

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

THE LAHAD DATU DISTRICT COUNCIL (TAMU) BY-LAWS, 1991

In exercise of the powers conferred upon it by section 50 of the Local Government Ordinance 1961, the Lahad Datu District Council (hereinafter referred to as the Council) has made the following By-laws:

1. Title and commencement.

These By-laws may be cited as the Lahad Datu District Council (Tamu) By-laws 1991, and shall be deemed to have come into operation on the date of publication in the *Gazette*.

2. Interpretation.

In these By-laws –

“goods” includes food, drink, cloth, fruits, vegetables, cakes and local product;

“hawk” includes peddle;

“Tamu Area” means an open/air market for hawking established by the Council.

3. Licence for hawking.

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

4. Application for licence.

Subject to By-law 11, an application for a licence shall be made in writing and shall –

- (a) specify the goods which the applicant proposes to hawk;
- (b) state the name of every assistant which the applicant is employing or proposes to employ;
- (c) be accompanied by 2 passport-sized photographs of the applicant;
- (d) state the name and residential address of every assistant which the applicant is employing or proposes to employ; and
- (e) be accompanied by 2 passport-sized photographs of every assistant which the applicant is employing or proposes to employ.

5. Grant of licence.

- (1) The Council may grant a licence subject to such conditions as it deems fit, and may impose or add such other conditions as may be necessary from time to time.
- (2) The Council may refuse or reject any application at its absolute discretion without assigning any reason thereto.

6. Health certificate.

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 a registered medical practitioner.

7. Duration of licence.

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.

8. Fee.

- (1) The monthly fee is ten ringgit for a licence which shall be payable in advance.
- (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 tamu area:

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

9. Display of licence.

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

10. Licence not to be transferred.

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

11. Employment of assistant.

- (1) No assistant, whether paid or not, shall be employed in the business of a licensee except with the approval of the Council.
- (2) Where the employment of an assistant is approved by the council under this By-law, an authorised officer of the Council shall insert the name and residential address, and affix a photograph of such assistant in the licence.

12. No hawking during certain hours.

No person shall hawk between 12 o'clock midnight and 6.00 a.m.

13. Refuse.

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.

14. Penalties.

- (1) Any person who commits a breach or contravenes any of the provisions of these By-laws shall be guilty of an offence and shall, on conviction, 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) Where the Council incurs expenses in the execution or carrying out of any work arising out of a breach or contravention of any of the provisions of these By-laws or of the failure by any person directed by these By-laws to execute or carry out such work, all such expenses incurred by the Council in executing or carrying out such work, including a surcharge not exceeding 10 per centum of the expenses shall be recoverable from the offender as civil debts.

15. Cancellation of licence.

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 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 certificates of a Government Medical Officer or a registered medical practitioner, the licensee is suffering from a contagious or infectious disease.

16. Power to compound.

- (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 any person reasonably suspected of having committed an offence a sum not exceeding one hundred ringgit.
- (2) No proceedings shall be instituted against any person in respect of any offence which has been compounded under this By-law.
- (3) An officer authorised in writing by the Council to compound any offence under this by-law shall issue a receipt in respect of all monies collected by such officer pursuant to sub-by-law (1).

17. Power of arrest.

- (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 the officer or the police officer and the person declines or refuses to give those information; or
 - (b) if there is reason to doubt the accuracy of the person's name or address.
- (2) A person under this By-law shall be detained and shall be brought before a Magistrate's Court within twenty four hours unless the name and address of such person are sooner ascertained.

Dated at Lahad Datu this 11th day of August, 1992.

MICHEAL EMBAN,
Chairman,
Lahad Datu District Council.

I approve the foregoing By-laws.

Dated at Kota Kinabalu, this 14th day of September, 1992.

DATUK AHMAD BAHROM BIN
DATUK HJ. ABU BAKAR TITINGAN,
Minister of Local Government and Housing.

April 2008