THE LOCAL GOVERNMENT ORDINANCE, 1961
(Ordinance No. 11 of 1961)

KOTA KINABALU MUNICIPAL COUNCIL
(ANTI-LITTER) BY-LAWS, 1984
(G.N.L. 82 of 1984)

In exercise of the powers conferred upon it by subsection (1) of section 50 of the Local Government Ordinance, 1961, the Kota Kinabalu Municipal Council (hereinafter called the Council) with the approval of the Minister, has made the following By-laws:-

Citation and commencement.

1. These By-laws may be cited as the Kota Kinabalu Municipal Council (Anti-litter) By-laws, 1984, and shall apply to the whole area under the jurisdiction of the Council and shall be deemed to have come into force on the 1st day of April 1984.

Interpretation.

2. In these By-laws:-

"abandoned vehicle" means where any vehicle is left in any public place for more than seven days after written notice to remove such vehicle from such public place was dispatch by the Mayor to the owner if the name and address of such owner known, or to the police if the name and address of such owner were not known"*;*

"building" means any home, hut, stall, shed or roofed enclosure, whether used for the purpose of human habitation or otherwise, and also any wall, fence, platform, staging, gate, post, pillar, paling, frame, hoarding, slip, dock, wharf, pier, jetty, landing-stage or bridge or any structure, support or foundation connected to the fore-going;

"garden refuse" means any refuse from garden and agricultural operations;

"litter" means any dust, sand, earth, gravel, clay, stone, paper, ashes, carcase, refuse, leaves and

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branches, grass, straw, boxes, barrels, bales, shavings, sawdust, garden refuse, stable refuse, trade refuse, manure, garbage, bottles, glass, can, food container, food wrapper, particles of food or other things or articles;

"occupier" includes any person in actual occupation of any premises or having the charge, management or control thereof, and in the case of property subdivided or let to various tenants or lodgers, the person who for the time being receiving the rent payable by the tenants or lodgers whether on his own account or as agent for any person entitled thereto or interested therein;

"owner" shall have the same meaning assigned to it in the Local Government Ordinance, 1961;

"place of public resort" means any building or defined or enclosed place used or constructed or adapted to be used either ordinarily or occasionally as a church, chapel, mosque, temple or other place where public worship or religious ceremony are performed (not being merely a dwelling house so used), or as a cinema, theatre, public hall, public concert room, public ballroom, public lecture room or public exhibition room, or as a public place of assembly for persons admitted thereto by ticket or otherwise, or used or constructed or adapted to be used either ordinarily or occasionally for any other public purposes;

"public place" include every public highway, street, road, sea beach, bridge, square, court, lane, alley or passage, bridle way, footway, parade, wharf, jetty, quay, public park, garden or open space (enclosed or unenclosed), and every theatre, place of public entertainment of any kind or any place of public resort to which admission is obtained or to which the public have access, whether on payment or otherwise;

"stable refuse" means the dung or urine of horses, cattle, sheep, goats, buffaloes or pigs, and the sweepings or refuse of drainage from any stables or sheds for keeping horses, cattle, sheep, goats, buffaloes, pigs or poultry;

"street" means any road, square, footway, backlane or passage whether a thoroughfare or not, over which the public have a right of way, also the way over any public bridge, and also includes any road, footway, or passage, open court or open alley used or intended to be used as a means of access to two or more holdings, whether the public have a right of way thereover or not; and all channels, drains, ditches and reserves at the side of any street shall be deemed to be part of such street;

"trade refuse" means the refuse of any trade, manufacture or business or of any building operations;

"vehicle" means any vehicle whether mechanically propelled or otherwise.

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What constitutes an offence.

3. Any person who –

(a) places, deposits or throws or causes or allows to be placed, deposited or thrown any litter in any public place;

(b) dries any article of food or any article or thing in any public place;

(c) throws, places, spills or scatters any blood, brine, swill noxious liquid or other offensive or filthy matter of any kind in such manner as to run or fall into any public place;

(d) drops, spills or scatters any dirt, sand, earth, gravel, clay, loam, stone, grass, straw, shavings, sawdust, ashes, garden refuse, stable refuse, trade refuse, manure, garbage or any other thing or matter in any public place, whether from a moving or stationary vehicle or in any other manner;

(e) sieves, shakes, cleans, beats or otherwise agitates any lime, ashes, sand, coal, hair, waste paper, feathers or other substances in such manner that it is carried or likely to be carried by the wind to any public place;

(f) throws or leaves behind any bottle, glass, can, food container, food wrapper, particles of food or any other articles or things in any public place;

(g) during the construction, alteration or demolition of any building or election or at any time whatsoever, deposits, drops, leaves or places, or cause to be deposited, dropped, left or placed in or onto any public place, any stone, cement, earth, sand, wood or other building material, thing or substance, or who fails to take reasonable precautions to prevent danger to the life, health or well-being of persons using any public place from flying dust or falling fragments or any other material;

(h) Places or deposits or causes or allows to be placed or deposited any abandoned vehicle, water tank, cement mixer or any abandoned object or scrap metal in any public place,

shall be guilty of an offence.

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Order to remove.

3A. (1) The Mayor may direct any person reasonably suspected being place, deposit or causes or allows to be placed or deposited any litter, abandoned vehicle, abandoned objects or scrap metals in any public place to remove such litter, abandoned vehicle, abandoned object or scrap metals from such public place to a proper place.

(2) Where such person fails to remove such litter, abandoned vehicle, abandoned objects or scrap metals after being directed by the Mayor, the Mayor shall execute such removal to such proper place and any expenses incurred shall be borne by such person and may be recovered as if such sum were a civil debt.

Presumption as to offender.

4. For the purposes of by-law 3 *(d),* where the thing is dropped, split from a vehicle or drops or spills therefrom, the driver or the owner of the vehicle shall be deemed to have committed the offence unless the contrary is proved.

Occupier of land/building liable.

5. If in any case it is shown that any dust or other substance in these By-laws mentioned has been deposited in any place in contravention of these By-laws from any building or land or that any such water or any offensive matter has run, drained or been thrown or put upon into any street or drain in contravention of these By-laws, it shall be presumed that the offence was committed by or by the permission of the occupier of such building or land.

Occupier to keep footways, backyard and canopies clean.

6. The owner or occupier of any premises shall cause the immediate vicinity of his premises, including the footways and backyards abutting thereon and canopies projecting from any building over the footways, to be swept and kept clean.

Occupier to keep private street clean.

7. The owner or occupier of any premises abutting on a private street shall cause such portion of the street as fronts, adjoins or abuts on his premises and up to the centre thereof to be kept clean.

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Penalties.

8. (1) Any person who contravenes any provisions of these By-laws shall be guilty of an offence and shall, upon conviction, be liable to a fine not less than five thousand ringgit and not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding one year or to both, and in the case of a continuing offence, to a further fine not exceeding five thousand ringgit for every day or part thereof during which such offence is continued.

(2) In addition to or in substitution for the penalty provided in sub By-law (1) of this By-law any expense incurred by the Council in consequence of any breach or contravention of these By-laws or in the execution of any work directed by these By-laws to be executed by any person and not executed by such person, whether performed by the Council or some contractor, together with a surcharge of not more than ten per centum of such expense shall be paid by the person committing such breach or failing to execute such work and may be recovered as if such sum were a civil debt.

Compounding of offences.

9. (1) The Mayor may compound any offence committed by any person under these By-laws by making a written offer to the person to compound the offence upon payment by that person of a sum of money not exceeding five thousand ringgit.

(2) An offer under paragraph (1) may be made at any time after the offence has been committed, but before any prosecution for it has been instituted.

(3) Where the amount specified in the offer is not paid within the time specified in the offer, or within such extended period as may be granted by the mayor, prosecution for the offence may be instituted at any time thereafter against the person to whom the offer was made.

(4) Where an offence has been compounded under paragraph (1), no prosecution shall thereafter be instituted in respect of such offence against the person to whom the offer to compound was made.

Power of arrest.

10. (1) Any officer of the Council duly authorised by the Council or any police 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 –

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(a) if the name or address of the person is unknown to him and the person declines to give his name and address; or

(b) if there is reason to doubt the accuracy of his name or address.

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

Repeal.

11. The Kota Kinabalu Municipal Council (Anti-litter) By-laws 1976 is hereby repealed.

Dated at Kota Kinabalu, this 8th day of October, 1984.

DATUK JOHN LIM GUAN YEE,
President,
Kota Kinabalu Municipal Council

I approve the foregoing By-laws.

Dated at Kota Kinabalu, this 19th day of October, 1984.

DATUK AYUB AMAN,
Minister of Town and Country Development.

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