

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

**LAHAD DATU DISTRICT COUNCIL
(HAWKERS) BY-LAWS 1972
(G.N. 258 of 1973)**

In exercise of the powers conferred upon it by section 50 of the Local Government Ordinance 1961, the Lahad Datu District Council has made the following by-laws:

Title and commencement.

1. These by-laws may be cited as the Lahad Datu District Council (Hawkers) By-laws 1972 and shall come into operation on the 1st day of January 1973.

Interpretation.

2. In these By-laws —

"goods" includes food and drink;

"hawk" includes peddle;

"rural area" means any area other than urban area.

Licence for hawking.

3. No person shall hawk any goods except in accordance with a licence granted by the Council.

Application for licence.

4. An application for a licence shall be in writing, shall specify the goods the applicant proposes to hawk and shall be accompanied by two photographs of the applicant.

Grant of licence.

5. The Council may, in its absolute discretion, grant or refuse a license, or grant a licence subject to such conditions as it thinks fit.

Health certificate.

6. If the Council so requires, the applicant for a licence or for a renewal thereof shall forward a certificate of health from a Government Medical Officer or registered medical practitioner.

Duration of licence.

7. 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 issued.

Fee.

8. (1) The monthly fee is twelve ringgit for a licence in the urban area and five ringgit for a licence in the rural area, which shall be payable in advance:

Provided that casual hawkers hawking within the Council area shall pay a licence of one ringgit per day in the Lahad Datu District and fifty sen per day in the Kunak area.

(2) If the fee is not paid upon the expiry of the first week of the month in which it is due, the licence shall lapse but may be validated by the Council upon payment of a validation fee of two ringgit for a licence in the urban area and one ringgit for a licence in the rural area:

Provided that if the fee is not paid by the end of the month in which it is due, the licence shall be deemed to be cancelled.

Display of licence.

9. A licence shall be displayed in close proximity to the goods being hawked.

Licence not to be transferred.

10. No licensee shall transfer or otherwise part with the possession of his licence to any unauthorised person.

Employment of assistants.

11. (1) No assistant, whether paid or not, shall be employed in the business of a licensee except with the approval of the Council.

(2) If the Council gives approval, the name, address and a photograph of the assistant shall be affixed on the licence by an officer of the Council.

Hawker not to remain stationary.

12. Unless permitted in writing by the Council, no person shall, while engaged in the business of hawking, remain stationary except for the purpose of serving a customer or for a reasonable time to rest.

No hawking in certain places.

13. No person shall hawk within thirty feet of any street corner.

No hawking during certain hours.

14. No person shall hawk between 12.00 o'clock midnight and 6.00 a.m.

Refuse.

15. No person engaged in the business of hawking shall deposit any refuse or litter in any public place except in receptacles provided for the purpose.

Penalty.

16. (1) Any person who commits a breach or contravenes any of the provisions of these By-laws shall be liable to a fine not exceeding five thousand ringgit and in the case of a continuing offence to a further fine of two hundred ringgit for every day during which the offence continues.

(2) In addition to or in substitution for the penalty provided in paragraph (1) of this by-law any expense incurred by the Council in consequence of any breach for 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.

Cancellation of licence.

17. The Council may cancel or suspend a licence —

(a) if the licensee or any assistant of the licensee —

(i) is convicted of any offence under these By-laws;

(ii) is convicted of any offence under any written law relating to public health or the use of false weights or measures in respect of goods to which the licence relates; or

(b) if, on the certificate of a Government Medical Officer or a registered medical practitioner, the licensee is suffering from a contagious or infectious disease.

Compounding of offences.

18. (1) Any officer of the Council duly authorised in writing by the Council may in his discretion compound any offence under these By-laws by collecting from a person reasonably suspected of having committed the offence a sum not exceeding one hundred ringgit.

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

(3) The payment shall be evidenced by a receipt issued by the officer so authorised to compound the offence.

Power of arrest.

19. (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 —

- (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 section shall be detained and shall be brought before a Magistrate's Court within twenty four hours unless his name and address are sooner ascertained.

Dated at Lahad Datu this 16th day of January 1973.

HAJI RAFAEL ANCHETA,
Chairman,
Lahad Datu District Council.

I approve the foregoing By-laws.

Dated at Kota Kinabalu this 19th day of March 1973.

SALLEH HAJI SULONG,
Minister for Local Government.