- c) The business falls under any of the activities mentioned in Section 14 hereof or included in the list of Investment Priority areas;
- d) Expand its existing production facilities such as construction of new buildings, installation of new machineries and equipment or improvements thereof which will result in an increase in production;
- e) Must have an additional investment of not less than three (3) million but not more than five (5) million for small scale enterprises; five (5) million but not more than fifteen (15) million for medium scale enterprises; and fifteen (15) million and above for large scale enterprises.
- f) Such existing enterprise shall provide employment slots of at seventy percent (70%) of the total employment force to bonafide residents of the Municipality of Malay.

SECTION 19. - **Registration Requirements.** New or existing enterprises shall file their application for registration with the Board through the Municipal Investment Promotion Center. A non-refundable registration/filing fee of One Thousand Pesos (₱1,000.00) shall be paid by the applicant to the Municipal Treasurer or duly authorized representative upon submission of the following documents:

- a) Three (3) copies of duly completed application form provided by the Board through the MIPC, and filled-up in accordance with the provision of this Code;
- b) A copy of the Articles of Incorporation/Partnership and By-laws as approved by the Securities and Exchange Commission;
- c) A certified true copy of the Certificate of Registration issued by the Securities and Exchange Commission, the Department of Trade and Industry, Board of Investments or the CDA as the case maybe;
- d) For existing enterprises, a copy of the most recent audited financial statement of the applicant firm;
- e) A copy of the feasibility study showing the market, technical, financial and socio-economic viability of the proposed investment;

- f) For corporate type of ownership, a board resolution authorizing the person to file the application;
- g) Proof of ownership or sale or lease or any other arrangement over the project site.

SECTION 20. - **Approval and Registration Procedures.** The Board is authorized to adopt rules and regulations to facilitate action on applications filed with it; prescribe criteria for the evaluation of several applications filed in one preferred area; devise standard forms for use of applicants.

SECTION 21. - **Certificate of Registration.** A registered enterprise under this Code shall be issued a certificate of registration with the signature of its Chairman and such other officers of the Board designated for the purpose. The certificate of registration shall in such form and style as the Board may determine.

CHAPTER VIII INCENTIVES

SECTION 22. - **Tax Incentives for Registered Enterprises.** Under this Code, all newly registered enterprises with a capitalization of not less than 5 million and above and existing enterprises with an additional capitalization of at least three (3) million and above shall be granted the following incentives:

FISCAL INCENTIVES:

- a) Mayors Permit, building permit and Locational Clearance
- b) Business Tax

The grant of fiscal incentive is not motu proprio hence the grantee shall apply for availment of the aforesaid grants with the appropriate municipal agency.

Business tax exemption as an incentive shall only be extended to the grantee in the first year of operation.

NON-FISCAL INCENTIVES:

- a) Site selection and conveyance negotiation assistance
- b) One stop documentation center/processing of applications
- c) Labor recruitment and arbitration assistance

Incentives granted to existing enterprises shall apply only to additional capitalization and shall not include previous investments. In no case however, shall privilege to incentives be transferred from one legal grantee to another and shall be enjoyed on one occasion only.

**CHAPTER IX
APPROPRIATION**

SECTION 23. - **Municipal Investment Promotion Fund.** There shall be allocated a Municipal Investment Promotion Fund, an initial funding to defray the expenses necessary for the implementation of this Code. Said fund shall be used for maintenance of Municipal Investment Promotion Center, investment development and promotional activities of the Municipality as determined by the MIIB, subject to the usual accounting and auditing rules and regulations.

**CHAPTER X
FINAL PROVISIONS**

SECTION 24. - **Inspection.** The MIIB shall conduct an annual inspection on the programs of registered enterprises, either by itself or deputize a local government agency to conduct the same. The inspection shall be limited to the total gross sales; compliance of the Minimum Wage Law and provisions of this Code.

SECTION 25. - **Administrative Sanctions.** Violation of any provisions of this Code and other pertinent laws shall result to:

- a) Forfeiture of the incentives granted to the registered enterprises;
- b) Payment of all taxes and fees due from the start of the business operation, subject to the evaluation and recommendation of MIIB;
- c) Payment of a fine of not less that ONE THOUSAND PESOS (•1,000.00) but not more than TWO THOUSAND FIVE HUNDRED PESOS (•2,500.00) or imprisonment of not less than one (1) month but not more than six (6) months or both at the discretion of the duly constituted authority.

In case the violation is committed by a partnership, corporation, association or cooperative, the manager or president or chief executive/officer as the case maybe, shall suffer the penalty provided herein.

SECTION 26. - **Separability Clause.** If for any reason, any section or any provision of this Code shall be deemed unconstitutional or invalid, other sections or provisions hereof not affected thereby shall remain in full force and effect.

SECTION 27. - **Repealing Clause.** All ordinances, resolutions, executive orders and rules and regulations inconsistent or in conflict with the provisions of this Code are hereby repealed, amended or modified accordingly.

SECTION 28. - **Effectivity.** This Code shall take effect upon its approval.

ENACTED by the Sangguniang Bayan of Malay, Aklan in its regular session this 14th day of June, 2001.

Prepared and Submitted by:

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CODE**

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MUNICIPAL INVESTMENT INCENTIVE CODE

Malay, Aklan

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