

**LOCAL GOVERNMENT ORDINANCE, 1961
(No. 11 of 1961)**

AND

**LOCAL AUTHORITY (ASSIGNMENT OF FUNCTIONS:
THE PROVISIONS OF PARKING PLACES AND STANDS AND THE
LICENSING OF PRIVATE PARKING PLACES) ORDER 1973**

**CITY OF KOTA KINABALU (PROVISION OF PARKING PLACES)
(CONTROLLED PARKING PLACE) BY-LAWS 2018.**

(G.N.L. 9 of 2018)

ARRANGEMENT OF BY-LAWS

PART I

PRELIMINARY

By-Law

1. Citation, commencement and application
2. Interpretation

PART II

GENERAL PROVISIONS

3. Power to provide for controlled parking places
4. Parking fee
5. Parking lot
6. Compliance with condition
7. Operations hours
8. Payment of parking fee
9. Exemption from payment of parking fee
10. Parking attendant
11. Compliance with directions

By-Law

12. Provision of signs
13. Method of parking
14. Safety of other motor vehicles
15. Unattended vehicles
16. Parking of commercial vehicle or motorcycle
17. Suspension of use of a controlled parking place or parking lot
18. Monthly parking permit
19. Exempted motor vehicles
20. Emergency
21. Registered owner's liability
22. Mayor not liable for loss or damage

PART III
OFFENCES

23. Unauthorised activity in controlled parking place
24. Obstruction
25. Unregistered motor vehicle
26. Solicitation for employment
27. Prohibition

PART IV
ENFORCEMENT

28. Power of arrest
29. Power of seizure and forfeiture
30. Compounding of offences
31. Penalty

**FIRST SCHEDULE
SECOND SCHEDULE
THIRD SCHEDULE**

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**CITY OF KOTA KINABALU (PROVISION OF PARKING PLACE)
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In exercise of the power conferred upon him by the Local Authority (Assignment of Functions: The Provisions of Parking Places and Stands and The Licensing of Private Parking Places) Order 1973 and all the enabling powers vested by the Local Government Ordinance 1961 (as amended by the City of Kota Kinabalu Enactment 1996), the Mayor of the City of Kota Kinabalu with the approval of the Chief Minister has made the following by-laws:

**PART I
PRELIMINARY**

Citation, commencement and application

1. (1) These by-laws may be cited as the City of Kota Kinabalu (Provisions of Parking Places) (Controlled Parking Place) By-Laws 2018.

(2) These By-Laws shall come into operation on the date of its publication in the *Gazette*. [01-11-2018]

(3) These By-Laws shall be applicable to the area under the general jurisdiction of the Mayor.

Interpretation

2. In these By-Laws, unless the context otherwise requires —

“authorised officer” means any officer duly authorised by the Mayor;

“commercial vehicle” shall have the same meaning assigned to it in the Commercial Vehicles Licensing Board Act 1987 [Act 334];

“controlled parking place” means the parking places at the locations specified in the First Schedule;

“hour” includes part of an hour;

“Mayor” means the Mayor of the City of Kota Kinabalu;

‘motorcycle’ shall have the same meaning assigned to it in the Road Transport Act 1987 [Act 333];

“motorcycle vehicle” shall have the same meaning assigned to it in the Road Transport Act 1987 [Act 333];

“Ordinance” means the Local Government Ordinance 1961 (No. 11 of 1961);

“parallel parking lot” means a parking lot in a controlled parking place which is marked out for the parking of a motor vehicle parallel with and close to the edge of the road or carriageway;

“park” means the bringing of a motor vehicle to a stationary position;

“parking attendant” means any person appointed under by-law 10 and includes a person duly authorised by or on behalf of the Mayor to manage, supervise, and to attend to any controlled parking place or to carry out any act under these By-Laws;

“parking lot” means the space marked out in a controlled parking place for the parking of a motor vehicle’

“payment station” means any place designated by the Mayor in or near a controlled parking place for the collection of parking charges through a collection machine or by an authorised officer;

“person” means any individual and includes any company, association, society, body of persons corporate or unincorporated;

“parking fee” means the parking fee prescribed in the Second Schedule payable by any person who parks a motor vehicle in a controlled parking place;

“public parking place” means any parking place provided by the Mayor in which the parking of a motor vehicle is permitted by the Mayor;

“road” shall have the same meaning assigned to it in the Road Transport Act 1987 [Act 333];

“sign” includes all notices, instructions, directions, signals, marking, warning signs, direction signs, notices or other devices displayed by the Mayor for the guidance or direction of any person driving a motor vehicle;

“unregistered motor vehicle” means any motor vehicle other than a motor vehicle which is duly registered in accordance with the Road Transport Act 1987 [Act 333];

PART II

GENERAL PROVISIONS

Power to provide for controlled parking places

3. (1) The Mayor hereby provides that the controlled parking places specified in the First Schedule shall be utilized for the purpose of public parking place.

(2) Without prejudice to paragraph (1), the Mayor may designate from time to time any controlled parking place or any parking lot therein for the parking of any class of motor vehicles or for the exclusive use of any class of persons subject to such conditions as the Mayor deems fit to impose.

Parking fees

4. The parking fees shall be such as prescribed in the Second Schedule.

Parking lot

5. (1) A controlled parking place may be divided into parking lots.

(2) For the purpose of determining the parking lots, the Mayor may cause each parking lot to be marked out by painted lines, studs, signs or other indications.

Compliance with condition

6. (1) The Mayor may impose any condition on the use of any controlled parking place as the Mayor deems fit.

(2) Any person who makes use of a controlled parking place shall comply with the conditions imposed by the Mayor under paragraph (1).

Operation hours

7. (1) The operation hours shall be determined by the Mayor.

(2) The Mayor may indicate such operation hours by putting up signs at the entrance of the controlled parking place.

Payment of parking fee

8. (1) Any person who parks a motor vehicle in a controlled parking place shall obtain a parking ticket issued by the parking attendant or an automatic ticketing machine at the entrance of the controlled parking place on which shall be stated the date and time of entrance into such controlled parking place.

(2) The driver or the owner of the motor vehicle shall surrender the parking ticket to a parking attendant or deposit the same in a collection machine at the payment station where he shall pay the parking fee prior to the removal of his motor vehicle from the controlled parking place.

(3) Any driver or the owner of the motor vehicle who loses the parking ticket or if the ticket is damaged shall pay an additional charge not exceeding twenty ringgit.

Exemption from payment of parking fee

9. (1) The Mayor may exempt any class of motor vehicles or persons from payment of the parking fee as the Mayor deems fit.

(2) The exemption from the payment of parking fee in respect of any class of motor vehicles or persons under paragraph (1) may be withdrawn at any time by the Mayor.

Parking attendant

10. The Mayor may appoint one or more parking attendants to be on duty at any controlled parking place.

Compliance with directions

11. Any person who drives or parks a motor vehicle in a controlled parking shall comply with all directions given to him by any parking attendant or any authorised officer.

Provisions of signs

12. (1) The Mayor may erect or exhibit at a controlled parking place any sign as the Mayor deems appropriate for the following purposes –

- (a) to indicate that a parking lot is designated for the use of a certain class of person or for the parking of a certain class of motor vehicles;
- (b) to indicate that the parking of a certain class of motor vehicles is prohibited;
- (c) to indicate the parking fee;
- (d) to notify any person who makes use of the controlled parking place of the conditions imposed by the Mayor under paragraph 6(1); and
- (e) for any other purpose as the Mayor may deem necessary.

(2) Any person who makes use of a controlled parking place shall obey all the signs exhibited therein.

Method of parking

13. Any person who fails to ensure that –

- (a) the motor vehicle is parked entirely within the parking lot;
- (b) in a parallel parking lot, the motor vehicle is parked facing the same direction as the traffic may lawfully move; or

- (c) the motor vehicle is not parked on or across any line marking the parking lot,
- commits an offence under these By-Laws.

Safety of other motor vehicles

14. No motor vehicle shall be drawn, driven or pushed within a controlled parking place otherwise than in an orderly and careful manner and with due regard to the safety of other motor vehicles and persons within the controlled parking place.

Unattended vehicles

15. No motor vehicle in a controlled parking place shall be left unattended unless its engine is turned off and rendered immovable by the application of brakes or by some other sufficient means.

Parking of commercial vehicle or motorcycle

16. No person shall park any commercial vehicle or motorcycle in any parking lot within a controlled parking place which is not designated by the Mayor for the parking of such commercial vehicle or motorcycle.

Suspension of use of a controlled parking place or parking lot

17. (1) Notwithstanding by-law 3, the Mayor may at his discretion or on the application of any person suspend the use of any controlled parking place or parking lot therein whenever the Mayor considers such suspension is necessary –

- (a) for the purpose of facilitating the movement of traffic or promoting its safety;
- (b) for the purpose of any building operation, demolition or excavation adjacent to the parking lot or for maintenance, improvement or reconstruction of the parking lot or the laying, erection, alteration or repair in or adjacent to the parking lot of any sewer or of any cable pipe, main or apparatus of supply of water or electricity or of any telegraphic line;
- (d) on any occasion which it is likely by reason of some special attraction or occasion that any road will be congested or obstructed;
- (e) for the convenience of occupiers of premises adjacent to the parking lot at the time of wedding or funerals or other special occasions;
- (f) for the loading and unloading of goods; or

(g) for any other reason or purpose as the Mayor deems necessary.

(2) On any such suspension, an authorized officer shall cause to be affixed an appropriate notice at or near the controlled parking place or parking lot, and it shall be unlawful for any person to make use of or park any motor vehicle in such controlled parking place or parking lot except in relation to the purpose for which the suspension is made.

(3) Whenever the suspension is made on the application of any person, the Mayor may issue a suspension order subject to the payment of the fee prescribed in the Third Schedule and such conditions as the Mayor deems fit to impose.

Monthly parking permit

18. (1) On the application of any person, the Mayor may issue a monthly parking permit to the person subject to –

- (a) such conditions and restrictions as may be specified therein;
- (b) such parking period as the Mayor determine; and
- (c) payment of the parking fee.

(2) The Mayor may revoke such permit at any time without assigning any reason thereto.

Exempted motor vehicles

19. These By-Laws shall not apply to –

- (a) any ambulance, fire engine and motor vehicle of the Malaysian Armed Forces, visiting armed forces or Royal Malaysia Police when used on official duty;
- (b) any motor vehicle in the active service of any government department authorised by or under any written law, or under any other having the force of any written law, to construct, erect or carry out electricity, water or other public undertaking, in so far as such motor vehicle is being used actively in the construction, erection or carrying out of the undertaking; and
- (c) any motor vehicle which has been directed to a parking lot by a police officer in uniform in the course of his duty.

Emergency

20. In case of any emergency, any authorised officer may remove or cause to be removed to any place as he thinks fit any motor vehicle parked in the controlled parking place.

Registered owner's liability

21. In the case of contravention of or failure to comply with any of the provisions of these By-Laws, the registered owner of the motor vehicle shall be deemed to have contravened or failed to comply with such provisions if the person (not being the registered owner) who actually contravenes or fails to comply with such provisions is not known or cannot be found.

Mayor not liable for loss or damage

22. The Mayor or any authorised officer shall not be liable for any loss or damage to any motor vehicle or the fittings of contents of any motor vehicle parked in any controlled parking place.

PART III OFFENCES

Unauthorised activity in controlled parking place

23. No person shall without the prior written approval of the Mayor within any controlled parking place may –

- (a) make use of a parking lot for any purpose other than for the parking of a motor vehicle;
- (b) repair or permit to be repaired any motor vehicle except in cases where the repair is necessary to enable motor vehicle to be removed from the controlled parking place;
- (c) place any goods, objects, material or other things on any parking lot or on any part of a road adjacent to any parking lot;
- (d) use any motor vehicle for the sale of or for promoting the sale of any goods, article or thing whatsoever;
- (e) wash or clean or cause or permit to be washed or cleaned any motor vehicle;
- (f) use any motor vehicle for the conduct of driving lessons on training; or
- (g) carry out or conduct any business, activity or provide any service of whatsoever nature, whether or not for reward.

Obstruction

24. (1) No person shall park any motor vehicle in such a manner as to cause the motor vehicle to protrude into the road adjacent to the parking lot or beyond the boundary line of the parking lot or to obstruct the traffic circulation in the vicinity of such parking lot.

(2) No person shall in any manner, obstruct or cause any obstruction to a controlled parking place or parking lot therein.

Unregistered motor vehicle

25. No person shall park any unregistered motor vehicle in any controlled parking place without prior written approval of the Mayor.

Solicitation for employment

26. (1) No person shall solicit employment as a watchman at a controlled parking place or for a parked motor vehicle.

(2) No person shall loiter at or near a controlled parking place for the purpose of obtaining employment as a watchman for a parked motor vehicle.

Prohibition

27. No person shall park or cause to be parked –

- (a) any motor vehicle of such size and dimensions exceeding that of the parking lot in a controlled parking place without the prior written approval of the Mayor;
- (b) any motor vehicle in a controlled parking place where the sign indicates that such a controlled parking place is for the use of a certain class of persons or motor vehicles, unless such person or motor vehicle belongs to that class; or
- (c) any motor vehicle in contravention of any of the provisions of these By-Laws.

PART IV ENFORCEMENT

Power of arrest

28. (1) The Mayor or any authorised officer may arrest without warrant any person who commits in his presence or whom he reasonably believes to have committed any offence under these By-Laws –

- (a) if the name or address of the person is unknown to him and the person declines to give his name or address; or
- (b) if there is a reason to doubt the accuracy of his name or address.

(2) A person arrested under this by-law shall be detained and shall be brought before a Magistrate's Court within twenty-four hours unless his name and address are sooner ascertained.

Power of seizure and forfeiture

29. (1) If the Mayor or any authorised officer has reason to believe that any person has committed an offence under these By-Laws, he may seize and detain any produce, item, tool, instrument, machinery, equipment or other thing whatsoever used or reasonably suspected of having been used in the commission of an offence.

(2) All produce, items, tools, instruments, machinery, equipment or other things whatsoever liable to seizure under this by-law shall be liable to forfeiture:

Provided that the Mayor or any authorised officer may, in his discretion, temporarily release such produce, item, tool, instrument, machinery, equipment or other things to the owner of the same on security being furnished to his satisfaction that such produce, item, tool, instrument, machinery, equipment or other thing shall be surrendered to him on demand or to produce it before a Court of competent jurisdiction:

Provide further that if there be no prosecution with regard to anything seized under this by-law, such produce item, tool, instrument, machinery, equipment or other thing shall be taken and deemed to be forfeited at the expiration of one calendar month from the date of seizure unless claim thereto is made before the date.

(3) Any person asserting that he is the owner of any goods or thing liable to forfeiture under paragraph (2) and that it is not liable to forfeiture may personally or by his agent authorised in writing give written notice to the Mayor that he claims the same:

Provided that any such application shall be made before the expiration of one calendar month from the date of seizure.

(4) Notwithstanding anything in these By-Laws, if anything seized under this by-laws is subject to speedy and natural decay or deterioration, the Mayor or any authorised officer may sell the thing and shall thereafter deal with the proceeds of such sale as he would have dealt with such thing had it not been sold.

(5) All thing forfeited shall be delivered to the Mayor or any authorised officer and shall be sold in accordance with the provisions of the Ordinance or any other law for the time being in force.

Compounding of offences

30. (1) The Mayor or any authorised officer may compound any offence under these By-Laws by collecting from the person reasonably suspected of having committed such an offence a sum not exceeding five hundred ringgit.

(2) On payment of such sum of money, no further proceedings shall be taken against such person in respect of that offence.

Penalty

31. (1) Any person who contravenes any of the provisions of these By-Laws commits an offence and shall, on convictions, be liable to a fine for any one offence the sum not exceeding twenty thousand ringgit or imprisonment for a term not exceeding one year or to both.

(2) In the case of continuing offence, the person shall be liable to a further fine not exceeding five hundred ringgit for each day during which the offence is continued after conviction.

FIRST SCHEDULE (By-law 2 and paragraph 3(1))

Controlled Parking Place

1. KK Plaza (Town Lease: 017543378)
2. Menara Jubilee (Town Lease: 017546851)
3. KK Sentral (Town Lease: 017561536)

SECOND SCHEDULE (By-law 4)

Parking Fee

Location	Fee
1. KK Plaza (Town Lease: 017543378)	(i) RM 1.00 for every hour or part thereof; or (ii) RM 150 per month
2. Menara Jubilee (Town Lease: 017546851)	(i) RM 1.00 for every hour or part thereof; or (ii) RM 150 per month
3. KK Sentral (Town Lease: 017561536)	(i) RM 1.00 for every hour or part thereof; or (ii) RM 150 per month

THIRD SCHEDULE
(Paragraph 17(1))

Fee for Suspension of Use of Parking Lot

Fee for suspension of use of parking lot	RM 40.00 per day or part thereof for each parking lot.
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Dated at Kota Kinabalu this 3rd day of July 2018.

DATUK YEO BOON HAI
Mayor of the City of Kota Kinabalu.

I approve the foregoing By-laws.

Dated at Kota Kinabalu this 18th day of September 2018.

DATUK SERI PANGLIMA HAJI MOHD SHAFIE BIN HAJI APDAL,
Chief Minister of Sabah.