

[SBMA, March 30, 2010]

“EXTENDING THE SECURED AREA ENJOYING THE TAX AND DUTY FREE PRIVILEGES TO THE SUBIC SPECIAL ECONOMIC AND FREE PORT ZONE AS DEFINED BY PROCLAMATION NO. 532 DATED FEBRUARY 1, 1995”

**CHAPTER I
PRELIMINARY PROVISIONS**

Section 1. Scope and Coverage. – These rules and regulations are hereby promulgated to implement the provisions of Executive Order No. 675 dated 5 November 2007, and shall apply exclusively to the areas that shall be identified, fenced, secured or declared as Additional Areas or Additional Secured Areas by the SBMA, pursuant to EO 675, within the Subic Special Economic and Freeport Zone (SSEFPZ) as defined under Proclamation Number 532 dated February 1, 1995.

Section 2. Declaration of Policy. – Conformably with the policy of Government to develop the SSEFPZ into a self-sustaining industrial, commercial, financial and investment center to generate employment opportunities in and around the SSEFPZ and to attract and promote productive foreign investments, it is hereby declared the policy of SBMA to spur and spread the growth of investment and employment beyond the **“Secured Area”** under Executive Order No. 97-A dated 19 June 1993, but within the SSEFPZ as defined under Proclamation 532 dated 01 February 1995 in order to address the shortage of areas for lease to investors who intend to avail of the tax, fiscal and other investment incentives under Republic Act 7227, and in order to push development outside the **“Secured Area”** into the rest of the SSEFPZ, consistent with the development goals of the affected local government units, to fulfill the advancement of the Subic-Clark Economic Corridor as a world-class logistics center.

Section 3. Definition of Terms. – For purposes of these Rules, the terms used herein shall be construed to have the following meanings:

3.1. **“EO 675”** refers to Executive Order 675, otherwise known as An Executive Order Extending the Secured Area Enjoying the Tax and Duty Free Privileges to the Subic Special Economic and Freeport Zone.

3.2. **“EO 97-A”** refers to Executive Order 97-A, otherwise known as an Executive Order Further Clarifying the Tax and Duty-Free Privilege within the Subic Special Economic and Free Port Zone.

3.3. **“RA 7227”** refers to Republic Act 7227, otherwise known as the Bases Conversion and Development Act of 1992.

3.4. **“Proclamation Number 532”** refers to Proclamation No. 532 dated 01 February 1995, defining the Metes and Bounds of the Subic Special

Economic and Freeport Zone.

3.5. **"SSEFPZ"** means Subic Special Economic and Freeport Zone as defined and stated in RA 7227 and PN 532.

3.6. **"Additional Secured Area"** refers to an Area within the SSEFPZ but outside the presently fenced in former Subic Naval Base that is completely fenced and whose gates are under the joint control of SBMA and BOC, declared by the SBMA as entitled to enjoy the tax, duty-free, fiscal and other investment incentives provided for under RA 7227 for a specific and definite period of time. An Additional Secured Area declared by SBMA under E.O. 675 shall be deemed to be classified as available for utilization and development into an industrial, commercial, property development, recreational, tourism, gaming, utilities, investment or financial center or a mix of any of these developments.

3.7. **"Additional Area"** refers to an Area within the SSEPFZ but outside the presently fenced-in former Subic Naval Base, declared by the SBMA as entitled to certain tax, fiscal and for the investment incentives under RA 7227 for a specific and definite period of time. An Additional Area declared by SBMA under E.O. 675 shall be deemed to be classified as available for utilization and development into an industrial, commercial, property development, recreational, tourism, gaming, utilities, investment or financial center, or a mix of any of these developments.

3.8. **"SBMA"** refers to the Subic Bay Metropolitan Authority created under Section 12 of RA 7227 and its Implementing Rules and Regulations.

3.9. **"BOC"** refers to the Bureau of Customs.

3.10. **"Tax and Duty Free Incentives and Privileges"** are those defined, allowed and enumerated in RA 7227.

3.11. **"RA 9400"** – refers to Republic Act 9400, an Act Amending RA 7227, As Amended.

3.12. **"RA 7652"** refers to Republic Act 7652, otherwise known as the Investors Lease Act.

3.13. Customs' Administrative Order ("CAO") 4-93 otherwise known as the Rules and Regulations for Customs Operations in the Subic Special Economic and Freeport Zone.

3.14. Administrative Order No. 296, on the *"Establishment of Customs Clearance Areas in Special Economic and Freeport Zone"*.

3.15. **"PD 1529"** refers to Presidential Decree No. 1529, otherwise known as the Property Registration Decree

3.16. **"Act 496"** refers to Act 496, otherwise known as the Land Registration Act.

Section 4. Boundaries of the SSEFPZ. – The boundaries of the SSEFPZ shall comprise the areas described and defined in Proclamation PN 532.

CHAPTER II

PROCEDURE FOR DECLARATION AND ADMINISTRATION OF ADDITIONAL SECURED AREAS AND ADDITIONAL AREAS

Section 5. Declaration of Additional Secured Areas and Additional Areas within the SSEFPZ. – The SBMA shall identify, fence, secure or declare such areas within the SSEFPZ entitled to the appropriate package of tax, duty-free and fiscal investment incentives and privileges under R.A. 7227, as maybe determined by the SBMA to be proper to promote the policies of RA 7227, as amended, and EO 675. The SBMA, in such declaration, shall be guided by, among others, the following criteria:

- (i) Controls can easily be established in the area to prevent or curtail smuggling activities.
- (ii) Availability of skilled, semi-skilled and non-skilled trainable workforce in and around the area.
- (iii) Existence and availability of tracts of land, public or private, for utilization and development into industrial, commercial, residential, recreational, tourism, investment and financial center purposes.
- (iv) Security for the area, its investors, residents and workforce and other dependents can easily be established.

Such Additional Secured Areas and Additional Areas declared by SBMA under E.O. 675 shall be deemed to be classified as available for utilization and development into an industrial, commercial, property development, recreational, tourism, utilities, investment or financial center or a mix of any of these developments.

The SBMA Board of Directors may formulate further policy-based criteria and guidelines to implement the general criteria aforementioned and attain the objectives set forth in Section 2 hereof.

This notwithstanding, other areas maybe developed through local government or private sector initiative and become part of the SSEFPZ for purposes of availment of the appropriate tax, duty-free, and fiscal investment incentives and privileges, upon application with and determination by SBMA, that such areas accession to the SSEFPZ will serve the purposes of RA 7227 and EO 675.

Section 6. Concurrence By LGUs Concerned. – The declaration of Additional Secured Areas or Additional Areas within the SSEFPZ in the previous section may be made in consultation with the city/ies and/or municipality/ies where the area is located and shall become effective only after a concurrence by a resolution of the Sangguniang Panglungsod and/or Sangguniang Bayan concerned.

Section 7. Administration of Additional Secured Areas and Additional Areas.

– Except for privately owned, managed or operated Additional Secured Areas or Additional Areas of the SSEFPZ, areas identified or declared as such by the SBMA shall be organized, administered, managed and operated directly by the SBMA through an Area Manager, who shall be appointed by the SBMA Administrator and Chief Executive Officer (CEO) with the rank, benefits and privileges of a SBMA Department Manager.

A privately owned Additional Secured Area or Additional Area of the SSEFPZ shall be managed by Property Management Board composed of the following members, whose sole function shall be to ensure that the management and operation of the

Additional Secured Area or Additional Area shall be pursuant to SBMA policies, rules, guidelines, initiatives and directions:

- (i) The President of the Association of Investors thereat or the CEO of the investor thereat should such privately owned additional area have only one investor;
- (ii) The representative of the municipality/ies or city/ies where the area is located;
- (iii) Two independent private sector representatives jointly chosen by the SBMA and the Mayor of the municipality or city where it is located;
- (iv) A second or third level official of the SBMA to be designated by the SBMA Administrator and CEO;

The members of the Property Management Board ("PMB") shall elect their Chairman on an annual basis. The Members of the PMB shall have a term of one year. No member of the PMB can be elected Chairman for more than two consecutive terms.

The Property Management Board shall be under the direct supervision of the SBMA.

Section 8. Establishment of Secure Perimeters. - The SBMA shall establish or cause to be established secure fenced-in perimeters for the Additional Secured Areas of the SSEFPZ within which tax and duty free articles and merchandise shall be limited.

Sales of tax and duty free consumer items in the Additional Secured Areas of the SSEFPZ shall only be allowed and undertaken by duty free shops duly authorized by SBMA in coordination with BOC.

Duty free shops operators shall establish in coordination with SBMA and BOC, control systems at their own expense to ensure that only qualified persons purchase the tax and duty free articles and only for consumption within the Additional Secured Area and not for commercial purposes.

For this purpose, SBMA and BOC shall establish an identification system to ensure compliance by the duty free shop operators and their obligation to sell only to qualified persons and for consumption purposes only within the Additional Secured Area.

Section 9. Applicability of SBMA Authority over Additional Secured Areas and Additional Areas. - In the event an area is declared as Additional Area or Additional Secured Area with the concurrence of the local government unit concerned, the SBMA shall assume the administration over the Additional Area or Additional Secured Area and exercise authority over all affairs therein. Consequently, any disbursement of funds pertaining to the share of the local government unit concerned as generated therein, shall also be within SBMA's exclusive prerogative and control.

SBMA shall, for undeveloped or underdeveloped areas, where basic local government services are unavailable, or where the local government unit concerned agrees to cede to SBMA local government functions, exercise authority over the following:

- a. *Security.* — The SBMA shall provide and establish security forces for the Additional Secured Areas and Additional Areas of the SSEFPZ which

shall police and maintain law and order within its boundaries and which shall control ingress to and egress from such areas.

Investors and businesses shall provide and be responsible for the security of their respective facilities and place of businesses and extend support and cooperation to the SBMA security force for the latter's proper performance of duties. Investors and businesses may request assistance from SBMA security force to enforce security within their premises. The security force of the investors and business shall properly coordinate with and shall be under the supervision of SBMA security forces.

These security forces may be licensed to carry firearms only within the premises of the particular enterprise subject to approval by SBMA under such terms and conditions it may deem proper to impose.

All persons and vehicles entering in and exiting from the Additional Secured Areas or the Additional Areas of the SSEFPZ shall be subject to search and inspection and once inside shall be governed by the area's security rules. For this purpose, they shall be required to register and/or secure appropriate passes/clearance/permit. Other government agencies may exercise their respective inspection functions only upon prior coordination with SBMA. Service of lawful warrants, writs and processes shall first be coordinated with the SBMA Administration prior to actual service of warrant.

No foreign goods or articles shall enter or be admitted to the Additional Secured Area or Additional Area except through a port of entry and after having gone through the duly established Customs Clearance Area under A.O. No. 296.

b. Permits and Licenses. — Except for the functions of the City or Municipal Assessors and Treasurers' offices and the Revenue District Office of the BIR of the respective city/ies or municipality/ies relating to the declaration, assessment and payment of real property taxes on privately-owned land which shall continue to be exercised by the aforementioned offices, the SBMA shall provide, establish, undertake and regulate the issuance of any and all permits in the Additional Secured Areas and the Additional Areas of the SSEFPZ for any infrastructure, construction, article, merchandise, substance, transaction, activity, occupation or operation, and shall specify terms and conditions for the issuance of permits and establish procedures for their issuance and revocation.

Public land converted to an Additional Secured Area or an Additional Area of the SSEFPZ shall not be subject to real estate taxation by the respective municipalities or cities concerned unless it is subsequently acquired by private ownership.

c. Utilities, Infrastructure and Other Services. — In the absence of an existing and capable franchised operating utility in the Additional Secured Area or Additional Area, SBMA shall undertake or cause to be undertaken, and regulate the establishment, operation and maintenance of utilities, other services and infrastructure in these areas of the SSEFPZ, including shipping, transportation and related businesses,