

LOCAL GOVERNMENT ORDINANCE, 1961

(No. 11 of 1961)

KOTA KINABALU MUNICIPAL COUNCIL (MESSAGE ESTABLISHMENTS) BY-LAWS, 1979

(G.N.L. 18 of 1979)

In exercise of the powers conferred upon it by subsection (1) of section 50 of the Local Government Ordinance, 1961, the Kota Kinabalu Municipal Council, with the approval of the Minister, has made the following By-laws :-

1. These By-laws may be cited as the Kota Kinabalu Municipal Council (Massage Establishments) By-laws 1979 and shall come into force on the 1st day of July, 1979.

Citation and
commencement

2. In these By-laws :-

Interpretation

“Council” means the Kota Kinabalu Municipal Council;

“client” means any person of or over the age of twenty-one years seeking treatment in any massage establishment;

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

“massage establishment” means the premises wherein massage treatment is being or represented or intended to be conducted or carried out;

“massage treatment” means massaged, manicure, chiropody, electrical treatment, vapour or other baths or other similar treatment.

3. (1) Subject to paragraph (2) no person shall operate a massage establishment without a licence in that behalf issued by the Council under these By-laws.

Licensing of person to carry on massage establishment

(2) A hairdresser’s premises shall not be required to be licensed under this by-law notwithstanding that facial or scalp massage or manicure treatment to customers is administered in the said premises, so long as the massage or manicure treatment aforesaid is administered in full view of other customers.

4. (i) Every application for the issue or renewal of a licence a licence shall be made in From of the Schedule hereto.

Application for licences.

(ii) Where an application is made by a body corporate, the Certificate of Incorporation of the applicant shall be submitted.

(iii) Where an application for the issue or renewal of a licence is made by an individual or a partnership two passport-sized photographs of the applicant shall be submitted.

(iv) Every applicant for the issue or renewal of a licence shall produce the original copies of certificates setting out the qualifications of every massage establishment in respect of which application is made.

(v) The Council may, in respect of any application under these By-laws, require the applicant to furnish the Council with such additional information as it may deem fit.

5. (1) Every licence issued by the Council shall be in Form B of the Schedule hereto, and shall be valid for a period of one year from the date of issue.

Issue of licence.

(2) The Council may impose such conditions or restrictions on the licence as it may deem fit.

(3) Every such licence shall be made out in duplicate, and the Council shall give the original copy thereof to the licensee and shall retain the duplicate.

(4) There shall be affixed to the original copy and to the duplicate thereof a passport-sized photograph of the licensee (if an individual).

6. The Council shall maintain a Licence Register containing such particulars appearing in each licence as the Council considers necessary.

Licence register.

7. The licence fee payable in respect of each massage establishment shall be one thousand two hundred ringgit per annum.

Fee for a licence.

8. No licence under these By-laws shall be issued to :-

Registration

(a) any premises not located inside a hotel considered by the Council to be of a first class standard ;

(b) any person under the age of twenty-one years;

(c) any person who is in the opinion of the Council unsuitable to hold such licence; or

(d) in respect of any massage establishment which is being or is likely to be carried on in contravention of these By-laws.

9. (1) The Council shall before issuing or renewing a licence, obtain from the applicant cash in the form of a deposit of five thousand ringgit to ensure that the provisions of these By-laws and of the conditions of the licence are duly observed.

Security.

(2) Any sum so deposited under this by-law shall be liable to forfeiture in whole or in part at the discretion of the Council on revocation of the licence as hereinafter provided.

10. The Council may at any time revoke any licence issued under these By-laws if it is satisfied –

Revocation of licence.

- (a) that there has been a breach of the conditions of the licence or a contravention of these By-laws; or
- (b) that consequent upon the operation of a massage establishment in respect of which the licence has been issued there has been a breach of the peace or there has been caused to the residents in the locality of the said massage establishment any nuisance, injury or annoyance; or
- (c) that the licence holder, his agent or any of his employees has been convicted for any offence under the Women and Girls Protection Act, 1973 or section 16 of the Minor Offences Ordinance, or any similar law.

Act 106 Cap. 80.

11. Subject to the requirements of the Council every licensee shall –

Display of licence and signboard.

- (a) keep displayed in a conspicuous place outside the massage establishment a signboard showing clearly the name or style of such establishment provided that the term "Health Centre" shall not be used; and
- (b) keep displayed in a suitable place within such establishment the licence issued under these By-laws together with passport-size photographs of all his employees with names and identity card numbers.

12. No licensee shall

Prohibition.

- (a) permit any person whom he knows or has reason to believe to be a person of bad character to enter into his massage establishment;
- (b) employ in his massage establishment any person whom he knows or has reason to believe to be a prostitute or a person of bad character;
- (c) employ in his massage establishment any person who is under the age of twenty-one years;
- (d) permit any gaming, drunkenness or disorderly conduct or behaviour of any kind in his massage establishment;
- (e) allow any business in his massage establishment to be carried on except between the hours of 10.00 a.m. and 12.00 midnight;
- (f) give treatment or permit treatment to be given in his massage establishment in any room the doors of which have been made fast.

13. Every room used for the purposes of treatment shall be fitted with swing doors which shall not be capable of being made fast.

Swing doors to be fitted to rooms.

14. The licensee shall notify the Council of any change in the name of the massage establishment, in the treatment afforded or in the nature of the business carried on at such establishment within seven days of any such change provided that no change in the location of the massage establishment is allowed.

Notification of change of name, etc.

STANDARD OF HYGIENE AND SAFETY

15. (1) No room below ground level in any massage establishment shall be used for the purpose of any massage treatment and all rooms used for the purpose of massage treatment shall have a minimum floor area of one hundred and twenty square feet.

Size of rooms.

(2) Not more than one client shall be accommodated in each room at any one time for the purpose of any treatment.

16. (1) All rooms used for the accommodation of clients shall be provided with a window or windows as near the top of the room as practicable and opening directly into the external air, and the area of window space capable of opening directly into the external air shall be at least fifteen square feet or one-eighth of the floor area of the room, which is the greater.

Ventilation and artificial lighting.

(2) In the case of air conditioned premises plans shall be submitted to the Council for approval before the issue of licence.

(3) Every closet or bathroom shall be provided with efficient means of ventilation directly into the external air by means of windows having an area of at least two square feet or by means of ventilation shafts, mechanical ventilation or a flue having an unobstructed sectional area of at least fifty square inches.

17. (1) Fire-fighting equipment shall be installed and maintained in all massage establishments to the satisfaction of the Council.

Fire equipment and escapes.

(2) Adequate staircases and exits shall be provided and maintained in all massage establishments to the satisfaction of the Council.

(3) All staircases, passages, landings and exits shall be kept clear of all obstructions and every door shall be so constructed and fitted as to be readily opened.

18. Every massage establishment shall be provided with an adequate water supply to the satisfaction of the Council.

Supply of water

19. Adequate sanitary and washing accommodation shall be provided and maintained for the clients and staff of every massage establishment to the satisfaction of the Council.

Sanitary facilities for clients and staff.

20. (1) All water closets and urinals and every part of the apparatus of such water closets and urinals shall be kept clean and every drain or means of drainage and flushed cisterns with which they or any of them may communicate shall be maintained in good order and in efficient condition.

Premises to be kept clean.

(2) Every bathroom, bath and washing basin shall be cleaned at least once a day.

(3) All rooms, passages, landings and staircases forming part of any massage establishment shall be swept and cleaned at least once a day.

(4) All couches, beds, chairs, appliances and equipment used for massage treatment, as well as bed-cloths, bedding and linen shall be kept in a clean and sanitary condition and free from vermin.

21. (1) No refuse or filth of any sort whatsoever shall be permitted to be deposited in any part of a massage establishment except in approved type of dustbins provided for the purpose; and the provision of such dustbins, their location and number, shall be directed by the Council.

Dustbins.

(2) Replacement and emptying of refuse bins shall be carried out in accordance with the direction of Council.

22. (1) Every part of the structure of and every machinery and electrical appliances in use by a massage establishment shall be maintained at all times in good order and repair. Maintenance and repair.
- (2) All yards, areas, forecourts and open space forming part of any massage establishment shall be kept clean and free from the accumulation of filth or other refuse.
- (3) All internal and external surfaces of the structure (excluding floors) shall be painted, coloured-washed or papered, as the case may be, at least once a year or oftener as directed by the Council.

GENERAL

23. The Council or any officer duly authorised by the Council in writing in that behalf may – Power to enter and inspect premises.
- (a) enter and inspect any premises which are used or which the Council or such officer reasonably believes are being used for the purpose of a massage establishment; and
- (b) require information from the licence and his employee regarding the management of the massage establishment.
24. A licensee shall not advertise that either he or his massage establishment is licensed by the Council. Prohibition of advertisement.
25. A manager or other person directly or indirectly responsible for the management of a massage establishment shall be under the same obligation as the licence to comply with and secure the observance of these By-laws. By-laws to be observed by any person responsible for the management of a massage establishment.

26. Whoever contravenes or attempts to act in contravention or abets in the contravention of any of these By-laws shall be liable to a fine which shall not exceed for any one offence the sum of five hundred ringgit or in the case of continuing offence the sum of fifty ringgit for every day during which such offence is continued.

Penalty.

In exercise of the power conferred upon it by section 50 of the Local Government Ordinance 1961 and section 13 of the City of Kota Kinabalu Enactment 1996, the Chief Minister has made the following By-Laws:-

1. These By-Laws may be cited as the City of Kota Kinabalu (Massage Establishments) (Amendment) By-Laws 2003 and shall come into operation on the date of its publication in the *Gazette*.

2. The Kota Kinabalu Municipal Council (Massage Establishments) By-Laws 1997 [G.N.L. No. 18 of 1997] is amended by inserting, immediately after By-Laws 26 the following new By-Law 26A as follows:

“ 26A. Compounding of offence.

- (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.

FORM A

SCHEDULE

KOTA KINABALU MUNICIPAL COUNCIL
(MESSAGE ESTABLISHMENTS) BY-LAWS, 1979

[By-law 4 (i)]

For Office use only.

Ref. No.

FORM OF APPLICATION FOR A LICENCE

THE MUNICIPAL SECRETARY,
KOTA KINABALU MUNICIPAL COUNCIL
KOTA KINABALU.

Date

We / I hereby apply for a licence / the renewal of my / our licence* in respect of my / our* massage establishment carrying on business under the name or style of
..... and situate at
.....

Hereunder are given the particulars required :-

1. Applicant's name in full and Identity Card / Passport / Residence Permit No.
.....
(State whether Mr., Mrs., Madam, Miss.)
2. Private address of applicant
3. Applicant's date of birth

If the exact date if not known, state –

Approximate age

Applicant's race

Nationality

4. (a) State whether the business is a sole proprietorship, partnership or limited company

(b) State in what capacity applicant is connected with the business, if other than a sole proprietor

5. Names and private addresses of partner (if any)

.....
.....
.....

6. Address to which correspondence is to be sent

.....

7. (a) Qualifications of applicant

.....

(b) Qualifications of partners and/or employees :-

<i>Name</i>	<i>Qualification</i>	<i>Whether partner, Employee, etc.</i>
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1.

2.

3.

4.

5.

8. Nature of treatment afforded (e.g. massage, manicure, chiropody, baths, etc.)

-
9. Brief description of appliances or apparatus used
-
10. Number of rooms used in the massage establishment
-
11. Date on which the establishment first commenced business
-
12. Names and addresses of other massage establishments kept or managed by applicant or with which he / she is associated in any way
-
13. Has the applicant –
- (a) previously been issued with a licence under these By-laws
-
- (b) ever been refused a licence under these By-laws
-
- (c) ever had his / her licence revoked under these By-laws
-

We / I hereby certify that the particulars given in this application are to the best of our / my knowledge and belief correct.

.....

Signature of applicant.

(*Delete where not applicable.)

NOTE-

(a) Two copies of photographs of the applicant, if an individual, are to be attached to this application.

(b) The Certificate of Incorporation of the applicant, if a body corporate, is to be attached to this application.

Under by-law 4 (iv), the original certificates are to be attached which will be returned after scrutiny.

(c)

FORM B

KOTA KINABALU MUNICIPAL COUNCIL

(MESSAGE ESTABLISHMENTS) BY-LAWS, 1979

(By-law 5 (1))

For Office use only.

Licence No.

LICENCE TO CARRY ON A MESSAGE ESTABLISHMENT

Passport-sized photograph of licence holder to be affixed here.

Mr. / Mrs. / Madam / Miss*

(Identity Card No.) of

*(whose photograph is affixed hereto) is hereby licensed to carry on the massage establishment known as

..... and situated at

subject to the provisions of the Kota Kinabalu Municipal Council (Massage Establishments) By-laws, 1979.

This licence will continue in force until

..... unless cancelled prior to such date under the provisions of the said By-laws.

CONDITIONS :

Kota Kinabalu, this day of 19 .

President,

Kota Kinabalu Municipal Council.

*Delete where not applicable.

Dated at Kota Kinabalu, this 4th day of May, 1979.

KAMARUDDIN LINGAM,

President,

Kota Kinabalu Municipal Council.

I approve the foregoing By-laws.

Dated at Kota Kinabalu, this 14th day of June, 1979.

DATUK JOSEPH PAIRIN KITINGAN,
Minister of Local Government and Housing.