

RESOLUTION NO. 285 9th SP-02
**"A RESOLUTION REGULATING SMALL-SCALE MINING
OPERATIONS IN THE PROVINCE OF SULTAN KUDARAT,
PROVIDING PENALTIES FOR VIOLATION THEREOF AND
FOR OTHER PURPOSES"**

WHEREAS, small-scale mining operations in the province of Sultan Kudarat have gone too far without due regard to environmental hazards brought about by its abuse;

WHEREAS, these mining operations, if left unregulated will bring disastrous effects to the environment;

WHEREAS, there is a need to adopt measures and safeguards to regulate small-scale mining operations for the preservation of the natural ecosystem pursuant to Article 98 (4) of RA 7160, otherwise known as the Local Government Code of 1991;

WHEREAS, the passage of regulations will generate employment opportunities, thereby alleviating the living conditions of the inhabitants in the rural areas;

WHEREFORE, on motion of Hon. Donato A. Ligo, duly seconded by Hon. Jonathan Y. Barroquillo, it was-

RESOLVED, as it is hereby resolved, to enact the following ordinance, to wit

ORDINANCE NO. 4

**"AN ORDINANCE REGULATING SMALL-SCALE MINING OPERATIONS IN THE PROVINCE OF SULTAN KUDARAT
PROVIDING PENALTIES FOR VIOLATION THEREOF AND FOR OTHER PURPOSES."**

CHAPTER 1. - Title

Section 1. - This Ordinance shall be known as "An Ordinance Regulating Small-Scale Mining Operations In The Province Of Sultan Kudarat, Providing Penalties For Violation Thereof and For Other Purposes."

CHAPTER II. - General Statement of Policy

Section 2. - It shall be the policy of the Provincial Government of Sultan Kudarat to:

(a) Preserve and protect the ecological system against acts which endanger the environment that may result to ecological imbalance.

(b) Provide employment opportunities to inhabitants of rural areas in order to alleviate their living conditions;

(c) Uphold that all mineral lands of the public domain and minerals belong to the State wherever they may be found, whether in public lands, or in private lands, and their disposition, exploration, development or utilization shall be limited to citizens of the Philippines, or to corporations, or associations, at least sixty per centum of the capital of which is owned by such citizens, contrary to law notwithstanding;

- (d) Recognize and promote the rights, customs and traditions of indigenous cultural communities; and
- (e) Observe the principle of sustainable development, responsible cultural waste management, community based development, integrated environmental management, rehabilitation and public accountability;

CHAPTER III. Definition of Terms

Section 3. The following terms whenever used in this Ordinance shall mean:

- (a) "**Regulations**" means these rules and regulations.
- (b) "**Government**" means the Provincial Government of Sultan Kudarat.
- (c) "**Governor**" means the Provincial Governor of Sultan Kudarat.
- (d) "**PMRB**" means the Provincial Mining Regulatory Board with office address at Provincial Capitol, Isulan, Sultan Kudarat.
- (e) "**Claim Owner**" means the holder of a valid and existing mining claims and/or mining lease contracts.
- (f) "**Qualified Person**" means a Filipino citizen, of legal age, and with capacity to contract, or a corporation, partnership and cooperative organized or duly registered in accordance with law, authorized to engage in mining at least 60% of the capital of which is owned at all times by Filipino citizen.
- (g) "**New Areas**" means mining areas not covered by valid and existing claims whether private or public lands.
- h) "**Small-Scale Mining**" involves the operation of a single unit mining operation having an annual production not exceeding 50,000 metric tons of run-off-mine ore with the following requisites:
 - (1) The working area is artisanal, either open cast or shallow underground rining, without the use of sophisticated mining equipment.
 - (2) Minimal investment on infrastructures and processing plant;
 - (3) Heavy reliance on manual labor.
- (i) "**Single Mining Unit**" means a mining operation covered by a mining permit and involving the extraction and/or processing of any of the classfied mineral commodities as specified herein.
- (j) "**Gold Panning or Sluicing**" means any gold mining operation having a daily production output of not more than five (5) metric tons of ores that shall not involve highly mechanized method but only manual labor by panning or sluice box.
- (k) "**Panning**" means the recovery of gold by the use of dishpan like wood, metal or any material thru the skillful manipulation or control of human hands.

(l) "**Sluicing**" means the recovery of gold using sluice boxes.

(m) "**Sluicing Box**" means rectangular, wooden launder provided with side walls and cross pieces of sawn lumber or round poles, metallic screen, jute cloth or a combination of both, on its floor retain gold.

(n) "**Open Cast**" means a mining working that is exposed to the surface.

(o) "**Shallow Underground**" means a sub-surface mine working that is driven to such distances safety conditions and practices will allow.

(p) "**Minimal Investment**" means all capital investments sunk by the permittee on a single raining unit to make it operative, including raw, additional and existing capital, such as processing plants, mine and hauling equipment, tools infrastructures, capitalized exploration and development costs, support facilities and working capital. These investments shall not exceed ten (10) million pesos during the effectivity of the original permit and its renewal.

(q) "**Labor Intensive without the use of sophisticated Equipment**" means a mining operation wherein the ration of labor cost to equipment utilization cost to produce, process and market one (1) metric ton of ore equals or exceeds one (1)

(r) "**Labor Cost**" means an cash expenditures such as salaries, wages, allowances, and other benefits, measured on a per metric ton of ore basis for the remuneration of personnel directly involved in the mining, processing, hauling, handling and storage of ore concentrate or finished product on a single mining unit excluding supervisory and administrative personnel

(s) "**Equipment Utilization Cost**" means all cash expenditures for the operation and utilization of equipment for a single mining unit, which include fuel, compressed air, utilities, power supplies, raw materials, lease of equipment repairs and maintenance.

(t) "**Permit**" means permit issued under these regulations, to wit;

- (1) **Small-Scale Mining Permit** - refers to a permit issued by the Provincial Governor, as recommended by the PMRB to a qualified person or entity for small-scale mining operation with the province.
- (2) **Mineral Processing Permit** - refers to a permit issued by the Provincial Governor, as recommended by the PMRB, to a qualified person or entity for small-scale mineral processing operations within the province.
- (3) **Ore Transport Permit** - refers to a permit that may be granted to small-scale mining permittee/contractor, mineral processor, accredited dealer and retailer to transport minerals/mineral products from small-scale mining/mineral processing areas.

(u) "**Mineral Lands**" are those lands in which minerals exist in sufficient quantity and grade to justify the necessary expenditures in extracting and utilizing such minerals.

(v) "**Minerals**" embraces all naturally occurring inorganic substances in solid, liquid, or any intermediate state, including coal. Soil which supports organic life, sand and gravel, guano, petroleum, geothermal energy and natural gas are included in the term, but special laws govern them.

(w) **"Veins, Ledges and Lodes: "Apex" of Vein"** - A vein or lode is a seam or fissure in the earth's crust filled with quartz or some other kind of rock in place carrying gold, silver, or other valuable mineral deposits named in the statute. It may be very thin, or many feet thick, or irregular in the thickness; and it may be rich or poor at the point of discovery. While the words "vein", "lode", and "ledge" are nearly synonymous in meaning, a distinction is sometimes observed between "veins" and "lode", since a lode may and often does contain more than one vein. The word "lode" is an alteration of the verb "lead", and as used by miners the term simply meant the formation by which a miner could be led or guided in his search for one. The space between the walls or boundaries constitutes the fissure; and if such fissure ore is found although at considerable intervals and in small quantities, it is called a lode or vein. A vein is by no means a straight line, or of uniform dip or thickness, or richness of mineral matter, throughout its course. The "apex" of a vein is its uppermost edge, or the course thereof, in place, at or near the surface of the earth. The edge or "apex" is irregular. It may be higher at one place within the boundaries that it is in another.

(x) **"Lode Claim and Placer Claim"** A lode mineral claim is a parcel of mineral land containing a vein, lode, lens, or mass of ore in place that has been located in accordance with law. On the other hand, a placer claim is that which does not come under the definition of lode mineral claim. As used in the United States Revised Statutes, a placer claim means grounds that includes valuable deposits not in place, that is, not fixed in rock, but which are in a loose state.

(y) **"Mineral Processing"** means the milling, beneficiaton, leaching, smelting, cyanidation, calcinations or upgrading of ores, minerals, rocks, mill tailing, mine waste and/or other metallurgical byproducts or by similar means to convert the same into marketable products.

(z) **"Mineral Processing Zone"** means a designated place established by the local government unit concerned upon recommendation by the PMRB.

CHAPTER IV - Implementing Office

Section 4. The office conferred with powers and functions to implement this Ordinance are the Provincial Government of Sultan Kudarat and the PMRB.

(a) The composition of the PMRB are as follows:

Chairman:	Regional Director of DENR- MGB XII
Vice – Chairman:	Provincial Governor or his representative
Members:	Representative of Large - Scale Mining Operators
	Representative of Small- Scale Mining Operators
	NGO concerned with Environment

(b) The functions of the PMRB are as follows:

- (1) To process and evaluate applications for issuance of small-scale mining permits and mineral processing permits.
- (2) To recommend to the Provincial Governor the issuance of small-scale mining permits to duly qualified persons.
- (3) To require operators of small-scale mining to submit to its office periodic reports verified

under oath in the form prescribed.

- (4) To keep records of mining locations, leases and permits and all documents and instruments relative thereto.

(c)PMRB Secretariat and its functions:

- (1) Provide the necessary support services to the PMRB.
- (2) Accept application for permit.
- (3) Establish and maintain networking relation with other agencies and offices particularly that of the PMRB and the Provincial Governor whenever deemed appropriate and necessary.
- (4) Collate, analyze and compile pertinent data such information and studies related to small-scale mining operations
- (5) Recommend to the PMRB modification and/or amendment of existing legislation and procedures relative to the small-scale mining operations.
- (6) Prepare the agenda and take/prepare the minutes in every meeting of the PMRB and submit for its consideration and approval the policies and measures which are deemed appropriate and necessary to carry out the provision of this ordinance.
- (7) Be pro-active and such shall print-out promotional materials provide avenues for the conduct of promotion related to small-scale mining operation.
- (8) To source out and tap additional funding to supplement the budgetary support for the operation of the PMRB center.
- (9) Perform other duties and responsibilities that may be assigned by the PMRB from time to time.

CHAPTER V. - Application for Issuance of Permit

Section 5. Qualification. Only applicants who possess the following qualifications may be permitted to operate a small-scale mining and process minerals within the province of Sultan Kudarat, to wit:

- (a) Filipino citizens, partnerships or corporations or cooperatives at least sixty percent (60%) of the capital of which is owned and controlled by such citizens;
- (b) Preferably claim owners and applicants for or holders of quarry permits and/or licenses, provided that their mining operations, whether newly opened, existing or rehabilitated, involve;
 - (1) A single mining unit having an annual production not exceeding 50,000 metric tons of run-of-mine ore, either an open cast mine working or a sub-surface mine working which is driven to such distance as safety conditions and practices will allow;

- (2) A total capital investment not exceeding P10 Million during the effectivity of the permit and its renewal;
- (3) A ratio of labor cost to equipment utilization cost to produce, process and market one metric ton ore equivalent to or exceeding one (1);
- (4) The extraction and processing of any of the classified commodities as specified herein.

Section 6. Where and How to File Application. An application for a small-scale mining permit and mineral processing permit together with the supporting papers shall be filed with the PMRB. No application shall be accepted unless the required application fee is paid for and accompanied by the following documents:

- (a) Application form duly accomplished;
- (b) The survey plan and the corresponding technical description of the area applied for prepared by a deputized geodetic engineer;
- (c) If the applicant is a partnership or corporation or cooperatives, the Articles of incorporation/ partnership/association together with the by-laws thereof duly registered with the Securities and Exchange Commission (SEC), Cooperative Development Authority (CDA) and other accrediting agency of the government.
- (d) Component Cities, Municipal and Barangay Resolution favorably endorsing the SSM Application;
- (e) Duly registered Special Power of Attorney where application is filed by an agent;
- (f) Area clearance from concerned government agency/ies that may be affected by the permit application;
- (g) Operating Agreement/Contract between holder/s of valid and existing mining rights with qualified person/s, whenever necessary or applicable;
- (h) If the land is owned by a private person, written permission to enter and occupy the land for mining operation;
- (i) The mode and manner of protecting the ecological balance of the area applied for duly signed by the application of his technical men, as the case may be;
- (j) A project study/project information (For project with capitalization not more than P10 Million and with annual Production for not more than 50 Thousand Metric Tons;
- (k) Environmental Compliance Certificate (ECC);
- (l) Report on filed verification of area applied for; and;
- (m) Other supporting documents the PMRB and Provincial Governor may require.

Section 7. Where and How to File Application For Ore Transport Permit. Application for Ore Transport Permit shall be filed with the PMRB together with other documents as may be required by the said board. No application shall be accepted unless the required application is paid for;

Section 8. Application Fees. Failure on the part of the applicant to pay the same shall be a ground for the PMRB not to accept the application. The date appearing in the Official Receipt evidencing payment of the application fee shall be considered as the official date of the filing of the application. The following fees are as follows:

- (a) Small-Scale Mining Permit: P2,000.00/application
(Two Thousand Pesos)
- (b) Mineral Processing Permit: P5,000.00/application
(Five Thousand Pesos)
- (c) Transport Permit: P 100.00/application
(One Hundred Pesos)
- (d) Renewal Fee:
 - (1) Small Scale Mining Permit P2,000.00 / permit (Two Thousand Pesos)
 - (2) Mineral Processing Permit P2,000.00 / permit (Two Thousand Pesos)
- (e) Verification Fee (Original Renewal):
 - (1) Small-Scale Mining Permit P 3,600.00
(Three Thousand Six Hundred Pesos)
 - (2) Mineral Processing Permit P 3,600.00
(Three Thousand Six Hundred Pesos)
 - (3) Ore Transport Permit P 50.00
(Fifty Pesos)

Section 9. Classes of Mineral Commodities Subject of Application. - An application for permit shall cover any of the following mineral commodity classifications:

- (a) PRECIOUS METAL - primary gold with or without associated metals such as silver, etc.
- (b) METALLIC - Copper, chromite, mercury, lead, zinc, manganese, iron and nickel;
- (c) NON- METALLIC - diatomaceous earth, limestone for lime, clay, marble, talc, gypsum, phosphate rock, barite, bentonite, feldspar, gemstone, pyrite for fertilizers, perlite and silica; and resin (kamangyan).
- (d) All other rocks and mineral commodities as may be decided for inclusion by the Governor.

Section 10. Areas subject of Application. - The following areas may be applied for a Small-Scale Mining Permit under these regulations, to wit:

- (a) Areas covered by valid and existing mining claims including those already covered by existing mining leases/contracts subject to prior written consent of lessees/contractors/permittees concerned;

- (b) Areas covered by quarry applications, permits or licenses and those covered by exploration permits/applications subject to prior written consent of concerned applicants/permittees.
- (c) All other Government reservations except mineral reservations, subject to prior verification by the PMRB.
- (d) The new areas as defined in Section 3 of this Ordinance; and
- (e) A combination of any of the above.

Section 11. Areas Closed to Application – No Application for a Small - Scale Mining Permit shall be accepted on the following areas:

- (a) Near or under buildings, cemeteries, bridges, highways, waterways, railroads, reservoirs, dams, or any or other public private works unless prior clearance from the government agency or owner concerned is obtained; and
- (b) All banned areas proclaimed and established by the government.

Section 12. Size and Shape of Area. - The maximum area subject of an application is 20 hectares, more or less.

Section 13. Area Status Clearance - Within 15 days working days from receipt of the SSM Permit Application, the PMRB, thru its Secretariat, shall transmit copy of the Permit Application and survey plans/sketch map of the applied area to the concerned Mines and GeoSciences Bureau Regional Office/pertinent DENR sector for area status clearance.

Section 14. Posting of Notices of Application. If the application for Small- Scale Mining Permit is found to be in order, the PMRB shall cause the posting of notice thereof for two consecutive weeks in the bulletin board of the PMRB. Municipal Building and Barangay Hall where the Small-Scale Mining will be operated. All expenses for posting shall be borne by the applicant.

CHAPTER VI - Opposition / Adverse Claim to the Application

Section 15. Opposition to Application. - Any opposition to the Application shall be filed before the PMRB within 15 days after the said posting stating therein the grounds for the opposition. The opposition shall be verified.

Section 16. Priority of Application in case of Conflict - The applicant who had first filed his application coupled by substantial compliance with the requirements of these regulations shall be given preferential right over the area subject of the conflict.

CHAPTER VII. Issuance of Permit

Section 17. Conditions under which Permits may be Issued. - Permits issued under these regulations shall be subject, among others to the following terms and conditions:

- (a) The Permit shall be for the exclusive use of the permittee and shall not to be transferred without

the written approval of the Provincial Governor.

- (b) The statements made in the application and those made later in support thereof shall be considered as conditions and essential parts of the permit.
- (c) The removal or extraction of ores/mineral deposits under the permit shall be confined within the area specified therein, the boundaries of which, according to the application, are established on the ground with prominent marks.

Section 18. Grant of Permit. The provincial Governor shall grant a permit only to a qualified applicant upon substantial compliance with all the requirements prescribed under Section 6 hereof.

Section 19. Three Kinds of Permit. - These permits are being issued only to qualified person/s upon compliance with the requirements set forth therein.

- (a) **Small- Scale Mining Permit** - issued to a qualified person who undertakes to operate Small- Scale Mining Operation in the province of Sultan Kudarat.
- (b) **Mineral Processing Permit** - issued to qualified person who undertakes to process minerals in the province of Sultan Kudarat.
- (c) **Ore Transport Permit** - issued to individual or corporation, whether permittee, mineral processors, accredited mineral traders and retailers, who undertakes to transport mineral commodities from the permitted mining area.

Section 20. Rights and Obligations Acquired Under a Permit. - A Permit duly approved and granted under the provisions of these regulations conveys upon the permittee, his, successors, and assigns, from the grant thereof and during its term and renewal, if any, the following rights and obligations.

(a) Rights of the Permittee:

- (1) Right to extract all mineral deposits found or underneath the surface of his permitted mining area allowed in the permit;
- (2) To remove, process, and utilize mineral deposits for his own benefit;
- (3) To use the lands covered by the permit for the purpose or purposes specified therein, subject to such reservations as may be provided by the law.
- (4) Right to cut trees and timber within the permitted area for the use in the development or operation of his permitted mining area, subject to the rules and regulations of the Department of Environment and Natural Resources;
- (5) To enjoy water rights for the development and operation of the small-Scale mining operation, subject to water laws and regulations.
- (6) To enjoy the easement rights under which the permittee may build, construct or install roads, mills, waste dumpsites, warehouses, electric transmission, telephone and telegraph lines, subject to payment of just compensation and consent of the owner.

(b)Obligations of the Permittee:

The permittee shall assume, among other things, the following obligations:

- (1) To pay occupation fees, rentals, royalties and taxes on his permitted mining area and on the minerals extracted therefrom as provided in the National Internal Revenue Code, RA 7160 and other local taxes applicable, under penalty of forfeiture of the mining claims in case of default to pay such taxes and fees due the government for two consecutive years.
- (2) To give preference to inhabitants of the place of the permitted mining area in the employment of personnel insofar as they are qualified to perform the work, for which purpose effective programs of trainings and advancement shall be maintained.
- (3) To comply with the terms and conditions of the permit as well as the mining laws and the pertinent rules and regulations promulgated concerning especially the safe operation and sanitary upkeep including pollution control.
- (4) To respect and recognize the customs and traditions of the place.
- (5) To manage mining operation in a technically, financially, socio-culturally and environmentally responsible manner.
- (6) To police the area from illegal mining operation.
- (7) To provide community development projects of whatever extent.
- (8) To rehabilitate or restore the area, if possible similar to its previous state even after he expiration/abandonment of the operation.
- (9) To see to it that the Mine Safety Statutes is strictly observed in the work area.

Section 21. Terms and Conditions of Permit. - The Small-Scale Mining Permit shall contain certain required minimum terms and conditions, among them being as follows:

- (a) The term of the permit which shall be for a period of two (2) years from the issuance thereof, renewable only one for a like period upon compliance with the terms and conditions of the permit, and upon filing the application before the expiry thereof: Provided, that in case of new areas not covered by existing reservation, the permittee shall within a period of two (2) years from the grant of the permit have the option to locate the same and its immediate vicinity not exceeding one meridional block or eighty-one hectare, more or less;
- (b) The annual rentals, covenants and agreements that the permittee agrees to pay, keep and perform;
- (c) The privilege of exploring, developing, mining, extracting, and disposing of all mineral deposits found in the area covered by a permit;
- (d) In case mining is carried on within private property, to indemnify the private landowner for

damages caused by the operation and reasonable rentals for the use of the premises;

- (e) Payment of real estate tax on building and other improvements constructed by the permittee;
- (f) Payment of, aside from rentals, royalties and other taxes that may be prescribed by law;
- (g) Performance by the permittee of the required obligation on the mining claims,
- (h) Report of production, showing the kinds of ores and minerals extracted, the quantities thereof transported, the amount stockpiled, and other details as may required.

Section 22. Limitation of Number of Permits. -The number of SSM permits that an applicant is entitled to shall be as follows:

- (a) For Individuals - one (1) permit in the entire province.
- (b) For partnerships, corporations or cooperatives -two (2) permits in the entire province covering its own mining area with the option to operate another two (2) permits belonging to another person or entity or a total of four (4) permits in the entire province.

CHAPTER VIII. - Small-Scale Mining and Mineral Processing Operation.

Section 23. Commercial Operations. - The permittee shall, within twelve (12) months from the date of issuance of the permit, place the area in actual commercial production and shall submit verified monthly production and integrated annual reports, within thirty (30) days after the end of the quarter and year covered reports aforementioned.

Section 24. Inspection of Operations. - The Provincial Governor personally or his representative or the PMRB shall have the authority to inspect any operation of the permittee at all reasonable times and to examine the records of the said operation and to carry out other inspection authorized by law or regulations. The permittee shall furnish such officers, agents or representatives with all the technical and actual data specified in these Regulations and shall give them ample facilities and assistance to discharge their duties as such. For these purposes, the permittee shall be under obligation to keep the permit area open at all reasonable times for such inspection.

This provision shall not prejudice the Sangguniang Panlalawigan to conduct an investigation in aid of legislation.

CHAPTER IX - ORE TRANSPORT

Section 25. No ores shall be transported outside of the province without first securing an Ore Transport Permit from the Provincial Governor through the PMRB. Whenever there is movement of ore for whatever purpose or reason, Ore Transport Permit is required.

Section 26. The Permit issued to Transport ores outside of the province shall specify the following:

- (a) Origin and Quantity of non-processed mineral ores/mill tails.

(b) Period covered but in no case shall it exceed a period of fifteen (15) days.

Section 27. Extension of the OTP can be granted only upon request of the holder if there is a valid reason as determined by the PMRB, but in no case shall it exceed one (1) month to be reckoned from the date of its first issuance.

Section 28. Failure to present the OTP shall be sufficient cause for the confiscation/seizure of the transported mineral ores and the tools and equipments, including conveyances used in the commission of the offense.

CHAPTER X. Revocation/Suspension/Cancellation of Permit

Section 29. The permit issued under Section 19 may be suspended, cancelled or revoked at any time by the Provincial Governor, through the recommendation of the PMRB, when public interest, welfare or peace and order conditions so requires/demands or upon failure of the Permittee to comply with the terms and conditions stated in the permit or for ecological reasons.

Section 30. Any misrepresentation or any falsehood in those statements or intentional omission of facts contained in the application for small-scale mining permit and mineral processing permit which may alter, change or affect substantially the facts set forth in the said statements shall be a cause for the suspension, cancellation and/or revocation of the permit.

Section 31. Failure to place the area permitted for Small-Scale Mining and Mineral Processing in actual production within the aforesaid 12 months period , without justification, shall cause the cancellation/ revocation of the permit upon substantial compliance with the requirements of due process of law.

Section 32. The removal of extraction of ores/mineral commodities outside the area specified in the permit without the necessary permit shall also cause the cancellation/revocation or suspension of the said SSM permit and the fining of the permittee amounting to:

- (a) First Offense: P 1,000.00 (One Thousand Pesos)
- (b) Second Offense: P 3,000.00 (Three Thousand Pesos)
- (c) Third and Final Offense: P5,000.00 (Five Thousand Pesos)

Section 33. Immediately after a mining permit is cancelled/revoked and/or terminated, the PMRB shall cause the same to be entered in the Register and notice thereof posted on the bulletin board of its office and in the bulletin board of the component city, municipality/barangay where the mining area is located. The permittee shall within one year from the termination, abandonment or cancellation of the permit, remove all improvements on the mining premises, except road and bridges, otherwise said improvements shall become property of the Local Government Unit.

CHAPTER XL - Renewal of Permit.

Section 34. The filing of a verified letter-request for renewal of SSM and MP permit with the office of the PMRB thru its secretariat may suffice however, the permittee shall be required to present proof of payment of taxes, rentals and royalties verified production and integrated annual reports and other supporting documents that the PMRB may require, before said renewal be approved. Non-

submission of these proofs shall be ground for disapproval of application for renewal of permit.

CHAPTER XII. -Unlawful/prohibited Acts common to Small-Scale Mining Operation and Mineral Processing

Section 35. The use of mercury cyanide, hydrochloride and other substance of the same application in the operation of Small-Scale mining and mineral processing shall be prohibited.

Section 36. Any attempt to use mercury and other substance in the said operation shall be unlawful, so with its use. **Section**

37. The presence of mercury and other substance within the vicinity of the operation shall be considered a violation of the prohibition for its use as it is disputable presumed that operators use the same in their operation.

CHAPTER XIII. - Payment of Taxes, Rentals, and Royalties Due the Provincial Government.

Section 38. A mineral Tax of P1.00 per metric ton of mineral commodities extracted within the territorial jurisdiction of the province shall be levied and collected from the permittee. The proceeds of the said tax shall be distributed as follows:

- (a) Province - Thirty percent (30%)
- (b) Component City or municipality where the mineral commodities are extracted - Thirty percent (30%);
- (c) Barangay where the mineral commodities are extracted - forty percent (40%)

Where the mineral commodities are located in such two (2) or more provinces, or in two (2) or more component cities or municipalities or in two (2) or more barangays, their respective shares shall be computed in the basis of:

Population - Seventy Percent (70%) and
Land Area - Thirty percent (30%)

Section 39. The royalty on gold is 1/2 of 1% of the actual market value of the gross output thereof;

Section 40. Time and Manner of Payment. - The royalties shall be due and payable within sixty (60) days after the shipment/transport of the mineral or mineral products from the mines.

The tax shall be due and payable at the time and in manner real estate taxes are payable under the law.

CHAPTER XIV. - Torts and Damages

Section 41. In case of death and injury to person/s as a result of the operation of Small-Scale mining and mineral processing, whether or not in the employ of the operators, the liability shall borne by the permittee.

Section 42. Any damages caused to life, damage to limbs and of properties of inhabitants due to negligence of employees of the operators as a result of the said operation shall be solidarity borne by the employee concerned and permittee.

CHAPTER XV. Penal Provision

Section 43. Any person who presents or causes to be presented or cooperates in the presentation of any false application, declaration, or evidence, or makes or causes to be made or cooperates in the making of a false affidavit in support of application for issuance of small-scale mining permit and mineral processing permit shall be subject to punishment, upon conviction therefore by a competent court.

Section 44. Any person, corporation, partnership or cooperatives with intent to gain, presents or causes to be presented, any false application, declaration, or evidence to the Provincial Government of Sultan Kudarat or publishes, or causes to be published any information containing false statement relating to mines, mining operations, shall be guilty of perjury, if such false statement is under oath, and shall be punished upon conviction, in accordance with the provision of the revised Penal Code of the Philippines. If such false statement is not made under oath, he shall be punished upon conviction, by a fine not exceeding Three Thousand Pesos.

Section 45. Any person who willfully and maliciously defaces, alters, removes or disturbs, any sticks, post, monument, boundary line or any other marks lawfully placed under the authority of this Ordinance, or destroys, injures, or defaces any rules, or notices, which have been posted, concerning locations, small-scale mining operation application and mineral processing permit application shall be punished upon conviction by a fine not exceeding Three Thousand Pesos, besides paying compensation for the expenses incurred defaced, altered removed or disturbed staked, post, monuments, boundary lines, notices, or any other marks.

Section 46. Any person who, without a mining permit, shall operate a small-scale mining process minerals, transport ores and/or extract minerals and dispose the same for commercial purposes, belonging to the permittee without his permission or shall steal ores or the products thereof from mines or mills, shall upon conviction be imprisoned from six months to six years or pay a fine from One Thousand Pesos to Five Thousand Pesos, or both in the discretion of the court, besides paying compensation for the damaged caused thereby: Provided. That in the case of association, partnership, corporation or cooperatives, the president or manager thereof shall be responsible for the acts committed by such association, partnership or corporation.

Section 47. Any person who willfully and maliciously causes or permits sludge or tailings to accumulate in or flow from his mining claims so as to cause danger, injury, or obstruction to any public road, rivers, or streams or other public property, shall be punished upon conviction, by a fine not exceeding Five Thousand Pesos, besides paying compensation for any damage which may have been caused thereby.

Section 48. Any person who willfully and maliciously or with intent to gain, takes waters from a mining mill, rise dam, reservoir, or from any other form of deposit, or prevents the water from entering the said mining mill, rise dam, reservoir, or in any way interferes with the full enjoyment of water rights previously granted and lawfully held by another persons, shall be punished, upon

conviction, by a fine not exceeding Three Thousand Pesos.

Section 49. Any person who willfully and maliciously damages a mine, unlawfully causes water to run into a mine, or unto any subterranean passage communicating with a mine, or obstruct any shaft or passage to a mine, or renders useless damages, or destroys any machine, appliance, apparatus, rope, chain, tackle, or any other thing which is used in a mine, shall be punished upon conviction by imprisonment not exceeding a period of five days, besides paying compensation for the damage caused thereby.

Section 50. Any person in the employ of the permittee, or the permittee himself who uses mercury in the operation of small-scale mining and in the processing of minerals shall be fined by Three Thousand Pesos.

Section 51. Any person who willfully and maliciously obstructs the Provincial Governor or any of his subordinates or representatives, in the performance of their duties in connection with any mine or mines shall be punished upon conviction, by a fine not exceeding Three Thousand Pesos.

Section 52. The penal provisions of RA 7942 otherwise known as the Philippine Mining Act of 1995, with emphasis on "Theft of minerals" are deemed included and adopted in this Ordinance.

CHAPTER XVI. Accrual of Funds

Section 53. Any Amount collected as a result of the implementation of this Ordinance shall accrue to the general fund of the Provincial Government of Sultan Kudarat.

CHAPTER XVII. - Separability Clause

Section 54. If for any reason, any section or provisions of this Ordinance is challenged in a competent court and is held and declared to be unconstitutional or invalid non of the other sections and provisions thereof shall be affected thereby and such other sections and provisions shall continue to govern as if the section or provisions so annulled had never been incorporated in this Ordinance, and in lieu of the section or provision annulled, the provisions of law on the subject thereof in force prior to the approval of this Ordinance shall govern.

CHAPTER XVII. - Effectivity

Section 55. This Ordinance shall take effect fifteen (15) days after its complete publication in a newspaper of local circulation.

RESOLVED FURTHER, to furnish copies of this resolution to all agencies concerned for their information and appropriate action.

UNANIMOUSLY APPROVED. June 27,2002.

I HEREBY CERTIFY to the correctness of the above-quoted resolution.

JIMMY C. ANDANG
Board Secretary IV
Acting SP Secretary

ATTESTED:

MIGUEL DOMINGO T. JACALAN III
Vice-Governor
Presiding Officer

APPROVED:
DATU PAX S. MANGUDADATU
Governor