

GNL6/2014 (01.01.2015)

LOCAL GOVERNMENT ORDINANCE, 1961

(No. 11 of 1961)

KOTA KINABALU MUNICIPAL COUNCIL

(DEALING IN SCRAP) BY-LAWS, 1966

(G.N.L. 24 of 1966)

In exercise of the powers conferred upon it by section 50 of the Local Government Ordinance, 1961, the Jesselton Town Board has made the following By-laws:-

Title and commencement.

1. These By-laws may be cited as the Kota Kinabalu Municipal Council (Dealing in Scrap) By-laws, 1966, and shall come into operation on the 1st day of July, 1966.

Interpretation.

2. In these By-laws "dealing in scrap" means the buying of scrap materials or whatever kind except rubber scrap.

Licence for dealing in scrap.

3. No person may deal in scrap except in accordance with a licence granted by the Council.

Application for licence.

4. An application for a licence shall be in writing and shall state the age of the applicant, the proposed place of business and the kind of scrap he proposes to deal in.

Discretion of the Mayor

4A. The issuance of a licence shall be at the sole discretion of the Mayor.

Conditions and deposit for licence

5. Upon approval of the application for a licence, the Mayor may issue a licence subject to -

- (a) such conditions as may be specified therein;
- (b) payment of the fees as set out in By-law 7; and
- (c) payment of a deposit of such sum and in such mode of payment as the Mayor may determine to ensure that the conditions in the licence and the provisions of these By-laws shall be duly observed.

Provided that upon renewal of the licence, no further deposit shall be required.

Forfeiture of deposit

5A. (1) The Mayor may, after giving the licensee an opportunity of being heard, forfeit the deposit in whole or in part if the Mayor is satisfied that there has been a breach of the conditions in the licence or contravention of the provisions of these By-laws.

(2) Upon forfeiture of such deposit the licence shall be deemed to have been cancelled, unless the Mayor, on application of the licensee, allows the licence to continue to be in force subject to repayment of the deposit which has been forfeited.

Refund of deposit

5B The deposit paid under By-law 5 (c) shall, unless forfeited under By-law 5A (1), be refunded after the Mayor is notified in writing by the licensee that he has ceased dealing in scrap and upon surrender of the licence in the event that the licence has not expired.

Duration of licence.

6. Every licence shall, subject to the provisions of these By-laws, expire on the 31st day of December of the year in which it is granted.

Fee.

7. The licence fee shall be RM1,200.00 per month.

Register of purchases.

8. (1) Every person licensed to deal in scrap shall maintain a register of purchases made by him.

(2) Such register shall record the name and address of the person from whom scrap is purchased, the kind of scrap, the quantity and price paid.

(3) Such register shall open to inspection by any of the officer of the Council at any time during business hours.

(4) No person under the age of eighteen years shall be employed in dealing in scrap.

Inspection of scrap.

9. No scrap in respect of which the Council has notified its intention to inspect shall be removed from the licensee's premises or be treated or otherwise disposed of.

Penalty.

10. Any person contravenes any of the provisions of these By-laws shall be guilty of an offence and shall on conviction be liable to a fine for any one offence the sum not exceeding RM20,000.00 or a term of imprisonment of not exceeding 12 months or both such fine and imprisonment and, in the case of continuing offence, the person shall be liable to a further fine of not exceeding RM500.00 per everyday during which the offence is continued after conviction.

Compounding of offences.

10A. (1) The Mayor may compound any offence including but not limited to breach of licence condition imposed by the Mayor under these By-laws by making a written offer to such person to compound the offence upon payment to the Mayor of such amount not exceeding Ringgit Malaysia five hundred.

(2) Where an offence has been compounded under this By-law, no prosecution shall thereafter be instituted in respect of such offence against the person to whom the offer to compound was made.

Revocation and refusal to renew licence

11. The Mayor may, in his discretion, revoke or refuse to renew a licence if the licensee -

- (a) has contravened any of the provisions of these By-laws;
- (b) has contravened any condition specified in the licence; or
- (c) has been convicted of an offence under these By-laws.

Power of arrest

11A. (1) The Mayor or any officer duly authorized by the Mayor 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 and address; or
- (b) if there is reason to doubt the accuracy of his name or address.

(2) A person arrested under these 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.

Power of seizure and forfeiture

11B. (1) If the Mayor or any officer duly authorized by the Mayor has any reason to believe that any person has committed an offence under these By-laws, such officer 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 these By-laws shall be liable to forfeiture provided that the Mayor or any officer duly authorized by the Mayor may temporarily release such produce, items, tools, instruments, 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 provided further that if there be no prosecution with regard to anything seized under these By-laws, such produce, items, tools, instruments, machinery, equipment or other things 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 such date.

(3) Any person asserting that he is the owner of any goods or thing liable to forfeiture under By-law 11B (2) and that it is not liable to forfeiture may personally or by his agent authorized 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 these By-laws is subject to speedy and natural decay or deterioration, the Mayor or any officer duly authorized by the Mayor may sell the thing and shall thereafter deal with proceeds of such sale as he would have dealt with such thing had it not been sold.

(5) All things forfeited shall be delivered to the Mayor or any officer duly authorized by the Mayor and shall be sold in accordance with the provisions of the Local Government Ordinance 1961 or under any other law for the time being in force.

Repeal.

12. Part X of the Jesselton Town Board (General) By-laws, 1956 is repealed.

Sabah LawNet