

LOCAL GOVERNMENT ORDINANCE 1961 (No. 11 of 1961)

SANDAKAN MUNICIPAL COUNCIL (ADVERTISEMENTS) BY-LAWS 1984 (G.N.L 97 of 1984)

In exercise of the powers conferred by section 50 of the Local Government Ordinance 1961, the Sandakan Municipal Council hereby makes the following by-laws:

1. Citation and commencement.

These by-laws may be cited as the Sandakan Municipal Council (Advertisements) By-laws 1984 and shall be deemed to have come into force on the 1st day of July 1984.

2. Interpretation.

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

“advertisement” means any notice, circular, pamphlet, pictorial and other descriptive matter, or any document exhibited on any hoarding, board, roof, wall paling, fence, tree, frame, signboard, plate, cloth, bar, pillar, post, wire, casing or other erection or contrivance or any part thereof, on, in or over any land, house, building, structure, footway, street, place or public resort or any vehicle used for the purpose of advertisement and includes sky-sign, directional sign and signboard but does not include any ground floor or window display;

“Council” means the Sandakan Municipal Council;

“directional sign” means a display in any manner the registered trade mark or the nature of the trade, business or profession of any person, firm, corporation or organisation and intended to point the way to the premises where a signboard would not be visible from the street;

“ground floor display” means any display or advertisement within the opening or openings fronting the shop-front on the ground floor of any premises behind the rear line of a footway but does not include any display on the side walls or piers of any shop frontage;

“illuminated advertisement” includes either internal or external illumination;

“licensee” means any person who holds a licence under these By-laws;

“poster stand” means a stand provided by the Council for display of posters;

“signboard” means any board which displays the name of the registered trade mark of any person, firm, corporation or organisation which is visible from any street or public place and which is fixed to or painted on the façade or street frontage of or in the actual building where such trade, business or profession is carried on but not on side walls, fences or open spaces between the street and the said building;

“window display” means any display or advertisement in a ground floor room of any building designed as a show room with the opening or openings of such room behind the rear line of the footway but does not include any display on the side walls or piers of any such show room.

(2) In these By-laws, reference to the person exhibiting an advertisement shall be construed as reference to the person who himself or by his servant or agent exhibits or causes to be exhibited such advertisement and shall be deemed to include –

- (a) the owner or occupier of the land on which the advertisement is being exhibited;
- (b) any person, firm, corporation or organisation to whose goods, trade, business, profession, events or other concerns, publicity given is by advertisement.

3. Licences.

- (1) No person shall exhibit or cause to be exhibited any advertisement other than those exempted under by-law 9, without a licence issued by the Council.
- (2) The Council may impose such conditions as it thinks fit in any licence issued under these B-laws.

4. Application for licences.

- (1) An application for licence or the renewal thereof shall be in the form set out in the Second Schedule and shall be accompanied by –
 - (a) a sketch showing full details of the advertisement and a site plan of a scale of eight metres to one centimetre showing the location of the proposed advertisement; and
 - (b) the fees specified in the Third Schedule.

5. Issue of duplicate licence.

A duplicate licence may be issued in the event of loss of the original licence for a fee of ten ringgit.

6. Search fee.

A search fee for any licence shall be ten ringgit and shall be paid in advance.

7. Power to refuse and revoke licences.

- (1) The Council may refuse to issue a licence or the renewal thereof without assigning any reason thereto.
- (2) The Council may revoke any licence without assigning reason thereto provided that before revoking the licence the Council shall give one month's notice in writing of its intention to the licensee.
- (3) Where a licence is revoked the licensee shall remove the advertisement within fourteen days of the date of such revocation.
- (4) Where a licence is revoked under this by-law, no compensation shall be payable but so much of the licence fees which is proportionate to the unexpired period of the licence shall be refunded to the licensee.

8. Areas for advertisement.

An advertisement licensed under these By-laws shall only be displayed within the areas as may be approved by the Council.

9. Exemption from licence.

- (1) No licence shall be required for –
 - (a) an advertisement no exceeding two square metres in size advertising a sale or letting of land or house where the advertisement is exhibited on the land or property for sale or to let:

Provided that not more than one such advertisement of sale or letting shall be exhibited in respect of one property;

- (b) a building or Civil Engineering Contractor's signboard not exceeding four square metres in size where the signboard is erected on the property upon which any building or civil engineering work is being carried out:

Provided that not more than one such signboard shall be exhibited in respect of any one project;

- (c) any sub-contractor's signboard not exceeding two square metres in size erected in connection with any building or civil engineering projects:

Provided that only one signboard shall be exhibited in respect of any one project which signboard shall not bear any pictorial matter;

- (d) one directional sign not exceeding one square metre bearing the name of the person or firm, corporation or organisation, erected on a site approved by the Council;
- (e) the exhibition of Parliamentary and State election posters, if such posters are exhibited with the prior written permission of the Council and subject to such conditions as the Council may impose;
- (f) signboards exhibited on shop or business premises or advertisement on vehicles;
- (g) public notices issued by the Government or by the Council;
- (h) posters on the premises of cinemas indicating the shows being or to be performed therein;
- (i) notices not larger than 33 cm. by 20 cm. notifying sports meeting or functions in aid of or arranged by charitable institutions.
- (2) Notwithstanding that no licence is required for any advertisement under this by-law such advertisement shall be exhibited in accordance with by-law 10.

10. Heights and projections of advertisement, etc..

- (a) No advertisement below a height of six metres but not less than three metres measured vertically from the roadway shall project beyond half metre of the building.
- (b) No advertisement above a height of six metres measured vertically from the roadway shall project more than one and a half metre beyond the building line.
- (c) No advertisement shall obscure or obstruct any windows or fume exhaust placed on the outer wall of a building.

11. Safety of advertisement structures.

- (1) Any structure, together with any fixture to a building or part of a building, erected for the purpose of displaying any advertisement shall be certified structurally sound by a registered architect or a structural engineer for a period of the licence in the form set out in the Fourth Schedule and if required by the Council, such certification shall include the structural stability of the building or part of the building supporting the advertisement.
- (2) Any plans submitted under the preceding paragraph shall comply with the requirements of the Building By-laws 1951 [G.N.S 55/51.].
- (3) The Council may in any particular case exempt the applicant from the requirement of paragraph (1).

12. Maintenance of advertisement.

- (1) The Council may by notice in writing order the licensee to repair, repaint or clean any advertisement within the time prescribed in the notice.
- (2) If the colours of a licensed illuminated advertisement when illuminated are likely to cause confusion, annoyance or otherwise a nuisance to the public, the Council may require such colours to be changed.
- (3) The licensee shall comply with such order.

13. Removal of advertisement.

- (1) The Council may order the removal of any advertisement including any structure erected specially for the advertisement displayed without a licence or in contravention of these By-laws or where the display of any advertisement is in furtherance of an illegal trade, business or undertaking or any advertisement exempted under by-law 9 (1).
- (2) The Council or its officers may enter into any premises and execute the removal.
- (3) The expenses for such removal shall be borne by the person displaying such advertisement and the Council may deduct such expenses from any money due to that person under by-law 7 (4).
- (4) The Council may, for the purpose of repairing, repainting or cleaning any poster stand, remove any poster and notwithstanding that there may be any unexpired period of the licence no amount shall be refunded to the licensee.

14. Licensees responsible for the collapse of structure.

- (1) The responsibility for the collapse or failure of any structure or fixture connected with the displaying of advertisement whether in the course of construction or after its completion, shall be on the licensee.
- (2) Notwithstanding that an advertisement has been approved by the Council or that the Council has exempted any person from the provisions of by-law 9 (1), the Council shall not be liable for any damage done to any person or property by the collapse or failure of the structure or fixture for the advertisement.

15. Non liability.

The Council shall not be liable for any damage caused by it or its officers in pursuance of the provisions of these By-laws.

16. Immoral and indecent advertisement.

The Council may prohibit any advertisement which in its opinion and belief is indecent and immoral in nature.

17. Exemption.

- (1) The Council may grant exemption from any provision of these By-laws, to any person as it thinks fit.
- (2) Any person exhibiting or causing to be exhibited any advertisement which is exempted from any licence under the By-laws hereby revoked, shall within six months of the coming into force of these By-laws notify the Council in writing accompanied with a photograph of that advertisement.

18. Penalty.

- (1) Any person who contravenes any of the provisions of these By-laws or any condition in a licence shall be guilty of an offence and shall be liable to a fine not exceeding five thousand ringgit and in the case of a continuing offence, a fine not exceeding two hundred ringgit for everyday during which such offence is continued.
- (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 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.

19. Compounding of offences. [Mod. Act 160]

- (1) Any officer of the Council duly authorised by it in writing 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 of 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.

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

21. Presumption.

In any prosecution for any offence under these By-laws, it shall be presumed until the contrary is proved that –

- (a) any advertisement displayed on any premises was done by or with the consent of the owner or occupier of such premises;
- (b) any advertisement of any produce was so displayed by the manufacturer of that product or in the case of imported goods the sole agent or distributor;
- (c) any advertisement of any event was displayed by the promoter of that event or where such promoter is unknown the person to whom the proceeds of the sale of any tickets for that event will be or the person or party who stands to gain by such advertisement.

22. Revocation. [G.N. 793/69.]

The Sandakan Town Board (Advertisements) By-laws 1969 is hereby revoked.

FIRST SCHEDULE

**SANDAKAN MUNICIPAL COUNCIL
(ADVERTISEMENTS) BY-LAWS 1984**

ADVERTISEMENT/SIGNBOARD/POSTER LICENCE

Name:

Address:

is hereby licensed by the Sandakan Municipal Council to display the following advertisement/signboard/poster:

(1)

(2)

(3)

(4)

at (exact location/address)

commencing from 19

to 19

.....

*President
Sandakan Municipal Council*

Licence fee Ringgit

Receipt No.

File ref:

THIRD SCHEDULE**LICENCE FEES**
(By-law 4 (1) (b))

- (a) Permanent Sign: RM8.00 per sq. metre or part thereof per annum.
For assessing the area of cut out signs the fee will be based on the product of their outside measurements, subject to
- (i) percentage reductions up to fifty per cent based on proximately how much of the area is in use, and
 - (ii) a minimum charge of RM8.00 per annum.
- (b) Temporary Signs: (e.g. intended for a period not exceeding four weeks) (except any notices issued by anyone for which he can charge under the Auctioneers Ordinance) fifty sen per square metre or part thereof per week, or part thereof. This includes regularly used hoardings for cinema advertising on public land.
- (c) Illuminated Signs: Any sign illuminated electrically will be charge an additional twenty-five per cent of the basic fee.
- (d) Three Dimensional Signs displaying advertisement on more than one face: Additional fee of twenty-five per cent of the basic fee as calculated in paragraph (a).
- (e) Licences: Licences will expire annually on the 31st December in each year, with the exception of temporary signs.

Dated at Sandakan this 27th day of November 1984.

HAJI ABD. GHANI HAJI ABD. RASHID,
President,
Sandakan Municipal Council.

I approve the foregoing By-laws.

Dated at Kota Kinabalu the 20th day of December 1984.

AYUB AMAN,
Minister of Town and Country
Development.

March 2008