

# THE LOCAL GOVERNMENT ORDINANCE, 1961

## (Ordinance No. 11 of 1961)

### THE KOTA KINABALU MUNICIPAL COUNCIL

#### (EARTHWORKS) BY-LAWS, 1987

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 (hereinafter referred to as the Council) has made the following By-laws:-

#### PART I

1. These By-laws may be cited as the Kota Kinabalu Municipal Council (Earthworks) By-laws, 1987. Citation.

2. These By-laws shall apply only to Kota Kinabalu Municipal Council area and shall be deemed to have come into force on the 1st day of May, 1987. Commencement.

3. In these By-laws unless the context otherwise requires – Interpretation.

“Council” means Kota Kinabalu Municipal Council;

“Earthworks” includes any act of excavation, transportation, levelling, filling with any material, piling, the construction of foundations or felling of trees, in any land, or any other act of dealing with or affecting any land;

“Engineer” means a professional engineer registered under the Registration of Engineers Act, 1967 and practising with the written approval of the Board of Engineer;

“Foundation earthwork” includes the construction of foundation, basement, substructure, piling, underpinning and trenching;

“Minor earthworks” means any earthworks which the Council by direction exempts from the provisions of these By-laws, or, on application, certifies as minor earthworks;

“Owner” means (i) the registered owner of the property or (ii) the leasee of a lease including a sublease whether registered or not or (iii) the agent or trustee of the owners including contractors or sub-contractors duly authorised in writing;

“Ordinance” means the Local Government Ordinance, 1961;

“Vehicle” means a structure capable of moving and used for the conveyance of earth and which maintains contact with the ground when in motion.

## PART II

### SUBMISSION OF PLANS

4. (1) Plans relating to earthworks required to be submitted shall be submitted in accordance with these By-laws and shall contain the particulars required under these By-laws.

Plans of earthworks to submitted and certified.

(2) Such plans shall be submitted and signed by an Engineer qualified in Civil Engineering and shall-

- (a) contain a certification by him as in Form EW1 of Appendix A that the specifications and particulars stated therein are correct; and
- (b) be countersigned by the owners and shall bear the full address of the owners as the case may be'
- (c) the Council shall within 90 days of the submission of the said plans notify the Engineer submitting the same whether the plan is approved or not.

(3) The plans and specifications approved by the Council may be resubmitted for amendment, variation or alteration but in such a case, the requirements under paragraph (2) shall apply mutatis mutandis.

5. (1) The Engineer submitting the plans under By-law 4 shall be responsible for the execution of the earthworks in accordance with the approval plan and shall continue to be so responsible until the completion of the earthworks unless –

Duties of  
Engineer.

(a) with the agreement of the Council, another Engineer is appointed by the owner to take over;

(b) the Council agreed to accept his withdrawal.

(2) Where the Council agrees to accept an Engineer's withdrawal under paragraph (1) (b) the earthworks shall not commence or continue until another is appointed to take over.

(3) The Engineer submitting the plans shall notify the Council in writing as in Form EW2 of Appendix B of the intention to commence or resume earthworks and shall include particulars of the intended work.

(4) The Engineer submitting the plans shall within one week of the completion of the earthworks, notify the Council in writing of its completion as in Form EW3 of Appendix C.

(5) For the purpose of this By-laws the term "Engineer submitting the plans" shall include the Engineer re-submitting plans and any Engineer appointed to take over.

6. (1) All plans shall be submitted in triplicate.

Plans to be in  
triplicate.

(2) All plans shall be drawn with differences of material shown in colour.

7. Unless exempted by the Council, the following plans and specifications and particulars shall be submitted –

Plans and particulars to be submitted.

(1) Building with appropriate layout site plan to show that the temporary offices/accommodation at work sites shall be the ratio of 1 W.C., 1 shower and 1 wash hand basin for every 25 workers or less. In addition, a 600mm. urinal shall be provided for every 25 male workers or less. These toilet facilities shall be connected to a sewer/temporary septic tank approved by the Council.

(2) A site plan drawn to a scale of not less than 1:1000 showing in clear colour the site of the earthworks, road access, main streams, natural water courses, drains and adjoining lands or part thereof.

(3) Plans at two metres contours showing both existing grounds on which the earthworks are to be carried out and adjoining lands up to minimum of 20 meters or more from the site boundaries depending on the topography of the surrounding area and as required by the Engineer of the Council to a scale of not less than 1:500.

(4) A statement on the sub-surface geology including nature of bedrock and alluvium.

(5) Plans to a scale of not less than 1:500 showing –

(a) the total area of the site and the area involving earthworks in hectares;

(b) finished formation level including :\_

- (i) platform levels for the building or buildings;
  - (ii) finished road levels;
  - (iii) drain invert levels and crossing;
  - (iv) points of discharge or drainage;
  - (v) all relevant boundary marks.
- (c) Diversion of any mainstreams and natural water courses or improvements thereto;
- (d) Any excavation, cutting or filling;
- (e) Protection to the earthworks against erosion, including protection during the continuance of the earthworks;
- (f) Provisions of silt traps, settling ponds including provision during the continuance of the earthworks;
- (g) Provision of adequate drainage to drain the site.

(6) Longitudinal and cross-section diagrams of not less than 1:100 for the vertical scale and of not less than 1:500 for the horizontal scale showing the mass haul of the earthworks to be carried out on the site;

(7) The method of excavation, levelling, filling, protection piling or any other geo-technical processes;

(8) Schedule of the earthworks and the order in which the earthworks are to be phased;

(9) Plan showing the haulage route to a scale of not less than 1:2,500 and the hours during which the route is to be used;

(10) Plan showing the entrance and the egress from the site to and all the necessary signboards to the satisfaction of the Council;

(11) The amount of earth to be excavated or filled and place when such excavated earth is to be deposited or the earth to be used for filling is to be obtained and accompanied with approval be relevant authority to move such earth;

(12) The precautions taken to protect the adjoining lands, buildings, roads and other properties;

(13) Detailed plans to a scale of not less than 1:50 and specifications of any close sheet piling or other retaining structure or stabilization of slope required under these By-laws and showing the expected dip and strikes of bedrock and the expected depth to bedrock;

(14) The calculations and all ground levels and contours referred to in this By-law shall be drawn with reference to the Lands and Surveys bench mark.

8. The plans and specifications required under By-law 7 may, with the permission of the Council be submitted separately but in such a case the certification required under By-law 4 shall also accompany each subsequent set of plans and specifications provided that no earthworks shall commence until all the plans and specifications required under these By-laws have been approved subject to By-law 4 (2) (c).

Plans may be submitted separately.

9. (1) Wherever applicable the plans, specifications and calculations submitted under these By-laws shall comply with the following codes of practice with the latest amendments:-

Relevant codes of practice to be complied with.

- (a) Site investigation – British Standards Code of Practice 2001 or equivalent acceptable to the Institute of Engineers Malaysia;
- (b) Earthworks - British Standards Code of Practice 2003 or equivalent acceptable to the Institute of Engineers Malaysia;
- (c) Foundation - British Standards Code of Practice 2004 or equivalent acceptable to the Institute of Engineers Malaysia;
- (d) Civil Engineering Code of Practice No. 2 on Earth Retaining Structures, issued by Institute of Structural Engineers, United Kingdom or equivalent acceptable to the Institute of Engineers Malaysia;



- (e) Foundation and substructures for non industrial buildings of not more than 4 storeys – British Standard Code of Practice 101 or equivalent acceptable to the Institute of Engineers Malaysia.

(2) Where there is issued a corresponding Malaysian Standard Code of Practice after coming into force of these By-laws, the same shall supersede the British Standard Code of Practice on the same subject matter.

### PART III

#### SPECIAL PROVISIONS RELATING TO FOUNDATION EARTHWORKS

10. (1) (a) The sides of all foundation earthworks exceeding 3 metres in depth shall be protected by close steel sheet piling;

Requirements of close steel sheet piling.

- (b) In other cases not exceeding 3 metres in depth other alternatives method of protection to the banks shall be erected.

(2) The requirements under paragraph (1) (a) and (b) may be relaxed, varied or exempted by the Council on being satisfied from specifications designs and calculations submitted that an alternative method of protection is at least as effective or better and will give adequate protection to adjoining properties or that they are unnecessary, as the case may be.

11. Soil investigation shall be carried out and the depth of water table in any foundation earthworks need be determined; and the Engineer submitting the plans under By-law 4 shall submit the soil investigation reports and shall certify that any lowering of water table will not effect any surrounding structures, roadways or any other properties.

Soil to be investigated and water table to be determined.

#### PART IV

#### PROVISIONS RELATING TO GENERAL EARTHWORKS

12. Boundaries are to be visibly identified by licensed surveyor with painted wooden sticks before any earthworks can commence.

Identification of boundaries.

13. Where there are trees in the earthworks site, the same shall not be cut or cleared until the earthworks site is ready to be worked.

Trees not to be cut until site is to be worked.

14. Top soil to the depth between 8cm to 15cm shall not be discarded from the site during site preparation without the consent of the Council. This shall be set aside by the owner for landscaping purpose on the site or given to Kota Kinabalu Municipal Council free of charge for beautification purposes if required by the Council.

Top soil.

15. (1) All earthworks exceeding 3 metres in height or depth shall, unless exempted by the Council be protected by a retaining structure on stabilisation of slopes.

Earthworks exceeding three metres.

(2) All earthworks where permanent retaining structure or stabilisation of slopes are exempted by the Council, shall be provided with temporary retaining structures or stabilisation of slopes during the continuance of such earthworks.

(3) All earthworks shall be carried out in such a way as to give adequate safeguard to all adjacent properties at all times.

16. Earthworks to be carried out shall be phased in the order submitted under By-law 7 (b) and no earthworks shall commence or continue to the next phase unless the Engineer submitting the plans certifies in writing that the earthworks are not likely to cause nuisance or damage to the surrounding properties.

Phasing of earthworks.

17. The Council may at any time before any earthworks may be continued to the next phase require –

Conditions may be imposed at any time before work can continue to the next phase.

(a) that the drainage and deviation of main streams and natural watercourse, including provisions of adequate bunds and culverts are provided;

(b) that silt traps or settling ponds are adequately provided and properly maintained;

(c) that retaining structures, where necessary, are provided;

(d) that the slopes are adequately protected against erosion;

(e) that the foundation of the road is laid and the surface of such road is sealed so as to prevent silt being washed into existing water courses;

(f) that frills are compacted.

18. Unless exempted by the Council the following shall be complied with:-

Control and  
maintenance  
of earth  
movements.

(a) the owner shall provide a paved wash bay for washing of all vehicles leaving the worksite into a roadway;

(b) all washing from the work bay shall be directed into a silt trap measuring not less than 1 m =. x 1 m. x 1.2 m. in depth before its final discharge into a suitable outlet;

(c) the owner undertake to prevent the incidence of earth droppings from earth moving vehicles. The loading bay of such vehicles shall be covered by canvas or other suitable material. In the event that any earth dropping occurs into a public road/drains such earth shall be removed by the owner at his own expense to the satisfaction of the Council;

(d) the owner shall ensure that no obstruction is caused to any drain, public street/ road during the course of executing earthworks;

- (e) the owner shall provide drainage system to drain off all surface water from the work site into a silt trap before its final discharge into a suitable outlet drain, canal, stream or river. Such silt trap provided shall be of adequate size and regularly desilted throughout the duration of the earthworks;
- (f) the owner shall maintain all drains, silt traps, settling ponds to the satisfaction of the Council;
- (g) all construction debris and domestic refuse shall be deposited of at the Council dumping ground;
- (h) all other nuisances or damages to surrounding properties are to be fully rectified by the owner at their own cost at a period specified by the Council;
- (i) any seepage arising out of the earthworks shall be underdrained to the satisfaction of the relevant authority and no ponding be allowed;
- (j) where earth transportation are involved, permit should be obtained from the Council subject to the conditions set out by the Council.

19. The Council may, where it is considered necessary, require further plans, specifications and particulars to be submitted or given further directions or make further amendments to the plans or impose further conditions if deemed fit and such directions, amendments or conditions shall be complied with.

Further plans  
specifications  
etc. if  
required.

20. The fees to be paid under these By-laws shall be as follows:-

Fees and  
transportation permit.

- i. (a) on the submission of plans - Fees 50.00 ringgit
- (b) General earthworks - 250.00 ringgit per half hectare or part thereof
- ii. Where the general earthwork exceeds 6 m below the highest ground level - 1 ½ time the fee prescribed in (i) (b) above
- iii. Where the general earthworks exceed 12 m. below the highest - 2 times the fee prescribed in (i) (b) above
- iv. Earth transportation permit - Fees 50.00 ringgit per vehicle per month

21. (1) An approved plan may on payment of a fee of 30.00 ringgit be inspected in the office of the Council.

Inspection of  
plans.

(2) With the approval of the owner and the payment of a fee of 30.00 ringgit for each plan, the plans may be copied and for an additional fee of 30.00 ringgit the plan may be certified by the Council.

22. Any Engineer who –

Offences.

- (a) submit plans, specifications, calculations or particulars which are false in any material/particulars; or
- (b) fails to comply with any directions, amendments or conditions given or imposed under these By-laws; or
- (c) fails to give the notice required under By-laws 5 (4) and (5);

shall be guilty of an offence and shall on conviction be liable to a fine not exceeding two thousand ringgit and in the case of a continuing offence shall be liable to a fine not exceeding 50.00 ringgit for every day during which such offence is continued.

23. (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 (100.00) ringgit and may summarily eject any person or remove from any building or property, any equipment, vehicle, machinery, article or other thing whatsoever which is used.

Compoundin  
g of offences.

(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.

24. Any person who carries out earthwork in contravention of the provisions of any of these By-laws shall upon receipt by him of a written order from the Council to stop work immediately. The work shall be allowed to resume after receiving a written permission from the Council.

Power to stop work on non-compliance.

25. The By-laws shall not apply to –

Exemptions.

(a) earthworks carried under any written law relating to mines and quarries;

(b) minor earthworks.

FORM EW1

[By-law 4 (2) (a)]

CERTIFICATION OF EARTHWORK PLANS

(for endorsement on plans to be submitted for approval)

..... 19.....

President,

Kota Kinabalu

Municipal Council.

I certify that the details in plan (s) namely .....



.....  
on Lot/s ..... Jalan .....  
.....  
..... for .....  
are in accordance with the requirements of the Kota Kinabalu Municipal Council  
(Earthworks) By-laws, 1987 and I accept full responsibility accordingly.

.....  
*Submitting Person*

Name .....  
Address .....  
Profession .....  
Registration No .....

FORM EW 2

[By-law 5 (3)]

NOTICE OF COMMENCEMENT/RESUMPTION OF EARTHWORK OPERATIONS

..... 19 .....

President,  
  
Kota Kinabalu  
  
Municipal Council.

I give notice that after the expiration of 4 days from the date of receipt of this notice I  
intend to commence/resume earthworks operations namely .....

.....  
on Lot/s .....  
.....  
..... for .....  
in accordance with the approved Plan No .....  
Dated .....

.....  
*Submitting Person*

Name .....  
Address .....  
Profession.....  
Registration No.....

FORM EW 3

[By-law 5 (4)]

NOTICE OF COMPLETION OF EARTHWORK

..... 19 .....

President,

Kota Kinabalu

Municipal Council.

I certify that the earthworks in plan (s) namely .....

.....

on Lot/s ..... Jalan .....  
.....  
..... for .....  
has been carried out in accordance with –

- (a) approved plan(s); or
- (b) approved plan(s) with amendments for which I undertake to submit amended plans for approval before the earthworks is completed.

I accept full responsibility for ensuring that the amendments will be in accordance with all the Town Planning and Building requirements and the Kota Kinabalu Municipal Council (Earthworks) By-laws, 1987.

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*Submitting Person*

Name.....  
Address.....  
Profession.....  
Registration No.....

Dated this 23rd day of June, 1988.

DATUK PETER D. CHONG,

President,

*Kota Kinabalu Municipal Council.*

I approved the foregoing By-laws.

Dated this 24th day of August, 1988.

DATUK AHMAD BAHROM BIN DATUK HAJI

ABU BAKAR TITIGAN,

*Minister of Local Government and Housing.*