

LOCAL GOVERNMENT ORDINANCE 1961
(No. 11 of 1961)

TUARAN DISTRICT COUNCIL (HAWKERS) BY-LAWS 1987
(G.N.L 17 of 1987)

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

1. Title and commencement.

These by-laws may be cited as the Tuaran District Council (Hawkers) By-laws 1987 and shall apply to the whole area under the jurisdiction of the Council, and shall be deemed to have come into force on the 1st day of January 1987.

2. Interpretation.

In these By-laws —

"area" includes a place specified for hawking granted by the Council under the Second Schedule of these By-laws;

"business goods" means goods and includes other properties movable or immovable used for business;

"goods" includes food, drinks, sundries, vegetables, fish, handicrafts, fruits and meat;

"hawker" includes any peddle or other itinerant trader, and any person who habitually sells goods from a place other than an established market or a place held on a title or a temporary occupation licence under the Ordinance;

"officer of the Council" means a Council staff duly authorised 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.

Any application for a licence shall be in writing or by filling up a prescribed form and to specify goods and area where the applicant proposes to hawk.

5. Grant of licence.

The Council may in its absolute discretion grant or refuse a licence or grant a licence subject to such conditions as it thinks fit or withdraw a licence if the applicant fail to comply with the conditions of the approval.

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 registered medical practitioner.

7. Duration of licence.

- (1) Every licence granted under these By-laws shall expire on the 31st day of December of the year it is issued.
- (2) Any person caught operating with the expired licence is deemed to have committed an offence under these By-laws provided that the Council shall have an absolute discretion to validate the licence subject to repayment of arrears of licence and validation fee of five ringgit.

8. Fee.

The monthly fee for the licence is specified in the First Schedule of these By-laws and which shall be payable in advance.

9. Display of licence.

A licence should be displayed in close proximity to the goods being hawked or be produced at once request of the Council's officers or Government Health Inspectors.

10. Licence not to be transferred.

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

11. Employment of assistants.

- (1) No assistant whether paid or not shall be employed in the business of a licence except with written approval of the Council.
- (2) If the Council gives approval the name and address of the assistant shall be affixed on the licence by the officer of the Council.

12. Restriction of hawking.

No person shall hawk in an area which is not within the limit of the area specified under his licence.

13. Refuse.

No person engaged in the business of hawking shall deposit any refuse or litter in any public places or within the vicinity of the place where the business takes place.

14. Penalties.

- (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 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.

15. Compounding of offences.

- (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.

16. 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 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.

17. 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 these By-laws;
 - (ii) is convicted of any offence under any written law relating to the public health or the use of false weights or measures in respect of goods to which the licence relates;
 - (iii) refuse cooperation from the officer of the Council performing his duties for the good of public order and sanitary matter.
- (b) If on the certificate of a Government Medical Officer or a registered medical practitioner that the licensee is suffering from a contagious or infectious disease.

18. Revocation.

The Tuaran District Council (Hawkers) By-laws 1965 is hereby revoked.

FIRST SCHEDULE
(By-law 8)

	<i>RM/per month</i>		
	<i>*District</i>	<i>*Township</i>	<i>*Kampung</i>
Food such as sweets, cakes, soft drinks, ice-cream, fruits, vegetables and fish.	5.00	5.00	5.00
Sundry goods, towels, clothing material, etc..	5.00	5.00	5.00

*The fee shall be exclusive of Tamu Days in the declared tamu area.

SECOND SCHEDULE
(By-law 2)

District	—	Include the whole of Tuaran and Tamparuli District of Administration.		
Township	—	(i)	Tuaran Town	— covers kampungs within the Tuaran area.
		(ii)	Tamparuli Town	— covers kampungs within the Tamparuli area.
		(iii)	Topokon Town	— covers kampungs within the Topokon area.
		(iv)	Tenghilan Town	— covers kampungs within the Tenghilan area.
		(v)	Kiulu Town	— covers kampungs within the Kiulu area.
		(vi)	Nabalu Town	— covers kampungs within the Nabalu area.
Kampung	—	Not more than three kampungs closer to one another.		

Dated at Tuaran this 6th day of August 1986.

JAHID BIN JAHIM,
Chairman,
Tuaran District Council.

I approve the foregoing By-laws.

Dated at Kota Kinabalu this 28th day of January 1987.

DATUK AHMAD BAHAROM BIN
DATUK HAJI ABU BAKAR TITINGAN,
Minister of Local Government and Housing.

September 2008