

THE SULTAN KUDARAT PROVINCIAL INVESTMENT CODE OF 2007
(SKPIC of 2007)

CHAPTER I

TITLE AND DECLARATION OF POLICIES

Section 1. Title. – This Ordinance shall be known as the **Sultan Kudarat Provincial Investment Code of 2007** or **SKPIC of 2007** for brevity.

Section 2. Declaration of Investment Policies. – 1. This Investment Code is a statement of policy by the Provincial Government of Sultan Kudarat, pursuant to Omnibus Investment Act of 1996 (E.O. 226), to encourage and guide development investment in the province of Sultan Kudarat. Thus, it is hereby declared the policy of the Provincial Government of Sultan Kudarat to promote, strengthen and encourage the growth and development of industries and relevant economic activities in the productive sectors of the province which are globally competitive, culture-sensitive and environmentally sound, particularly in **tourism, manufacturing, production, processing, energy development, agro-industrial, agro-forestry industry and agriculture**. To this end, the Provincial Government of Sultan Kudarat shall endeavor to spur the growth and development of various industries and support services through sound economic policies, laws, ordinances throughout the Province thereby attaining countryside economic stability, growth for the province and improvement of constituents' quality of life.

Moreover, it shall also be the policy of the Province of Sultan Kudarat:

a) To attract, promote and welcome productive investment in business activities which will significantly contribute to the industrialization and socio-economic development to the extent allowed by the Constitution and relevant laws. However, emphasis is given for this investments not to give undue advantage to new investors to the detriment of existing enterprises engaged in the same or similar line of economic activity and not to compromise nor impose upon the people's socio-cultural values;

b) To encourage investments in enterprises that significantly expand livelihood and the employment opportunities for Sultan Kudaratnons and enhance economic value of fast products, promote the welfare of Provincial consumers and transfer relevant technologies in agriculture, industry and support services;

c) To encourage joint ventures between commercial enterprises and farmers association or cooperative as a strategy to modernize agriculture and improve its competitiveness.

d) To promote the marketing of Sultan Kudarat products in order to maximize production, attain self-sufficiency and optimal productivity;

e) To promote Sultan Kudarat Province as a favorable investment destination with adequate power, adequate water resources, free of congestion and pollution, and easily accessible to Asia Pacific region and other global markets;

f) To promote the active participation of non-government organizations and the private sector as partners and catalysts in achieving the development goals of the province; and

g) To be able to sustain investment in the Province, ensure its proper implementation and assure investors of peace and order for the economic upliftment of the people.

CHAPTER II

PURPOSE AND OBJECTIVES

SECTION 3. Purpose. Its purpose is to inform potential investors and others responsible for planning, promoting, or encouraging investment in the Province of Sultan Kudarat, of the following:

- a) The investments and activities which merit encouragement;
- b) The priorities attached to particular investments and activities;
- c) The criteria by which enterprises may be evaluated for approval to carry on a business in the Province of Sultan Kudarat.

SECTION 4. Objectives. – In pursuance of the policy stated in Section 2 hereof, the following shall be the objectives of this Code:

a) To encourage Filipino and foreign investments or joint venture tie-up in projects to develop agricultural, agro-industrial, industrial and manufacturing industries which will bring about greater economic stability, provide more opportunities for employment, and raise the standard of living of the people;

b) To welcome and encourage domestic and foreign investors to establish enterprises that are capital intensive utilizing a substantial amount of human resource/labor available in the province;

c) To actively encourage and promote the optimum utilization of domestic raw materials available in the Province without necessarily resulting to environmental/ecological degradation;

d) To provide fiscal and non-fiscal incentives to local and foreign investors and encourage them to establish business in Sultan Kudarat Province;

e) To develop markets for Sultan Kudarat products in order to attain a rising level of production and employment, hasten the economic development in the province and assure that the benefits of development accrue to the Filipino people, in general and Sultan Kudaratnons, in particular; and

f) To accelerate the development of agricultural and industrial sectors by dispensing productive employment and income opportunities in the countryside aimed at attaining self-sufficiency in basic commodities and raw materials as well as increasing production of crops and other products.

CHAPTER III

SCOPE, APPLICATION, AND RULES ON INTERPRETATION

SECTION 5. Scope and Application. - This Code shall apply to all persons, entities or enterprises, belonging to small, medium and large-scale categories in preferred areas of investments in agribusiness, eco-tourism and services and other areas of investments as may be determined from time to time by the Board.

SECTION 6. Rules on Interpretation. – Any conflicts or controversies arising under the Code shall be resolved on the basis of applicable legal provisions or jurisprudence and liberally construed to carry out the objectives of this Code. As to all doubts and/or conflicts concerning the benefits, privileges, and incentives granted under this Code or in other local ordinances enacted for the purpose of encouraging investment, it shall be resolved *in favor of the investor*.

CHAPTER IV

DEFINITION OF TERMS

SECTION 7 . Definition of Terms. - When used in this Code, the following terms, acronyms and phrases shall mean as follows:

a) "**SKIPC**" shall refer to the Sultan Kudarat Investment Promotion Center created under this Code that serves as the Secretariat and implementing arm of the Board;

b) "**Board**" shall refer to the Sultan Kudarat Investment Board (SKIB);

c) "**Code**" shall refer to the Sultan Kudarat Provincial Investment Code of 2007;

d) "**Province**" shall refer to the Province of Sultan Kudarat covering all the areas within its territorial jurisdiction now existing or hereinafter acquired, as provided for by law;

e) "**Preferred or Priority Investment Area**" shall mean the economic activities that the Board shall have determined and which the Sangguniang Panlalawigan shall have approved, and declared as such and where investors are encouraged to infuse investments and actualize investment projects.

f) "**Existing enterprises**" shall refer to those establishment or enterprises whose places of operation or production are physically located within the territorial jurisdiction of Sultan Kudarat;

g) "**Expansion projects**" include modernization and rehabilitation, and shall mean an increase of existing volume or value of production, or upgrading the quality of registered product or utilization of inefficient or idle equipment, under such guidelines as the Board may adopt;

h) "**Incentives**" shall refer to fiscal and non-fiscal incentives as provided for in this Code;

i) "**Local Personnel or Worker**" refers to a person who is a bonafide resident of the Province of Sultan Kudarat employed in an enterprise registered under this Code;

j) **“Green Investment Enterprises”** shall refer to investors/enterprises availing incentives provided for by this Code although they don't fall under any of the categories set forth in Sec. 21 of the same provided, however, they undertake to repaint, regreen, landscape and/or produce organic fertilizers;

k) **"New investors/enterprises"** shall refer to investors or enterprises that have not or are not currently engaged in any kind or type of business in Sultan Kudarat Province but intend to, or actually established, their place of operation or production in the territorial jurisdiction of Sultan Kudarat Province;

l) **"Registered enterprises"** refer to enterprises or businesses registered in accordance with the provisions of the Code.

m) **“Bona-fide Resident”** shall refer to a person with six (6) months residency in any of the component municipalities/city of Sultan Kudarat Province, 18 years of age and above, and a duly registered voter.

n) **“Small Scale Enterprise”** shall refer to an enterprise with a capitalization of up to Fifteen Million Pesos (P15,000,000.00).

o) **“Medium Scale Enterprise”** shall refer to an enterprise with a capitalization of Fifteen Million and One (P15,000,001.00) Pesos to One Hundred Million Pesos (P100,000,000.00).

p) **“Large Scale Enterprise”** shall refer to industries with a capitalization of One Hundred Million and One Pesos (P 100,000,001.00).

CHAPTER V

SULTAN KUDARAT INVESTMENT BOARD (SKIB)

SECTION 8. Its Creation. – There shall be created a **Sultan Kudarat Investment Board** which shall recommend policies and implement the provisions of this Code and shall, hereafter, be referred to as the Board.

SECTION 9. Composition of the Board. - The Board shall be composed of the following:

Chairman : Provincial Governor

Co-Chairman : President, Sultan Kudarat Chamber of Commerce and Industry

Members :

- a) Provincial Administrator
- b) Sangguniang Panlalawigan/Board Secretary
- c) Sangguniang Panlalawigan Member – Chairman, Committee on Trade and Industry
- d) Sangguniang Panlalawigan Member – Chairman, Committee on Labor
- e) Sangguniang Panlalawigan Member – Chairman, Committee on Tourism
- f) Sangguniang Panlalawigan Member – Chairman, Committee on Agriculture
- g) Provincial Planning and Development Coordinator
- h) Provincial Agriculturist
- i) Provincial Veterinarian
- j) Provincial Tourism Officer
- k) Provincial Director, Department of Trade and Industry
- l) Provincial Director, TESDA
- m) Provincial Director, DOLE
- n) President, Mayor's League of the Philippines-Sultan Kudarat Chapter,
- o) President of Sultan Kudarat Bankers Association
- p) Representative, Manufacturing Sector, as appointed by the Chairman of the Board
- q) Two Representative, Agricultural Sector, as appointed by the Chairman of the Board
- r) Representative of accredited Non-Government Organizations (NGOs), preferably the President of the Association of Sultan Kudarat NGOs

SECTION 10. Increase and Decrease of Membership. The membership of the Board may be increased or decreased by the Sangguniang Panlalawigan upon the recommendation of the Board for the effective implementation of the Code.

SECTION 11. Term of office – The term of office of the members of the Board shall be coterminous with the term of office of local officials without prejudice to their reappointment by the successor Provincial Governor.

SECTION 12. Board Meetings and Quorum. - Within sixty (60) days upon approval of this Code, the Provincial Governor, in his capacity as Chairman, shall convene the Board after appointing the members mentioned in Sec. 9 hereof. The Board shall meet at least once in every quarter or as often as may be necessary, on such a day and time as it may fix or as often as necessary if called upon by the Chairperson.. The presence of majority of its voting members shall constitute a quorum and a majority of the quorum of a meeting shall be required to exercise its powers and perform its functions.

SECTION 13. Powers and Functions of the Board. – The primary function of the Board shall be to establish a favorable and stable policy on business climate which will encourage and support private sector investments and the operation of business activities consistent with the development and environmental needs of the Province. Pursuant to this, the Board shall be vested with the following powers and functions:

(a) To promulgate such rules and regulations as may be necessary to implement the intent and provisions of this Code, taking into consideration the holistic development by safeguarding the well-being of the social, cultural and ecological life of the community;

(b) To conduct economic and technical studies in order to identify areas to be promoted, appropriate incentives and government support measures to be extended in order to attract investors;

(c) To come up with a short (1-2 years) and medium (3-5 years) term investment promotions specifying investment priority areas;

(d) To create the necessary organizational unit(s) to successfully implement the provisions of this Code, such as but not limited to the “Sultan Kudarat Investment Promotion Center (SKIPC)”;

e) To supervise the operations and activities of the Sultan Kudarat Investment Promotion Center (SKIPC) for the effective implementation of the provisions of this Code;

f) To evaluate and decide on the recommendation of the SKIPC pertaining to the cancellation/revocation and or imposition of fines/penalties due to violations made by registered enterprises as provided in this Code;

g) To review and update the fiscal and non-fiscal incentives granted to registered enterprises under this Code;

h) To source out additional budgetary requirement for the implementation of this Code;

i) To review the investment policies set forth in this Code, and formulate and recommend necessary amendments and revisions thereto, if there is any, to the Sangguniang Panlalawigan for its consideration; and

j) To enter into an agreement with other government agencies and/or private organizations facilitating and implementing systems, procedures, requirements and facilitating investments, and other support services for the Sultan Kudarat Investment Promotions Program, subject to the authority given by the *Sangguniang Panlalawigan in accordance with RA 7160, otherwise known as the Local Government Code of 1991*; and

k) To perform such other functions as may be deemed necessary for the successful implementation of this Code.

SECTION 14. Powers and Functions of the Chairperson. – The Chairperson of the Committee shall have the following powers and duties:

(a) To preside over the regular and special meetings of the Committee;

(b) To approve applications of qualified applicants in accordance with the rules and regulations of this Code; and

(c) Generally, to exercise such other powers and perform such other duties as may be necessary to carry out the objectives of this Code.

SECTION 15. Powers and Functions of the Vice Chairperson. - The Vice Chairperson of the Committee shall have the following duties:

(a) To preside over the regular and special meetings of the Committee in the absence of the Chairperson; and

(b) To perform such other duties of the Chairperson in the absence of the latter, and such other duties as may be necessary and required by the Board.

CHAPTER VI

THE SULTAN KUDARAT INVESTMENT PROMOTION CENTER (SKIPC)

SECTION 16. Timeframe for the Establishment and Existence of the Sultan Kudarat Investment Promotion Center – Immediately within sixty (60) days after the day the Board had been constituted, the Sangguniang Panlalawigan, through enactment of an Resolution/Ordinance shall create the Sultan Kudarat Investment Promotion Center (SKIPC), providing therefor its manpower, logistical and funding requirements, in accordance with existing laws, rules, and regulations.

The SKIPC shall be classified as regular office in the Provincial Government of Sultan Kudarat. As such, its existence shall be categorized as Permanent and may only be dissolved upon the unanimous recommendation of the Board and upon the approval of at least two-thirds vote of the Sangguniang Panlalawigan.

SECTION 17. Staff Complement – The following positions shall be created to compose the staff complement of the Sultan Kudarat Investment Promotion Center:

- 1) One (1) Economist IV (SG 22);
- 2) Two (2) Clerks II (SG 4);
- 3) One (1) Bookbinder II (SG 4);
- 4) One (1) Messenger I (SG 2); and
- 5) Other necessary positions that the Board may recommend to the Sangguniang Panlalawigan.

Should there be no available source to fund said creation, employees with appropriate competency and skills be designated to perform the duties & functions attached to the aforementioned positions so as not to hinder the implementation of the Code and not to set naught the objectives and principles underlying therein.

SECTION 18. Duties and Functions of Sultan Kudarat Investment Promotion Center (SKIPC). The Sultan Kudarat Investment Promotion Center, hereinafter referred to as SKIPC, will serve as the Secretariat of the Board and shall take an active role in implementing this Code. In addition, SKIPC shall have the following duties and functions:

- a) To undertake pro-active market development and investment promotion activities;

b) To implement the annual investment promotions and development plan as formulated and approved by the Board;

c) To serve as one - stop accepting, processing and evaluating all applications for registration for the availment of the local incentives and submit its recommendation to the Board within ten (10) working days from the receipt of application;

d) To assist in (1) securing licenses and permits, (2) arranging for the availment of local and national government incentives, and (3) identifying business or joint venture partners, raw materials suppliers, possible business sites and other requirements of existing and potential investors and enterprises;

e) To establish and maintain data bank on general business information, information on economic activities, available technology, financing sources and other relevant data or information;

f) To conduct appropriate and relevant studies, gather and analyze pertinent facts and figures, and inform the Board on international, national and local issues affecting the dynamics of investments; and to initiate, organize and participate in promotional activities, such as exhibitions, conferences and seminar for the stimulation of investments;

g) To establish and maintain networking relations with counterpart investment promotion organizations and coordinate with support agencies of government and the private sector in investment promotions efforts;

h) To spearhead the production, publication and dissemination of investment promotions collaterals and whenever needed, conduct briefings to investors and other interested parties;

i) To represent the Province of Sultan Kudarat in trade and investments meetings, conferences, for a, conventions, and other similar gatherings in both domestic and foreign venues whenever so directed by the Board;

j) To build the competence of SKIPC staff to conduct investment and environmental management promotion functions;

k) To collate, analyze and compile pertinent data and information and studies concerning areas that have been or may be declared as "Preferred Areas of Investment" by the Board;

l) To recommend to the Board any modification/amendments to existing legislation and procedures on local investments;

m) To prepare the agenda for meetings of the Board and submit for its consideration and approval policies and measures which are deemed necessary to carry out the provisions of the Code;

n) To submit annual reports to the Board through the Chairperson on the activities of the Sultan Kudarat Investment Promotion Center relative to the implementation of this Code, within 60 days after the close of the calendar year;

o) To monitor and evaluate project implementation of registered enterprises under this Code for purposes of ensuring that the objectives of the same are accomplished;

p) To recommend applicants for employment in the registered enterprises;

q) To identify problems and difficulties being encountered by investors and offer viable solutions and render necessary assistance to them; and

r) To perform such other functions as may be directed by the Board.

SECTION 19. Visitorial Power of the Board or Center. The Board, the Center, or any duly authorized member thereof, is hereby empowered and authorized to conduct an ocular inspection of the premises or examination of the business activity of any enterprise, including the records and books of any enterprise, registered or applying for registration at any reasonable time of the day, during office hours, for verification or ascertaining, the enterprise's strict compliance with the provisions of the Code, or when the Board or Center deems it necessary in or incidental to the effective exercise and performance of their respective functions and powers.

CHAPTER VII

INVESTMENT PRIORITIES PLAN

SECTION 20. Criteria in Determining Investment Priority Areas. - Economic activity that shall be included in the Investment Priorities Plan must be environmentally, socio-economically, technically and financially sound after thorough investigation and analysis by the Board. The determination of preferred areas of investment to be listed in the Investment Priorities Plan shall be based on the following:

- a) long-run comparative advantage
- b) economic soundness
- c) extent of contribution of the activity to a specific development goal
- d) market and technical considerations
- e) value of social objectives
- f) other indicators of comparative advantage.

SECTION 21. Preferred Areas of Investment. - The Board shall determine the preferred areas of investment taking into account those which will economically produce goods for domestic use in substitution of goods being imported in large quantities and thereby increase the value of agricultural, mining, and other products already being produced or which will make products at cost low enough to be sold competitively in either domestic or export markets. Priority shall be given but not limited to the following:

AGRICULTURE

- * Commercial agricultural or food production (corn, palay, fruits)
- * Coffee production

Agri-Business and Food Processing

- * Amakan (Palm Oil Leaf) Weaving
- * Fruit Processing (Vacuum, Dehydrated, Spray Dried)
- * Canned Specialty Vegetables
- * Snack Food
- * Cutflower Production

MARINE RESOURCES

- * Pearl farming
- * Commercial aquaculture or harvesting of pearl shell, shell fish or other reef or lagoon products

- * Commercial fishing
- * Fresh fish processing
- * Fresh fish exporting
- * Fish bait production

MANUFACTURING & PRODUCTION

- * Food processing including freezing and drying, or drink bottling
- * Screen printing of fabrics or other piece goods
- * Garment manufacture
- * Making of traditional or cultural handicrafts and artifacts (including commercial reproductions)
- * Recordings of cultural performances
- * Jewellery

TOURISM

- * Visitor accommodation
- * Motor vehicle rentals
- * Tourist tours or transfers
- * Eco-tourism
- Business Hotels
- Restaurants
- Resorts
- Parks

Light Manufacturing and Assembly

- Garments
- Footwear
- Toys
- Bulky Kitchen and House Wares

Property Development

- Industrial Estate
- Convention Center
- Residential Area Development
- Commercial/Office Building

Establishment of Foreign Bank Branches

Medical, Educational, Training, and Sports Facilities

Telecommunications

Environmental Enhancement and Protection Project

OTHER AREAS

- * Cinema operations
- * Cultural attractions (including cultural performances)
- * Bakeries or pastry shops
- * Grocery retail outlets (including sundry stores, superettes, and supermarkets)
- * Ownership of galleries for paintings or other visual arts
- * Motor vehicle dealers
- * Restaurants, cafés, or other food preparation and sale operations
- * Retail of traditional or cultural handicrafts and artifacts (including commercial reproductions)
- * Sale or supply of computer hardware or related services
- * Trucking operations
- * Taverns or public bars
- * Laundry or dry-cleaning
- * Places offering Internet access (e.g. internet cafés)
- * Audio or video production, hire, or sale
- * Hairdressing salons, beauty parlours, or health spas
- * Call centers

SECTION 22. Non – area specific priority investment activities – New investments in economic activities which fall under **Green Investments** shall be eligible for incentives even if they are located outside the defined priority investment areas, to wit:

- a) Repainting of establishments;
- b) Regreening through tree planting;
- c) Landscaping;
- d) Production of organic fertilizers;

SECTION 23. Criteria in Determining Investment Priority. - The Board shall take into account the following criteria in the determination of investment priority, to wit:

(a) The gaps between prospective demand and existing supply for specific products, commodities and services and the additional production capacities that must be induced, where such exist;

(b) The potential of such areas of investment for creating new markets , both domestic and foreign, for domestic suppliers of raw materials/intermediate goods, or new sources of supply for domestic consumers of the products;

(c) The potential of such areas of investment for creating productive employment, considering the necessity for the dispersal of industries in the countryside on a planned and balanced basis to the extent that is economically feasible and practicable;

(d) The extent to which investment in such areas will integrate existing production facilities;

(e) The amount of capital normally needed thereby;

(f) The nature of risk, commercial or otherwise, which will be entailed;

(g) The proportion of the required capital, raw materials and labor inputs of indigenous origin;

(h) The comparative advantage they enjoy or could be made to enjoy; and

(i) The availability of local raw materials and manpower skills needed for said project.

The Board shall give priority to projects with the highest rate of return favorable to the local economy. No Projects shall be included in the investment priorities plan nor declared as preferred areas of investment, unless shown to be economically, technically, financially and ecologically sound after thorough investigation and analysis by the Board.

SECTION 24. Determination of Additional Investment Areas.

(a) Additional economic activities may be included in the list of priority investment areas upon approval by the Board and shall then be adapted for implementation under the Sultan Kudarat Investment Promotions Program. The inclusion of investment priority areas should be based on the following factors:

- (1) generation of high levels of employment,
- (2) high degree of value-added features,
- (3) creation of linkages with local industries, and
- (4) no deleterious effect on the environment.

(b) The Board, however, may remove an area or activity from the list, at any point, when any of the following conditions is present:

- (1) sufficient investments in the areas or activity have been attained,

(2) continued extension of incentives or support measures for the specific investment area is no longer to the interest of Sultan Kudarat Province or may place the government and the public in adverse position,

(3) the investment area or activity cannot attract investors within reasonable time and cost or may result in unfavorable business climate, and

(4) lack of progress in the implementation of an environmental management plan.

SECTION 25. Review of Investment Incentives and Support Measures. - To promote the growth of investments in the province particularly in the preferred investment areas, the Board shall review the package of incentives and support measures once in every two (2) years, and recommend for approval to the Sangguniang Panlalawigan the appropriate specific fiscal and non-fiscal incentives that the provincial government shall grant to targeted investors and enterprises.

CHAPTER VIII

AVAILING ENTERPRISES

SECTION 26. Qualifications of New Investors/Enterprises. – New investors who intend to avail of the incentives provided in the Code must meet the following qualifications:

a) That the business enterprise must have complied with all the requirements mandated under existing local and national laws, rules and policies of the government;

b) That the prospective investor's place of operation or production be located within the territorial jurisdiction of the Province of Sultan Kudarat;

c) That the prospective investors must engage in activities in preferred areas of investment such as **tourism, manufacturing, production, processing, transportation, energy development, agro-industrial, agro-forestry industry and agriculture**;

d) The new enterprise must have a capitalization of at least Five Million Pesos (P5,000,000.00), provided that the amount of capitalization shall be based on the total project cost as stated in the investor's profile submitted to the SKIPC;

e) That the enterprise will see to it that not less than twenty-five percent (25%) of its total work force shall be bona-fide residents of the Province of Sultan Kudarat.

f) Foreign companies intending to apply for registration must comply with Foreign Investment Act of 1991;

g) The project must not be included in the negative list as provided for under the Foreign Investments Act (R.A. 7042);

h) Project must not negatively impact the environment, whether in terms of pollution or resource use; and

- i) Registered with Securities and Exchange Commission (SEC) in the case of a corporation and association, Department of Trade and Industry (DTI) in the case of a single proprietorship or Cooperative Development Authority (CDA) in the case of a cooperative;

SECTION 27. Qualifications of Existing Enterprises – An existing enterprise may avail of the incentives under this Code provided that the following qualifications are met, to wit:

a) That the business enterprise must have complied with all the requirements mandated under existing local and national laws, rules and policies of the government;

b) That the prospective investor's place of operation or production be located within the territorial jurisdiction of the Province of Sultan Kudarat;

c) That the prospective investors must engage in activities in preferred areas of investment such as **tourism, manufacturing, production, processing, transportation, energy development, agro-industrial, agro-forestry industry and agriculture**;

d) That the enterprise will see to it that not less than twenty-five percent (25%) of its total work force shall be bona-fide residents of the Province of Sultan Kudarat.

e) Registered with Securities and Exchange Commission (SEC) in the case of a corporation and association, Department of Trade and Industry (DTI) in the case of a single proprietorship or Cooperative Development Authority (CDA) in the case of a cooperative;

f) The existing enterprise whose place of operation or production is already located within the territorial jurisdiction of the province, but which intends to undertake any of the following activities:

1) Relocate its principal office, but not the production site of activity, from other places of the country to Sultan Kudarat; or,

2) Expand its existing production capacity or construct new buildings and other civil works for the installation of new machinery and equipment or improvements thereof which will result in an increase in production capacity.

g) The expansion or diversification shall have an additional project cost in the scale as provided in this Code, provided that the amount of capitalization shall be based on the total additional project cost and such expansion or diversification as stated in the investor's project study submitted to and approved by the Board;

h) The expansion or diversification project will provide employment to bona-fide residents of the province; and,

i) The expansion or diversification will include an environmental management plan.

j) The intended expansion or diversification of the enterprise must engage in any of the specifically identified preferred or priority investment areas as may hereafter be declared by the Board;

k) The enterprise must show proof of financial capacity and capability to undertake the expansion or diversification project and its operation;

l) Relocate its principal office from other places of the country to the Province of Sultan Kudarat; or

m) Expand its existing production capacity or construct new buildings and other civil works for the installation of new machinery and equipment or improvements thereof which will result in an increase in production capacity;

SECTION 28. Registration Requirements.

(a) Single Proprietorship:

- 1) Four (4) copies of completed registration forms;
- 2) A copy of the complete project study of the proposed investment/expansion showing that the project is economically, technically, financially and environmentally feasible and viable;
- 3) A copy of Business Name Registration; and
- 4) A copy of audited Financial Statements (if existing).
- 5) A complete copy of the Environmental Impact Study.
- 6) A copy of the Environmental Compliance Certificate.

(b) For Partnership/Corporation:

- 1) Four (4) copies of completed registration forms;

- 2) A copy of the complete project study of the proposed investment/expansion showing that the project is economically, technically, financially and environmentally feasible and viable;
- 3) A copy of the Articles of Partnership or Incorporation as approved by the Securities and Exchange Commission (SEC) for partnership, corporation, association and foundation;
- 4) A certified true copy of its Certificate of Registration by the SEC, for corporation, partnership, association and foundation, and its Business Name Registration by the Department of Trade and Industry and the Mayor's Permit;
- 5) Resolution of the applicant's Board of Directors, in case of a Corporation authorizing the filing of application;
- 6) A copy of audited Financial Statements (if existing);
- 7) A complete copy of the Environmental Impact Study; and
- 8) A copy of the Environmental Compliance Certificate.

(c) For Cooperative:

- 1) Four (4) copies of completed registration forms;
- 2) A copy of the complete project study of the proposed investment/expansion showing that the project is economically, technically, financially and environmentally feasible and viable;
- 3) A copy of the Articles of Cooperation as approved by the Cooperative Development Authority (CDA) for cooperatives;
- 4) CDA Registration;
- 5) A copy of audited Financial Statements (if existing);
- 6) A complete copy of the Environmental Impact Study; and
- 7) A copy of the Environmental Compliance Certificate.

SECTION 29. Prior Consent of NCIP. The new enterprise must secure from the Regional Office of the National Commission on Indigenous Peoples a Free and Prior Informed Consent (FPIC) should the proposed site of investment be located within the ancestral domain claim of the indigenous peoples.

SECTION 30. Registration Procedures.

a) Venue for Filing of Applications. - All applications shall be filed with the SKIPC.

b) Date of Official Acceptance. - The application shall be recorded in the Registration Book and the date appearing therein and stamped on the application shall be considered as the date of official acceptance. Only applications with complete requirements shall be accepted.

c) Filing Fee. - A non-refundable filing fee shall be paid together with the required documents for registration.

The following are the non-refundable Filing Fees to be collected:

- (1) P 1,000.00 - Small-scale Enterprise
- (2) P 2,500.00 - Medium-Scale Enterprise; and
- (3) P 5,000.00 - Large Industries

(d) Processing Time. - Application shall be acted upon by the SKIPC within ten (10) working days from the official acceptance thereof and by the Chairman of the Board within the next 10 working days. If and when the application is not acted upon within the stated period of a total of twenty (20) working days, the application is deemed approved.

(e) Certificate of Registration. - A registered enterprise under the code shall be issued a Certificate of Registration with the signature of the Chairman of the Board and/or such other officer as the Board may empower and designate for the purpose. It shall state among others, the following:

- (1) Name of the Registered Enterprise;
- (2) The priority investment area in which the registered enterprise will engage in; and
- (3) The other terms and conditions to be observed by virtue of its registration.

SECTION 31. Evaluation and Approval Procedures.

a) Once an application is officially accepted, the project will be evaluated by the Sultan Kudarat Investment Promotion Center (SKIPC) which may conduct ocular inspection at the premises or examination of the business community.

b) If found not qualified, SKIPC shall inform the applicant in writing.

c) If found qualified, the SKIPC forwards the application to the Board for its deliberation for the registration of the project or enterprise or for the grant of incentives applied for.

d) The Chairman of the Board shall approve the application upon the favorable recommendation of the SKIPC.

e) The SKIPC shall inform the applicant in writing the decision of the Board on its application.

f) Once approved by the Chairman, the SKIPC within five (5) working days shall inform the applicant in writing and delivers the Certificate of Registration. The SKIPC then informs the Provincial Treasurer, the Provincial Assessor, the Municipal Treasurer and the Municipal Assessor where the business establishment is located, of such approval for their information, guidance and appropriate action.

SECTION 32. Evaluation Criteria. – The following criteria shall be used in the evaluation of application for registration under this Code:

a) Capitalization. - The project must have a total project cost of at least Five Million (P 5,000,000.00);

b) Employment. - That the project shall employ bona-fide residents of Sultan Kudarat Province of not less than 25% of its total work force;

c) Compliance of all registration requirements mandated under existing local and national laws;

d) Location. - The operation of the project shall be located within Sultan Kudarat Province and

SECTION 33. Certificate of Registration. - Under this Code, an enterprise is considered registered upon approval of its application with the Board, and as such, legally entitles it to fully avail of any or all of the fiscal incentives provided in this Code. A registered enterprise shall be issued a Certificate of Registration duly signed by the Board's chairman in such style and form as the Board may determine.

SECTION 34. Rights and Privileges. - All investors or registered enterprises are entitled to the rights and guarantees provided for by law and the Constitution and the privileges provided for by this Code. In addition to such rights and guarantees to enhance investor's confidence under this incentives program, the Provincial Government through the Sultan Kudarat Investment Promotion Center shall:

a) Provide concise and comprehensive information to prospective investors regarding the economic priorities of the province, target investment areas, and the general conditions applicable to incoming direct private investments;

b) Take the fullest possible accounts of the need of the investors for stability, growth and profit in their operations in the formulation or modification of policies and ordinances that will affect investments;

c) Disseminate to investors and the general public, the investment evaluation criteria and registration procedures to enhance government transparency in the process of granting investments in the province;

d) Facilitate implementation of the investment project;

e) Not to interfere or modify arrangements with investors after the details for the implementation of an investment project has been accepted and approved, and the ownership and management structure of the enterprise has been established, unless the law provides otherwise;

f) Avoid and/or provide undue distortion of competition between or among enterprises operating within the territorial jurisdiction of the province, whether domestic or foreign, when granting any special exemptions or incentives aimed at encouraging investment in the identified target areas;

g) All investors who shall invest under this Code are hereby encouraged to hire employees residing within the province with due consideration on the recommendations of SKIPC or the Board; and in cases where no local personnel or worker is qualified and capable, allow the employment of qualified non-residents or foreign personnel where this is necessary, for the efficient operation of the enterprise or for technology transfer;

h) Resolve all doubts and/or conflicts concerning the benefits, privileges, and incentives granted under this Code or in other local ordinances enacted for the purpose of encouraging investment, in favor of the investor.

SECTION 35. Duties and Responsibilities of Registered Enterprises.

Every registered enterprise shall submit to the SKIPC the following reports and/or documents within the time herein prescribed:

(1) Amendments of Articles of Incorporation or By-laws, or Articles of Partnership, or Articles of Cooperation, within thirty (30) calendar days from the date of submission of said amendments with the Securities and Exchange Committee or Cooperative Development Authority;

(2) Change of Directors within thirty (30) calendar days from the change;

(3) Report on alien officers or employees within thirty (30) calendar days from date of registration or from the appointment of such aliens/replacements; Provided: that such alien/s are registered as such with the Bureau of Immigration and Deportation (BID) and with the Department of Labor and Employment (DOLE);

(4) Report on employment of bona-fide Sultan Kudarat residents within thirty (30) calendar days from date of registration or from the appointment of their replacement;

(5) Quarterly report on the enterprise's business operations, including its production or gross sales or receipts, within thirty (30) calendar days from end of each quarter;

(6) Audited Financial Statements, within thirty (30) calendar days after its submission to the Bureau of Internal Revenue (BIR); and

(7) Report on total local incentives availed of under this Code.

SECTION 36. Sanctions for Late Submission of the Preceding Reports and Documents. - For late submission of reports and the aforementioned documents, every registered enterprise shall, for each preferred/priority area of investment, be fined in accordance with the following:

- a. 1st violation – P 5.00 per day every violation;
- b. 2nd violation – P 10.00 per day every violation;
- c. 3rd violation & subsequent violations – P 20.00 per day for every violation

CHAPTER IX

FISCAL AND NON-FISCAL INCENTIVES

SECTION 37. Tax Incentives to Registered Enterprises. - In addition to the incentives provided under Republic Act 7160 otherwise known as "Local Government Code of 1991," and Republic Act 7916 known as "The Special Economic Zone Act of 1995," Executive Order No. 226 known as "Omnibus Investments Code of 1987" and other pertinent laws, a registered enterprise under this Code shall enjoy the following tax incentives through consultations with Local Government Units (LGUs) within the territorial jurisdiction of the Province of Sultan Kudarat:

a) Tax credit equivalent to ten percent (10%) of the total cost of approved infrastructure project to be deducted from the future real property tax liability of the registered enterprise within a period of five (5) years starting from the date of the expiration of the tax exemption of the registered enterprise; provided, that said infrastructure project shall be open for public use;

b) Exemption from payment of Tax on:

1. Real Property Tax imposed under Resolution No. 169/Ordinance No. 05-12, otherwise known as the Provincial Revenue Code of Sultan Kudarat, for a period of six (6) years from the date of registration approved by the Sultan Kudarat Investment Board or from the date of the expiration of the registered enterprise' tax exemption as provided under other national laws, whichever is applicable; provided, that the tax exemption shall pertain only to the thirty-five percent (35%) share of the province.

2. Transfer of Real Property Ownership under Article 224 of the IRR of Local Government Code of 1991, as adopted under Resolution No. 169/Ordinance No. 05-12, otherwise known as the Provincial Revenue Code of Sultan Kudarat;

3. Business of Printing and Publication under Art. 225 of the IRR of Local Government Code of 1991, as adopted under Resolution No. 169/Ordinance No. 05-12, otherwise known as the Provincial Revenue Code of Sultan Kudarat;

4. Franchise Tax under Art. 226 of the IRR of Local Government Code of 1991, as adopted under Resolution No. 169/Ordinance No. 05-12, otherwise known as the Provincial Revenue Code of Sultan Kudarat;

5. Amusement Tax under Art. 229 of the IRR of Local Government Code of 1991, as adopted under Resolution No. 169/Ordinance No. 05-12, otherwise known as the Provincial Revenue Code of Sultan Kudarat;

SECTION 38. Non-Fiscal Incentives. - Registered enterprises and investors shall be granted the following non-fiscal incentives:

a) Provision of a one-stop documentation center for simplified documentation/registration procedures which shall be facilitated with the assistance from Sultan Kudarat Investment Promotion Center;

b) Consistent support for industrial peace through SKIPC;

c) Assistance in securing direct source of electric power and water supply connection;

d) Assistance in the negotiation of special rates for industries with a minimum load of at least 1000 kilowatts;

e) Assistance in site selection and negotiation for right of way;

f) Assistance in labor recruitment and arbitration;

g) Technical trainings support by the Provincial Government of Sultan Kudarat in coordination with the national agencies such as Technical Education Skills and Development Authority (TESDA) and other similar institutions to answer the skills requirement of industries located in the Province of Sultan Kudarat; and

h) Other non-fiscal incentives as may be determined by the Sangguniang Panlalawigan through the enactment of Resolutions/Ordinances, as the case maybe.

SECTION 39. Availment of Tax Incentives. - A registered enterprise qualified under this Code shall within six (6) years from the start of its commercial operation be exempted from the aforesaid provincial imposition in the manner and conditions hereunder prescribed:

(a) For those employing fifty percent to sixty nine percent (50% - 69%) of their labor from qualified residents of the province with due regard on the recommendations of the Board or Center:

- (1) 100% - 1st and 2nd year
- (2) 80% - 3rd year
- (3) 60% - 4th year
- (4) 20% - 5th year
- (5) 10% - 6th year
- (6) 0% - 7th year

(b) For those employing seventy percent (70%) or more of their labor from qualified residents of the province with due regard on the recommendations of the Board or Center:

:

- (1) 100% - 1st and 3rd year
- (2) 40% - 4th year
- (3) 20% - 5th year
- (4) 10% - 6th year
- (5) 0% - 7th year

The incentives mentioned in the preceding article are contingent upon the commitment of the locator to hire local workers at the rate equal to or higher than the prevailing minimum wage and other benefits in the region. The Provincial Government of Sultan Kudarat, upon the recommendation of the Sultan Kudarat Investment Promotion Center, shall grant exemptions and incentives under the terms and conditions provided in this Code.

SECTION 40. Exclusion. - This grant shall not apply to regulatory fees which are levied under the police power of the Provincial Government.

SECTION 41. Factors Governing Exemptions and Incentives. The grant of these exemptions and incentives shall be governed further by the following factors:

(a) Tax exemptions:

(1) The grant to a type or kind of business shall apply to all businesses similarly situated subject to the pertinent provisions of this Code.

(2) The exemption granted shall take effect only during the next calendar year to a period not exceeding six (6) years thereafter.

(3) On shared revenues, the exemption shall extend only to the local government unit granting such exemptions or relief unless the LGU concerned shall extend the same privilege to such enterprise qualified under this Code.

(b) Tax incentives:

(1) Tax incentives shall be granted only to new investment in the locality as well as existing enterprises qualified under this Code.

(2) The grant shall be based on the capitalization of the enterprise registered under this Code, and in no case shall exceed six (6) fiscal years.

(3) Such grant to a type or kind of business shall apply to all similar businesses qualified under this Code.

CHAPTER X

GREEN INVESTMENT'S INCENTIVES

SECTION 42. Coverage – Green Investment Enterprises availing of incentives need not fall under any of the categories set forth in Section 21 of this Code.

SECTION 43. Repainting – An existing enterprise which paint all portions of its buildings or other structure which are visible , or will be visible , to the public and its clientele in the course of the conduct of its normal business operations shall be eligible to deduct from gross receipts its direct painting cost but not to exceed thirty percent of the gross receipts for the year subject to the following conditions:

- (a) The building, or buildings, are located within any of the province's municipalities/city or barangays;
- (b) Any excess may be charged against succeeding tax years for a maximum period of three years subjects to the same ceiling of thirty percent of gross receipts;
- (c) This incentives may be availed of only once every three years.

SECTION 44. Regreening – An enterprise which plants trees at specified locations shall be entitled to deduct P 10,000 from its gross receipts for each growing trees but not to exceed thirty percent of its gross receipts for the year subject to the following conditions.

- (a) To be qualified for incentive, a tree must have been growing for at least one year and must be at least 4 feet in height at the time it is applied for incentive.
- (b) Any excess may be charge against succeeding tax years for a maximum period of three years subject to the same ceiling of thirty percent of gross receipts;
- (c) This incentives may be availed of only once every three years;
- (d) Tree(s) which are destroyed or otherwise die due to negligence by the enterprise within the period of availment shall result in the addition of P 10,000 to the current tax base for each tree lost.
- (e) This incentive is non- transferable. In case of a change of ownership of the enterprise, the incentives shall not be transferred to the new owner, but shall continue to be enjoyed by the original owner and applied to his new business enterprise, if any, provided the period of incentive shall

expire within two years from the date of application regardless of whether the owner availed of it or not.

(f) An enterprise availing of this incentive shall file an application with the SKIPC regarding its intent to plant, the kind of trees to be planted , location and the date of planting. Planting shall be completed within one month from approval of said application.

(g) The trees must be planted within , or at the frontage of the enterprise's place of business , or along the street fronting such place of business or in the absence of space at the enterprise's place of business, in any of the following priority areas;

(i) Within 20 meters of either side of the provincial road or municipal road ;

(ii) Residual forest areas;

(iii) Areas identified with historical values;

(iv) Areas of high biodiversity;

(v) Eroded slopes;

(vi) Public open spaces especially in residential and commercial areas including street islands, parks, promenades, parking area peripheries and in wide sidewalks as may be suitable;

Provided that proper coordination is made with the city, municipal or provincial government, as the case may be, whenever the enterprise decides to plant trees in a public property and provision is made by the enterprise to ensure the care and survival of the planted trees.

SECTION 45. Landscaping – An existing enterprise which landscapes its premises shall be entitled to deduct from its gross receipts its direct landscaping cost but not to exceed thirty percent of its gross receipts for the tax year subject to the following conditions:

(a) Any excess may be charged against succeeding tax years for a maximum period of three years subject to the same ceiling of thirty percent of gross receipts;

(b) This incentive may be availed of only once every three years;

(c) The landscaping shall not be less than 10 sq.m. of contiguous or adjacent areas which shall include the enterprise's entire frontage area.

(d) In the absence of sufficient space at the enterprise's place of business, the required area may be complied with by landscaping any of the following priority areas.

(i) Areas identified with historical values;

(ii) Public open spaces especially in commercial areas including street islands, parks, promenades, parking area peripheries and in wide sidewalks as may be suitable; Provided landscaping undertaken in any of these public areas shall not be less than 10 sq.m. regardless of the total area landscaped within the premises of the enterprise.

(e) The province reserves the right to reappraise the cost of the landscaping in case it finds the reported cost excessive.

(f) The landscape shall have been properly maintained.

(g) This incentive may be availed of only once every three years.

SECTION 46. Signboards – An enterprise utilizing public property to avail of the incentives provided in the preceding two sections shall be allowed to place a signboard, free of any fees, tax or charges, promoting environmental consciousness, or other slogans or caricature supportive of growth and development, with the enterprise name and logo which should be of a size and dimension such that it will not over shadow the aesthetic beauty of the project nor the message of the signboard.

SECTION 47. Regulation – The Board shall ensure that the greening and landscaping projects undertaken by enterprises on public property shall be in harmony with the overall greening and beautification program of the provincial government and/or local government concerned.

SECTION 48. Production of Organic Fertilizers. – New enterprises engaged in the production of organic fertilizers of plant and animal origin including the production of microbial fertilizer with nitrogen fixing organism shall be entitled to the incentives provided for under Chapter IX provided the enterprise maintains a price differential vis –a- vis synthetic fertilizers as may be fixed by the Board. Mere mixing and compounding of organic fertilizers are not covered.

CHAPTER XI

PROTECTION OF THE ENVIRONMENT

SECTION 49. Environmental Impact Assessment. – Environmentally critical projects or enterprises locating their activities or expansion projects in environmentally critical areas shall 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.

SECTION 50. Hazardous Substances. – Projects involving the handling, transport, processing and storage of toxic, hazardous substances and/or nuclear waste shall not be entitled to any incentives under this Code.

Specific prohibitions.

(a) No industrial or manufacturing facility shall be operated without proper solid and wastewater disposal facilities;

(b) No industrial or manufacturing plant shall be operated at levels beyond the operating capacity of their respective waste treatment facilities in order to maintain the effluent quality within the standards required by law;

(c) All Industrial and manufacturing establishment shall subject their operations and premises, facilities and systems to periodic environmental assessments which shall be conducted by the provincial government in coordination with the Department of Environment and Natural Resources. Refusal to be subject to such inspection shall be sufficient ground for the forfeiture of any incentive and the revocation of its Certificate of Registration and/or Business Permit by the concerned local government units.

CHAPTER XII

FINAL PROVISIONS

SECTION 51. Penal Clause. Any violation of the provision of this Code shall be ground for cancellation or revocation of the registration of the business and the withdrawal of incentives granted under this Code. The Certificate of Registration of a Business Enterprise, as provided in this Code, may be cancelled or revoked due to the following:

- (1) Violation of the provisions of this Code;
- (2) Failure to commence actual project development within one (1) year from approval or registration.
- (3) Violation of environmental laws particularly those relating to ecological conditions.

Cancellation or revocation of the certificate of registration shall mean the withdrawal of all the incentives granted under the Code; and all fees and charges previously exempted shall become due and demandable.

Upon the recommendation of the Center, the Chairman of the Board may cancel or revoke the Certificate of Registration of the concerned business enterprise through a formal written notice to that effect, and shall become effective on the 16th day from the receipt thereof.

SECTION 52. Appeal from the Decision of the Board. The applicant or business enterprise adversely affected by any decision of the Board relative to its cancellation/revocation of registration or the impositions of fines/penalties in accordance with this Code may, within fifteen (15) days upon receipt of such decision, appeal the same to the Sangguniang Panlalawigan, whose decision shall be final and executory.

SECTION 53. Refund and Penalties – In case of cancellation of the Registration Certificate, the Board shall require the refund of incentives availed of and impose corresponding fines and penalties.

SECTION 54. Appropriations. - Appropriation covering the current operating expenditures and capital outlays for the Board and the Sultan Kudarat Investment Promotion Center (SKIPC) shall be sourced thru a Supplemental Budget from the General Fund (for its starting operation in FY 2007) and from the 20% Annual Development Fund and/or regular Annual Budget (for its succeeding operation for FY 2008 onward).

SECTION 55. Revenues From The Operation Of The Code. Income derived from the operation of this Code shall go to the provincial coffers captioned ***“Investment Promotion Fund”***. Said fund shall be used solely for the operation of the Sultan Kudarat Provincial Investment Code and for capital outlays and maintenance and other operating expenses of the Sultan Kudarat Investment Board (SKIB) and Sultan Kudarat Investment Promotion Center (SKIPC).

SECTION 56. Immediate Release of Fund. For the purpose of expediting the operations of the Board and of the Center, its allocation from ***Investment Promotion Fund*** shall be immediately released.

SECTION 57. Modification in the Systems and Procedures in the Offices of Local Government Units Within Sultan Kudarat Province. – Local government units within the territorial jurisdiction of the Province of Sultan Kudarat involved at any stage of the application for and availment of incentives shall henceforth modify their systems and procedures in the issuance of applicable permits and license so as to be consistent with the provisions of this Code. These offices shall further coordinate with the SKIPC for the purpose of setting up a one-stop processing center to expedite the processing of all applications.

SECTION 58. Separability Clause. – If, for any reason, any portion or provision, section or part of this Code is declared not valid by a Court of competent jurisdiction or suspended or revoked by the Sangguniang Panlalawigan, such judgment shall not affect or impair the remaining portions, provisions, sections, or parts thereof which shall remain or continue to be in full force and effect.

SECTION 59. Repealing Clause. All ordinances, rules and regulations, or part thereof, in conflict with, or inconsistent with any provisions of this Code, are hereby repealed, amended or modified accordingly.

SECTION 60. Effectivity. This ordinance shall take effect immediately upon its approval.