

Republic of the Philippines
Province of Davao del Norte
MUNICIPALITY OF KAPALONG
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EXCERPT FROM THE MINUTES OF THE 40TH REGULAR SESSION OF THE 6TH SANGGUNIANG BAYAN OF KAPALONG, DAVAO DEL NORTE HELD AT THE MUNICIPAL SESSION HALL ON OCTOBER 6, 2008.

PRESENT:

Hon. Romy C. Estrada	- Vice Mayor (Presiding Officer)
Hon. Rowell R. Selim	- Councilor
Hon. Rebecca O. Balinggao	- Councilor
Hon. Glenn A. Corpuz, MD	- Councilor
Hon. Alan E. Quezon	- Councilor
Hon. Freddie E. Pentacase	- Councilor
Hon. Porferio C. Tuna	- Councilor
Hon. Ernesto S. Binasbas	- Councilor
Hon. Helario T. Caminero	- Councilor
Hon. Ma. Theresa R. Timbol	- Ex-Officio/ABC President
Hon. Precy O. Manzano	- Ex-Officio/SKMF President

ABSENT: None

MUNICIPAL ORDINANCE NO. 594
Series 2008

AN ORDINANCE ENACTING THE MUNICIPAL INVESTMENT INCENTIVE CODE OF 2008

Sponsor: Hon. Glenn A. Corpuz
Co-sponsors: Hon. Porferio C. Tuna, Hon. Ernesto S. Binasbas, Hon. Rowell R. Selim, Hon. Freddie E. Pentacase, Hon. Hon. Rebecca O. Balinggao, Hon. Alan E. Quezon, Hon. Helario T. Caminero, Hon. Ma. Theresa R. Timbol, and Hon. Precy O. Manzano

CHAPTER 1 TITLE AND POLICY STATEMENT

Section 1. Title- This ordinance shall be known and cited as the Municipal Investment Incentive Code of 2008.

Section 2. Declaration of Policy- To accelerate social and economic growth and sustain development, it is hereby declared to be the policy of the Municipality of Kapalong to attract and encourage new investments, expansions and modernization activities in agri/food production and processing, cutflowers, environment enhancement projects; export-oriented industries; fashion accessories and fine jewelry; furniture and furnishings; gifts, toys and housewares; information and communication technology; infrastructure projects; light industries; property development; taxi operation; tourism-related industries; wood/bamboo based processing plants; and other projects that will create new economic opportunities and provide greater economic stability.

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It is further declared to be the policy of the Municipality of Kapalong to welcome and encourage domestic and foreign investments that are labor intensive and sustainability utilize locally based resources of the Municipality and whose business activities will ensure ecological preservation and balance for a wholesome quality of life for all.

CHAPTER II DEFINITION OF TERMS

Section 3. Definition of Terms- When used under this Code, the following terms and phrases shall mean as follows:

- a.) **BOARD-** shall refer to the **Municipal Investment Promotions Board (MIPB)**.
- b.) **NEW PROJECT-** new investments which are within the Preferred Areas of Investments (PAI) as defined by the Board and/or project to be established by an existing enterprise with existing business operation(s) entirely distinct and different from the existing project in terms of final product, production process, equipment, and raw materials or in a separate plant site within Kapalong or more that 70% of its equity is owned by a new set of stockholders.
- c.) **MODERNIZATION-** the upgrading of facilities/equipment, processes and technology where existing facilities are rendered totally inoperable or still operable, it will function only as an adjunct to the modernized site without capability to
 - d.) independently produce a complete finished product.
- e.) **EXPANSION PROJECT-** refers to a project that meets all of the following:
 1. an increase in capacity of an existing facility by at least Twenty- Five percent (25%);
 2. the output shall not be distinct from existing products;
 3. the setting-up of facilities in a separate area but within Kapalong other than its existing plant site; and
 4. more than Seventy percent (70%) of its equity is owned by the same set of stockholders/owners of the same enterprise engaged in the same activity.
- f.) **COMMERCIAL OPERATION-** from the time the enterprise starts generating sales.
- g.) **INVESTMENT CODE-** refers to the Kapalong Investment Incentive Code of 2008.
- h.) **PRFERRED AREAS OF INVESTMENTS (PAI)-** shall refer to identified and approved priority projects.
- i.) **LOCAL GOVERNMENT UNIT (LGU)-** refers to the Municipal Government of Kapalong.
- j.) **OSDAC-** refers to the **One- Stop-Docummentation and Action Center**.
- k.) **OFFICE-** refers to the Kapalong investment Promotions Office (KIPO).
- l.) **INCENTIVES-** shall refer to fiscal and non-fiscal concessions granted by this Code.
- m.) **LARGE SCALE INVESTMENTS-** are those entities with an asset size of One Hundred Million and One Pesos (P100,000,001.00) and above inclusive of the fair market value of land.

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- n.) **MEDIUM SCALE INVESTMENTS**-are those entities with a asset size of Fifteen Million and One Pesos (15,000,000.00) up to One Hundred Million Pesos inclusive of he fair market value of land.
- o.) **SMALL SCALE INVESTMENTS**- are those entities with an asset size of One Million and One Pesos (P1,000,001.00) up to Fifteen Million Pesos inclusive of the fair market value of land.

CHAPTER III MUNICIPAL INVESTMENT PROMOTIONS BOARD

Section 4. Municipal Investment Promotions Board (MIPB) shall be created in order to implement the provisions of this Code.

Section 5. Composition of the Board- The MIPB shall be composed of the following:

Chairperson : Municipal Mayor

- Members :
1. SB Chairperson of Agriculture and Food Committee
 2. SB Chairperson of Trade, Commerce and Industry Committee
 3. SB Chairperson of the Rules and Privileges Committee
 4. SB Chairperson of Tourism and Women Committee
 5. Municipal Planning and Development Coordinator or Authorized Representative
 6. Representative of the Bank Institution
 7. Provincial Director, Department Coordinator or Authorized Representative
 8. Municipal Treasurer or Authorized Representative
 9. Municipal Assessor or Authorized Representative
 10. Authorized Representative from the existing Kapalong Chamber of Commerce and Industry, Incorporation (KCCLINC.)
 11. SMED Council Chairman
 12. The Head of the Office/Authorized Representative, DAR-MARO
 13. The Head of Office/ Authorized Representative, MENRO
 14. Two (2) Representatives from the Private Sector/Non-Government Organization (NGO) to be appointed by the Local Chief Executive

5.a) The members of the Board shall elect their own Vice Chairperson.

Section 6. Meetings and Quorum- the Board shall meet at least once in each quarter or on a specific date, time and place fixed by the Board. The presence of a simple majority constituents a quorum.

Section 7. Powers and Functions- The following shall be the powers and functions of the Board.

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1. To set policies and plans related to investment promotions and generation;
2. To develop linkages with other agencies, private sector, NGOs, POs;
3. To approve/disapprove projects for availment of incentives;
4. To source-out funds;
5. To enter into an agreement with other government agencies and/or private organizations for major projects subject to the confirmation of the Sangguniang Bayan.

CHAPTER IV

MUNICIPAL INVESTMENT PROMOTIONS OFFICE

(MIPO or the Licensing Office)

Section 8. Municipal Investment Promotions Office (MIPO)- will serve as One-Stop Documentation-Action Center (OSDAC) for local and foreign investors as well as to assist the Board in the performance of its powers and functions.

Section 9. Duties and Responsibilities

- a. To assist investors in the compliance and completion of all requirements within reasonable period in order to facilitate the registration of their proposed investments in the municipality;
- b. To serve as Secretariat and Technical Working Staff of the Board;
- c. To evaluate and recommend for approval/disapproval to the Chairman of the Board all applications for registration under this Code;
- d. To conduct independent or joint plant visits of registered firms with other concerned local offices/agencies (i.e., MPDO, MEO, MENRO, MASSO);
- e. To serve as "hotline" for information and investment-related matter;
- f. To organize and/or participate in trade missions, conferences, conventions, trade fairs, for a business matching and other similar activities;
- g. To conduct studies, gather and analyze facts and figures and maintain data bank pursuant to the implementation of this Code;
- h. To aggressively promote Kapalong to local and foreign investors;
- i. To formulate and recommend policies in areas of investment as may be sought by the Board from time to time;
- j. To perform other functions as directed by the Board.

CHAPTER V

PREFERRED AREAS OF INVESTMENTS

Section 10. Preferred Areas of Investment- The following shall be the Preferred Areas of Investments:

1. Common Service Facilities- to include but not limited to the following: cold storage, mechanical drier, and other service facilities that support the development o agro-industrial project.
2. Agri/Food production and/or processing;
3. Cutflowers;
4. Environment enhancement projects;
5. Export-oriented industries (locally-manufactured goods);
6. Fashion accessories and fine jewelry;
7. Furniture and furnishings;

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8. Gifts, toys, and housewares;
9. Information and Communication Technology (ICT);
10. Infrastructure projects to include but not limited to the following: Water and Power Development; Industry Training Center; Astrodomes/Convention Center;
11. Light Manufacturing and assembly;
12. Manufacturing of agriculture and industrial machinery and equipment;
13. Property development;
14. Taxi/Bus operation;
15. Tourism-related industries; and
16. Wood/Bamboo based processing plants.
17. Other investment income generated.

Section 11. Review of Preferred Areas of Investments- a list of Preferred Areas of Investment (PAI) shall be drawn-up and reviewed annually. In the absence of an amended PAI, the existing PAI shall remain in force.

CHAPTER VI REGISTRATION OF PROJECT

Section 12. Qualifications of a New Project- all new investors who intend to avail of the incentives provided in this Code must meet the following qualifications:

- (a) That the project must have complied with all the requirements mandated under the existing local and national laws and the Constitution;
- (b) That the production site shall be within Kapalong;
- (c) That the proposed investment must be listed in the PAI;
- (d) That the new project must have a total project cost of P2,000,001.00 and above;
- (e) That the new project will provide to bona fide residents of Kapalong employment opportunities equivalent to at least 50% of its total human resource requirement. Provided, however, where no local personnel or worker is capable and available, allow the employment of qualified domestic or foreign personnel where it is necessary for the efficient operation of the enterprise or for technology transfer; and
- (f) That the new project is duly registered with the SEC in case of a corporation, partnership or association; DTI if single proprietorship;

Section 13. Qualifications of an Expanding Project- An expanding project may avail of the incentives under this Code provided that it meets the following qualifications:

1. an increase in capacity of an existing facility by at least Twenty percent (20%);
2. the output shall not be distinct from existing products;
3. the setting-up of facilities in a separate area but within Kapalong other than its existing plant site; and
4. more than Seventy percent (70%) of its equity is owned by the same set of stockholders/owners of the same enterprise engaged in the same activity.

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Section 14. Application Fee- a graduated non-refundable fee shall be paid to the Municipal Treasurer's Office.

- | | |
|---------------------------------|--------------|
| 1) For Large-scale investments | - P10,000.00 |
| 2) For Medium-scale investments | - P 5,000.00 |
| 3.) For Small-scale investments | - P 3,000.00 |

Section 15. Application Requirements- Three (3) copies of the following shall be submitted to the MIPO. The MIPO shall only consider applications with all the requirements complied.

- (a) Duty filled-up application form;
- (b) Brief project study with Five (5) years financial projections;
- (c) A certified true copy of its certificate of registration with the SEC, DTI, as the case may be;
- (d) A resolution of the applicant's Board of Directors, in case of a corporation authorizing the filing of application;
- (e) Proof of ownership or lease agreement or any other arrangements of the project site.
- (f) Photocopy of Official Receipt of Application Fee;
- (g) Proofs of application with other concerned agencies (i.e., application with DENR for ECC; BFAD, etc.)
- (h) A Registration Fee of 1/10 of 1% of the total project cost but not to exceed P10,000.00.

Section 16. Approval and Registration Procedures- The Board is authorized to adopt rules and regulations to facilitate action on applications filed with it; prescribe criteria for the evaluation of all applications; and devised standard forms for use of applicants.

Section 17. Registration Fee- A Registration Fee of 1/10 of 1% of the total project cost but not to exceed P10,000.00 shall be paid to the Office of the Municipal Treasurer.

Section 18. Processing Period- the processing for every application shall be within Fifteen (15) working days from date of official receipt. Provided, however, all the requirements are fully complied with. Applications not acted upon by the Board within Fifteen (15) working days shall be considered approved.

Section 19. Certification of Registration- a duly approved registered project under this Code shall be issued a Certificate of Registration with the signature of the Chairperson of the Board.

CHAPTER VII RIGHTS AND PRIVILEGES

Section 20. Rights and Privileges Guaranteed by the Municipal Government of Kapalong- The LGU of Kapalong guarantees investors the following:

- (a) A concise and comprehensive information to prospective investors on the economic priorities of the Municipality including target investment areas and the general conditions applicable to incoming direct private investments;

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- (b) Transparency in the process of granting incentives through investment evaluation criteria and procedure;
- (c) Access to information materials;
- (d) Access to package of incentives; and
- (e) Employment of foreign personnel where no local workers qualify for efficient operation or for technology transfer.

**CHAPTER VIII
INCENTIVES TO REGISTERED ENTERPRISES**

Section 21. Local Tax Incentives to Registered Projects- In addition to the incentives provided by the national laws and by the Local Government Code of 1991 otherwise known as RA 7160, a registered project certified under this Code can avail of the following incentives:

A) Fiscal Incentives- A graduated exemption from the following local taxes, permits, fees and other charges ranging from a period of Three (3) to Five (5) years from the date of approval of registration by the Board or at the start of commercial operation whichever comes first:

(a) Mayor's Permit and Licenses

a.1 For Large-Scale Investments

- One Hundred percent (100%) discount on the cost of the Mayor's Permit and Licensing Fee on the first Three (3) years of operation;
- Regulatory Fees are not covered.

a.2 For Medium-Scale Investments

- Seventy-Five percent (75%) discount on the cost of the Mayor's Permit and Licensing Fee on the first Three (3) years of operation;
- Regulatory Fees are not covered.

a.3 For Small-Scale Investments:

- Fifty percent (50%) discount on the cost of the Mayor's Permit and Licensing Fee on the first Three (3) years of operation;
- Regulatory Fees are not covered.

(b) Real Property Tax

- Graduated Exemptions from the real property tax under the Tax Code for the following period from the date of commercial operation.

b.1 Land

- | | |
|-------------------------|---------------------------------------|
| Large-scale investment | - 75% exemption- 1 st year |
| | -50% exemption-2 nd year |
| | -25% exemption-3 rd year |
| Medium-scale investment | -75% exemption-1 st year |
| | -50% exemption- 2 nd year |
| Small-scale investment | - 75% exemption- 1 st year |

b.2 Building and Other Improvements

- | | |
|------------------------|--|
| Large-scale investment | - 75% exemption - 1 st year |
|------------------------|--|

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	- 50% exemption- 2 nd year
	- 25% exemption- 3 rd year
Medium-scale investment	- 75% exemption- 1 st year
	- 50% exemption- 2 nd year
Small-scale investment	- 75% exemption- 1 st year
b.3 Machinery and other Equipment	
Large-scale investment	- 75% exemption- 1 st year
	- 50% exemption- 2 nd year
	- 25% exemption- 3 rd year
Medium-scale investment	- 75% exemption- 1 st year
	- 50% exemption- 2 nd year
Small-scale investment	- 75% exemption- 1 st year

(c) Building Permit Fee

The investor shall secure the necessary Building Permit prior to the start of the building construction. Payment of the Building Permit Fee is however, deferred for the following years from the date of construction:

Large-scale investment	-30% exemption - 1 st year
	-40% exemption- 2 nd year
	-30% exemption- 3 rd year
Medium-scale investment	-30% exemption- 1 st year
	-40% exemption -2 nd year
Small-scale investment	-30% exemption- 1 st year

(d) Zoning/Locational Clearance

- The investor shall secure the necessary Zoning/Locational Clearance prior to the start of the building construction. Payment of zoning/locational clearance however, shall be deferred for the following years(s):

Large-scale investment	-30% exemption- 1 st year
	-40% exemption-end year
	-30% exemption-3 rd year
Medium-scale investment	-30% exemption-1 st year
	-40% exemption-2 nd year
Small-scale investment	-30% exemption-1 st year

(e) Electrical Permit

- The investor shall secure the necessary Electrical Permit prior to the start of the building construction. Payment of electrical permit however, shall be deferred for the following year(s):

Large-scale investment	-30% exemption-1 st year
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	-40% exemption-	2 nd year
	-30% exemption-	3 rd year
Medium scale-investment	-30% exemption-	1 st year
	-40% exemption-	2 nd year
Small-scale investment	-30% exemption-	1 st year

(f) Amusement Tax

Note: for enterprises that are subject to amusement tax

-A discount of the existing amusement tax can be availed of as follows:

f.1 For Large-Scale Investments:

- first to second years of operation -100%
- third to fifth years of operation -75%
- on the sixth year and thereafter full payment on the existing amusement tax shall be required.

f.2 For Medium-Scale Investments:

- first to second years of operation -75%
- third to fifth years of operation -50%
- on the sixth year and thereafter full payment on the existing amusement tax shall be required.

f.3 For Small-Scale Investments:

- first to second years of operation -50%
- third to fifth years of operation -30%
- on the sixth year and thereafter full payment of the existing amusement tax shall be required.

B) Non-Fiscal Incentives

- (a) Labor recruitment assistance through the Public Employment Service Office (PESO) and arbitration through appropriate government agencies;
- (b) Site selection assistance by the Municipal Planning and Development Office-Zoning Section;
- (c) Investment facilitation;
- (d) Briefing of clients about incentives; and
- (e) Exemptions for BOI-registered business enterprises availing incentives under Sec. 133g of the Local Government Code of 1991 which are certified by the BOI as pioneer or non-pioneer for a period of Six (6) and Four (4) years, respectively, from the date of registration.

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CHAPTER IX APPROPRIATIONS

Section 22. Appropriations- The Municipal Government of Kapalong through the Sangguniang Bayan shall initially appropriate an amount of One Hundred Thousand Pesos (100,000.00) through a Supplemental Budget to defray the expenses necessary for or incidental to the implementation of the provisions of this Code and shall appropriate annually thereafter, the necessary amount to be determined by the Board for the continued implementation of the provisions of this Code as well as the operation of OSDAC through the KIPO subject to the usual government accounting and auditing rules and regulations.

CHAPTER X MISCELLANEOUS PROVISIONS

Section 23. Visitorial Power- The Office or together with other concerned agencies shall monitor and evaluate periodically all registered enterprises approved under this Code for the purpose of expediting project implementation and to determine whether the objectives of the project are accomplished.

Section 24. Reportorial Requirements- registered projects shall submit to the Board the following reports within the time herein prescribed:

1. Amendments of the Articles of Incorporation and By-Laws of Partnership/corporation or Articles of Incorporation, within Thirty (30) days from the date of submission of the said amendments from the Securities and Exchange Commission;
2. Change of Directors within Thirty (30) working days from the change;
3. Report on Alien officers or employees within Thirty (30) working days from the date of registration or from the Appointment of their Aliens/Replacements. Provided, that such aliens 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 residents of Kapalong within Thirty
5. (30) working days from the date of registration or from the end of the fiscal or calendar year;
6. Annual report on the enterprise's business operation, including its production or calendar year;
7. Audited Annual Financial Statements, within Thirty (30) working days after submission to the Bureau of Internal Revenue (BIR);
8. Report of total local incentives availed of under this Code within Thirty (30) days from the end of the fiscal or calendar year.

Section 25. Rules of Interpretation- any conflict or controversy arising under the Code shall be resolved or interpreted on the basis of applicable legal provisions or jurisprudence. In the absence thereof, the customs and traditions, insofar as they are applicable to the conflict or controversy, may be resorted to.

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**CHAPTER XI
FINAL PROVISIONS**

Section 26. Timetable for the Drafting of the Implementing Rules and Regulations (IRR)- formulation of the appropriate Implementing Rules and Regulations shall be done after Two (2) months from the approval of this Code.

Section 27. Penal Provisions- Any violation of the provisions of this Code, existing laws, ordinances, rules and regulations, committed by any registered enterprise duly approved by the board, shall be a ground for imposition of fines and penalties, the cancellation or revocation of the registration of the business and the refund and/or withdrawal of all the incentives granted under this Code.

Section 28. Separability Clause- The provisions of this Code are hereby declared to separable, and in the event that one or more of the other provision are judicially held illegal or unconstitutional by a competent court, the validity of the other provisions shall not be affected and shall continue in full force and effect.

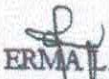
Section 29. Amendments Clause- Any provision in this Code may be amended by Two-thirds (2/3) vote of the Board subject to the approval of the Sangguniang Bayan.

Section 30. Repealing Clause. All ordinances, executive orders and rules and regulations inconsistent or in conflict with the provisions of this Code are hereby repealed, amended, or modified accordingly.


Section 31. Effectivity- This ordinance shall take effect upon confirmation by the Sangguniang Panlalawigan of Davao del Norte and after 30 days from publication of this ordinance in a local newspaper of general circulation.

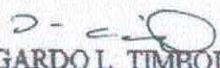
ENACTED: October 6, 2008.

I hereby Certify to the correctness of the above-quoted Ordinance.


ERMA L. DUQUE
Secretary to the Sanggunian

ATTESTED AND CERTIFIED
TO BE DULY ENACTED:


ROMY C. ESTRADA
Presiding Officer/
Municipal Vice Mayor

APPROVED: 
EDGARDO L. TIMBOL
Municipal Mayor