THE LOCAL GOVERNMENT ORDINANCE, 1961

(Ordinance No. 11 of 1961)

KOTA KINABALU MUNICIPAL COUNCIL
(USE OF PREMISES) BY-LAWS 1995
(G.N.L. 11 of 1995)

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, with the approval of the Minister, has made the following By-laws:

Citation and commencement.

1. (1) These By-laws may be cited as the Kota Kinabalu Municipal Council (Use of Premises) By-laws 1995 and shall come into force on the 1st day of January, 1996.

(2) In these By-laws, unless the context otherwise requires –

"Council" means the Kota Kinabalu Municipal Council;

"slot machine" means any mechanically or electrically operated machines which upon insertion of a coin, disc, token or similar object is available to play or operate, the play or operation of which may by lot or chance deliver or entitle the person playing or operating the machine to receive cash, premium, merchandise, token or thing of value whatsoever, irrespective of whether the pay-off is made automatically from the machine or in any other manner whatsoever.

Licence.

2. (1) No person shall use any place or premises within the Council for the purpose or purposes of betting, sale of public lotteries or operation of slot machines for which fees have

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been prescribed in the Schedule without a licence in that behalf issued by the Council under these By-laws.

(2) In granting a licence under these By-laws, the Council may impose such conditions relating to the use of any place or premises as it may deem fit to impose from time to time.

Application for licence.

3. (1) Every application for a licence shall be made in writing to the Council in such form as the Council may determine.

(2) The Council may require any applicant for the issue or renewal of a licence to attend in person or, in the case of a corporation or firm, may require an authorised representative of that corporation or firm to attend, at the time of issue or renewal.

Form of licence.

4. Every licence issued under these By-laws shall be in such form as the Council may from time to time decide.

Licence register.

5. The Council shall maintain a licence register containing such of the particulars appearing in each licence as it considers necessary.

Validity of licence.

6. A licence shall unless sooner suspended or cancelled remain in force until the 31st day of December next following the date of commencement and may be renewed on or before the date of expiry.

Transfer of licence.

7. (1) During the currency of any licence the Council may, on application of the holder thereof, authorise its transfer to another person.

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(2) The transfer fee shall be twenty percent of the licence fee in the Schedule.

Cleanliness.

8. Every licensee shall keep and maintain his licensed place or premises in a state of cleanliness at all times.

Provisions of refuse bins.

9. Every licensee shall provide adequate refuse bins or receptacles in the licensed place or premises as may be necessary for the reception of refuse.

Disposal of refuse.

10. All waste in refuse bins or receptacles provided in the licensed place or premises shall be disposed off in such manner as may be directed by the Council from time to time.

Lighting.

11. The licensee shall take steps to ensure that adequate lighting is provided in the licensed place or premises to the satisfaction of the Council and where natural lighting is insufficient, steps shall be taken to provide artificial lighting.

Ventilation.

12. The licensee shall take steps to ensure that there is adequate ventilation in the licensed place or premises to the satisfaction of the Council and shall cause every means of such ventilation to be kept in good order and in efficient working condition.

Overcrowding prohibited.

13. The licensee shall take adequate steps to ensure that there is no overcrowding in the licensed place or premises.

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Prevention.

14. The licensee shall ensure –

(a) that adequate fire fighting facilities are installed to the satisfaction of the Council;

(b) that adequate staircase and adequate exits are provided and maintained; and

(c) that all staircases, passages, landings and exits are kept clear of all obstructions and every door therein so constructed and fitted as to be readily opened,

in the licensed place or premises.

Inflammable substances.

15. (1) Inflammable cements or solutions in the licensed place or premises shall be kept in proper containers with self-closing lids of approved design.

(2) Where solvents, solution or cements having a flash point below 23 C are kept in quantities exceeding 45 litres, a non-inflammable store shall be constructed to the requirements of the Council.

Storage.

16. All materials in the licensed place or premises shall be stored in such manner and in such a state as to prevent the emission of noxious or offensive effluvia therefrom.

Burning.

17. The licensee shall not burn or cause to be burnt combustible materials, refuse or waste except in such a manner and place approved by the Council.

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Emission of dust, etc.

18. The licensee shall not cause, suffer, allow or permit dust, fume, vapour, gas, heat, radiation, odour, smell, vibration, smoke or soot emission of such quantity from his licensed place or premises which in the opinion of the Council is a nuisance or which pollutes the atmosphere.

Time of operation.

19. The Council may direct that a licensed place or premises may not be permitted to operate except during such time and hours as the Authority shall specify or impose and the licensee shall comply with any such direction.

Security.

20. (1) The Council may, before issuing a licence, require the applicant to give security, either by making a cash deposit or by entering into a bond with or without sureties, to ensure that the provisions of these By-laws and the conditions of the licence are duly observed.

(2) The deposit or bond may be of or in any sum not exceeding five thousand ringgit.

(3) Without prejudice to By-law 22, any sum deposited or bond entered into under this By-law shall be liable to forfeiture in whole or in part by the Council for contravention of these By-laws or any breach of the conditions of the licence or on revocation of the licence.

Power to enter for inspection.

21. The President or any officer duly authorised by him in that behalf or any police officer not below the rank of Inspector may –

(a) enter and inspect any place or premises which is used or which the Council or such officer reasonably believes is being used for the purpose for which a licence is required under these By-laws;

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(b) request from the licensee any information regarding the management of the business operated in the licensed place or premises and the licensee or his employee shall provide any information required of him.

Penalty.

22. Any person who contravenes any provisions of these By-laws or breaches any condition subject to which a license has been granted 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.

Compounding of offences

23. (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.

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SCHEDULE

(By-law 2)

MONTHLY LICENCE FEES

The fee payable under these By-laws is RM2.00 per square feet per month or 8 part thereof.

Dated at Kota Kinabalu, this 26th day of October, 1995.

DAVID LEE THAU PHIN,
President,
Kota Kinabalu Municipal Council.

I approve the foregoing By-Laws.

Dated at Kota Kinabalu, this 27th day of October, 1995.

DATUK YONG TECK LEE,
Minister of Local Government and Housing.

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