

LOCAL GOVERNMENT ORDINANCE, 1961
(Sabah No. 11 of 1961)

UNIFORM (FOOD ESTABLISHMENT) BY-LAWS 2022
(G.N.L. 16 of 2023)

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In exercise of the power conferred by section 50A of the Local Government Ordinance 1961, the Minister of Local Government and Housing makes the following By-laws:

Citation, commencement and application

1. (1) These By-laws may be cited as the Uniform (Food Establishment) By-Laws 2022.
- (2) These By-laws come into operation on the date of its publication in the *Gazette*. [05-10-2023].
- (3) These By-laws shall be applicable to the whole area under the jurisdiction of the Local Authority.

Interpretation

2. In these By-laws, unless the context otherwise requires —

“Local Authority” means an Authority as defined in section 2 of the Local Government Ordinance 1961 (Sabah No. 11 of 1961);

“authorised officer” means any officer authorised by the Local Authority;

“Licence fee” means the prescribed payment rate for a licence issued under these By-laws as specified in the Schedule;

“food establishment” has the meaning assigned to it in section 2 of the Local Government Ordinance (Sabah No. 11 of 1961).

Licence required for food establishment

3. (1) No person shall use any place or premises as a food establishment unless he holds a valid licence issued by the Local Authority under these By-laws.
- (2) Any person who contravenes paragraph (1) commits an offence.

Application for licence

4. (1) An application for a licence shall be made in such form and manner as determined by the Local Authority.

(2) The application under paragraph (1) shall be accompanied by such documents or information as the Local Authority may consider necessary and relevant to the application and the Local Authority may, orally or in writing at any time after receiving the application before it is determined, require the applicant to provide such additional documents or information as the Local Authority considers necessary.

(3) The applicant shall make payment of a processing fee as prescribed in the Schedule upon submission of the application and the fee paid shall not be refundable irrespective of whether or not the application is approved by the Local Authority.

(4) The Local Authority may, after receiving an application for a licence under paragraph (1) approve the application or refuse to approve the application.

(5) Where an application for a licence is approved by the Local Authority, the Local Authority shall issue the licence subject to —

- (a) payment of a deposit as provided in by-law 8;
- (b) payment of a licence fee as prescribed in the Schedule; and
- (c) such conditions as the Local Authority thinks fit to impose.

(6) The licence fees payable are classified in accordance with the categories of Local Authorities as specified in the Schedule.

(7) A Local Authority may issue a licence for a period not exceeding 5 years from the date of issuance.

(8) Where the Local Authority refuses to approve the application, the Local Authority shall inform the applicant by a written notice that the application has been refused.

(9) The Local Authority may, from time to time and while a licence is still in force, impose any additional conditions on the licensee or amend or revoke any conditions specified in the licence by giving a written notice to the licensee.

Form of licence

5. A licence issued under these By-laws shall be in any form as may be determined by the Local Authority.

Compliance with conditions

6. The licensee shall comply with the conditions imposed by the Local Authority under these By-laws.

Licence fee paid not refundable

7. Any licence fee paid under these By-laws shall not be refundable.

Deposit

8. (1) The Local Authority may require any person to whom a licence is issued to pay a deposit of such sum as the Local Authority may determine to ensure that the conditions of the licence and the provisions of these By-laws are duly observed.

(2) If there is a breach of any of the provisions of these By-laws, or conditions of the licence, the Local Authority shall give a notice to the licensee within the time specified in the notice to give representation as to why his deposit shall not be forfeited.

(3) The Local Authority may, after considering the representation given by the licensee or if the licensee fails to make a representation, decides either to forfeit the deposit in whole or in part of the deposit.

(4) Subject to paragraph (3), the Local Authority may require the licensee to replenish the amount of the deposit that has been forfeited.

(5) The deposit paid shall, unless forfeited, be refunded to the licensee with no adjustment for interest on the amount deposited under paragraph (1) after the licensee has ceased business operation.

(6) Where the licensee has ceased business operation, the licensee may apply to the Local Authority from the date of cessation of business operation for his deposit to be refunded.

Replacement of licence

9. If the Local Authority is satisfied that a valid licence issued under these By-laws is lost, defaced or damaged, the Local Authority may issue a replacement licence upon payment of the processing fee as prescribed in the Schedule.

Transfer of licence

10. (1) No licensee shall transfer his licence to any person except with the prior written approval of the Local Authority.

(2) An application for the transfer of a licence shall be made in such form and manner as the Local Authority may determine.

(3) A processing fee as prescribed in the Schedule shall be paid upon submission of the application and the fee paid shall not be refundable irrespective of whether or not the application is approved by the Local Authority.

Renewal of licence

11. (1) A licensee may apply for a renewal of his licence at any time before the date of expiry of his licence and shall be made in such form or manner as may be determined by the Local Authority.

(2) The Local Authority may, after receiving an application for renewal of licence under paragraph (1), renew the licence or refuse to renew the licence.

(3) Where an application for a renewal of licence is approved by the Local Authority, the licence shall be renewed upon payment of a fee as prescribed in the Schedule and the Local Authority may impose such conditions as the Local Authority thinks fit to impose.

Revocation of licence

12. (1) The Local Authority may revoke a licence issued under these By-laws if the Local Authority is satisfied that —

- (a) the licensee has contravened any of the provisions of these By-laws, or the conditions of the licence; or
- (b) the licensee has been convicted of an offence under these By-laws.

(2) The revocation of a licence under paragraph (1) may be made by the Local Authority without any payment of compensation to the licensee and the Local Authority may forfeit the deposit paid under by-law 8.

(3) Before a licence is revoked, the Local Authority shall give a notice in writing to the licensee requiring him to make a representation within the period as specified in the notice as to why his licence shall not be revoked.

(4) After the expiry of the period specified in the notice under paragraph (3) and after considering the licensee's representation or if the licensee fails to make a representation, the Local Authority shall proceed to consider such matter and inform the licensee by a written notice of its decision.

(5) If the Local Authority decides to revoke the licence, the revocation of the licence shall take effect on the date specified in the notice served on the licensee under paragraph (4).

(6) Any person who operates a food establishment after his licence is revoked under paragraph (5) commits an offence.

Display of licence

13. (1) A licensee shall display his licence in a conspicuous place at his food establishment.

(2) Any person who contravenes paragraph (1) commits an offence.

PART III

SPECIAL REQUIREMENTS FOR EATING-SHOPS AND RESTAURANTS

Layout and floor area for eating-shop and restaurant

14. The layout and the floor area of every eating-shop and restaurant shall be in accordance with the specifications as determined by Local Authority.

Grease trap equipment

15. (1) The licensee of eating-shop or restaurant shall —

- (a) provide and install a grease trap equipment in accordance with the specifications as determined by Local Authority.
- (b) ensure the sullage water from every sink in eating-shop or restaurant is channelled through the grease trap equipment.
- (c) ensure waste water from the grease trap equipment is channelled through a tunnel which has a direct connection into the sewerage system, septic tank or into any sewerage treatment system.
- (d) dispose of all trapped solid waste and oil in the grease trap equipment in the manner as determined by the Local Authority.
- (e) maintain or cause to be maintained the grease trap equipment in the manner as determined by the Local Authority.

(2) Any licensee who fails to comply with paragraph (1) commits an offence.

Prohibition against removal, alteration or modification of grease trap equipment

16. No person shall remove or make alteration or modification to the grease trap equipment installed in the eating-shop or restaurant except with the approval of the Local Authority.

Prohibition of other businesses in eating-shop and restaurant

17. (1) No licensee shall carry out any other business activity in his licensed eating-shop or restaurant except with the prior written approval of the Local Authority.

(2) Any licensee who contravenes paragraph (1) commits an offence.

Public entertainment in eating-shop and restaurant

18. (1) A licensee of an eating-shop or restaurant who provides public entertainment on or in the vicinity of the premises shall apply for a licence under the relevant written law.

(2) The licensee shall comply with the conditions of the licence issued under the relevant written law and such direction as may be given by the Local Authority.

(3) Any licensee who contravenes paragraph (2) commits an offence.

No beer or intoxicating drink to be served

19. A licensee shall ensure that no beer or intoxicating drink is served or consumed in a food establishment unless he has been issued with a liquor licence by the Licensing Board established under the Excise Act 1976.

Other requirements

20. (1) Every licensee of an eating-shop or restaurant shall comply with the following requirements:

(a) the dining areas for customers and the places where the food is served shall not to be used for any purpose other than as dining areas or as places to serve food;

(b) the tables and counters used for processing and preparation of food shall be made of materials that can be easily cleaned or as approved by the Local Authority;

(c) the floors and the walls of the dining areas or the places where food is served shall be made of material that can be easily cleaned or as approved by the Local Authority;

- (d) sinks shall be provided in accordance with the number as determined by the Local Authority for the use of customers and the sinks shall be maintained in a clean and good working condition at all times;
 - (e) the soiled or dirty utensils, tableware or cutlery shall not be left or allowed to accumulate on the table, floor or anywhere within or in the vicinity of the premises;
 - (f) the tables and chairs, floor and every part of the premises shall be kept free of food scrap and litter;
 - (g) the tables and chairs shall be cleaned and sanitized regularly or as directed by the Local Authority;
 - (h) the size of the kitchen shall be constructed in accordance with the specifications as may be determined by the Local Authority and the walls shall be installed with tiles or such other materials that can be easily cleaned or as approved by the Local Authority;
 - (i) the utensils, tableware, cutlery, articles or things used in the course of the business operation shall not be placed or washed on the floor except in the area which is designated or approved by the Local Authority for such purpose; and
 - (j) no cooked food shall be placed on the floor in any part of the premises.
- (2) Any licensee who fails to comply with paragraph (1) commits an offence.

PART IV

GENERAL PROVISIONS

Medical examination and basic course in food preparation

21. (1) The licensee shall ensure that any person who is involved in the preparation or handling of food in his food establishment shall —

- (a) undergo a medical examination as the Local Authority may direct;
- (b) be inoculated against any infectious diseases; and
- (c) attend a basic course for food preparation recognized by the Ministry of Health Malaysia.

(2) The medical examination and inoculation against any infectious diseases shall be carried out by a medical or health officer registered under the Medical Act 1971 [Act 50].

(3) A licensee shall —

- (a) comply with the requirements of paragraph (1) if the licensee himself is involved in food preparation and handling in any food establishment; and
- (b) ensure his employees involved in the preparation or handling of food comply with the requirements of paragraph (1).

(4) Any licensee who fails to comply with paragraph (2) or (3) commits an offence.

Person prohibited from preparing food

22. (1) Any person who is suffering from or carrying any infectious disease shall not be involved in the preparation and handling of food in any food establishment.

(2) Any person who contravenes paragraph (1) commits an offence.

Sanitary requirements

23. (1) Every licensee of a food establishment shall —

- (a) cause and ensure all refuse to be collected and packed into plastic bags and placed in covered receptacles provided for that purpose, and shall cause all such receptacles to be emptied and cleaned as frequently as may be necessary to keep the food establishment clean and tidy at all times;
- (b) cause the floors and the walls of the food establishment to be maintained in a state of cleanliness at all times;
- (c) take necessary measures to keep the food establishment free from rodent, fly, insect and vermin infestation;
- (d) ensure that the cooked food and drinks displayed for sale is covered with a food cover or stored in a food display cabinet at all times so as to prevent contamination;
- (e) use only containers or packing materials as determined or permitted by the Local Authority to pack food for sale;
- (f) not pack food for customers with unclean paper or paper with writing on it or printed paper or with material which may contaminate the food;
- (g) ensure that the toilet is not used for storage of any matter, article or thing which is not for use in connection with the toilet; and
- (h) maintain or cause to be maintained every part of the food establishment, including its fixtures and fittings in a state of cleanliness at all times.

- (2) Any licensee who contravenes paragraph (1) commits an offence.

Upkeep of food establishment

- 24.** (1) Every licensee of a food establishment shall ensure that —

- (a) the drains and gullies in the kitchen or food preparation area of the food establishment are maintained in such a state as to be free from foul odours and to allow free flow of water;
- (b) all articles or things are not placed, deposited, stored or kept within or in the vicinity of the food establishment in such a manner as to cause obstruction;
- (c) the food establishment is free of any discarded or unwanted boxes, containers or other things; and
- (d) the air cleaning system or hood and flue system of the food establishment is kept clean, properly maintained and in good working order at all times.

- (2) Any licensee who contravenes paragraph (1) commits an offence.

Toilet facilities

- 25.** (1) Every licensee of a food establishment shall ensure —

- (a) the food establishment is provided with toilets in accordance with the number as determined by the Local Authority;
- (b) the toilet is provided at all times with sufficient water supply, toilet paper, soap or liquid detergent, sanitizer, air freshener, refuse bin, roll paper towel, water tap and pail or hose for cleaning;
- (c) the toilet including the sanitary fixtures and fittings, appliances and facilities provided therein are maintained in a state of cleanliness and good working order at all times;
- (d) the sanitary fixtures and fittings, appliances and facilities are repaired and changed when necessary or if required by the Local Authority;
- (e) the toilet wall and floor, shower room and urinal area are installed with tiles or such other materials as approved by the Local Authority;
- (f) the toilet is provided with sufficient lighting and air circulation or in the manner as determined by the Local Authority; and
- (g) the toilet is open for public use during operating hours.

- (2) Any licensee who contravenes paragraph (1) commits an offence.

Lighting and ventilation

26. The licensee shall ensure that —

- (a) lighting and ventilation within the food establishment is provided to the satisfaction of the Local Authority;
- (b) every staircase, passage and emergency exit forming part of the food establishment is provided with adequate lighting; and
- (c) an emergency lighting system is provided at every staircase, passage and exit doors of the food establishment and is properly maintained and in good working order at all times.

Area for preparation of food

27. (1) All food shall be prepared in an area of the food establishment designated by the Local Authority for that purpose.

(2) A licensee shall ensure the designated area for preparation of food is kept clean at all times.

(3) Any licensee who contravenes paragraph (1) or (2) commits an offence.

Sinks and sanitary fittings

28. (1) A licensee shall provide sufficient sinks, sanitary fittings and accessories for the purpose of food preparation and separate washing facilities for washing of appliances and equipment used.

(2) Any licensee who contravenes paragraph (1) commits an offence.

Water supply

29. (1) A licensee shall not use any water other than water from the public water supply or such other water supply approved by the Local Authority for food preparation.

(2) Any licensee who contravenes paragraph (1) of this by-law commits an offence.

Storage

30. (1) A storage room shall be provided for the storage of foodstuff, utensils, equipment and crockery and such storage room shall not be used for any other purpose and shall be maintained in a good and clean condition at all times.

(2) Cupboards, cabinets, racks or shelves used for storage shall be maintained in a clean condition at all times.

(3) All foodstuff, utensils, equipment and crockery shall be stored or placed at least 20 centimetres above the floor level.

(4) Any licensee who contravenes paragraph (1), (2) and (3) commits an offence.

Animals are prohibited

31. (1) No licensee shall keep any animal or knowingly permit any animal to enter his food establishment.

(2) Any licensee who contravenes paragraph (1) commits an offence.

(3) Notwithstanding paragraph (1), a licensee may keep live seafood in an aquarium in the food establishment and shall maintain the aquarium in good repair and clean condition at all times.

Business operating hours

32. (1) The Local Authority may direct any food establishment to be operated within the period and time as specified by the Local Authority and the licensee shall comply with such direction.

(2) Notwithstanding the provision in paragraph (1), where an eating-shop or restaurant serves alcoholic beverages, the business operating hours shall be between the hour of 8.00 a.m. and 1.00 a.m. the following day during week days and the hours of 8.00 a.m. and 2.00 a.m. the following day during weekends or public holidays.

(3) Any licensee who contravenes paragraph (1) commits an offence.

Authorised officer

33. The Local Authority may in writing authorise any number of officers as may be necessary for the purposes of these By-laws.

Compounding of offences

34. (1) The Local Authority or an authorised officer may compound any offence committed by any person under these By-laws by making a written offer to the person suspected of committing the offence to compound the offence for a sum not exceeding five thousand ringgit within the time specified in the offer.

(2) An offer under paragraph (1) may be made at any time after the offence has been committed, but before any prosecution for it has been instituted, and if the amount specified in the offer is not paid within the time specified in the offer or within such extended period as the Local Authority may grant, prosecution for the offence may be instituted at any time after that against the person to whom the offer is made.

(3) If an offence has been compounded under paragraph (1) and paid, no prosecution shall after that be instituted at any time against that person to whom the offer to compound was made and paid.

Penalty

35. Any person who contravenes any provision of these By-laws commits an offence shall, upon conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding one year or to both, and in the case of a continuing offence, to a fine not exceeding five thousand ringgit for each day during which the offence is continued after conviction.

Revocation and transitional provisions

36. (1) The following By-laws are revoked —

- (a) Beaufort District Council (Food and Eating Premises) By-laws, 1964;
- (b) Keningau District Council (Food and Eating Premises) By-laws, 1973;
- (c) Kinabatangan District Council (Food and Eating Premises) By-laws, 1984;
- (d) Kuala Penyu District Council (Food and Eating Premises) By-laws, 1981;
- (e) Kudat Town Board (Food and Eating Premises) By-laws, 1965;
- (f) Lahad Datu District Council (Food and Eating Premises) By-laws, 1972;
- (g) Papar District Council (Food and Eating Premises) By-laws, 1977;
- (h) Penampang District Council (Food and Eating Premises) By-laws, 1978;
- (i) Pitas District Council (Food and Eating Premises) By-laws, 2010;
- (j) Putatan District Council (Food and Eating Premises) By-laws, 2010;
- (k) Ranau District Council (Food and Eating Premises) By-laws, 1966;
- (l) Semporna District Council (Food and Eating Premises) By-laws, 1981;
- (m) Sipitang District Council (Food and Eating Premises) By-laws, 1966;
- (n) Tambunan District Council (Food and Eating Premises) By-laws, 1982;

- (o) Tenom District Council (Food and Eating Premises) By-laws, 1972;
- (p) Tuaran District Council (Food and Eating Premises) By-laws, 1987;
- (q) Part II of Sandakan Municipal Council (General) By-laws, 1955;
- (r) Part II of Tawau Municipal Council (General) By-laws, 1956;

(2) Any licence issued or approval granted under the revoked By-laws before the coming into operation of these By-laws shall continue in full force until the licence expires, is amended, suspended or cancelled, or the approval expires or is revoked under the revoked By-laws for which purpose only the revoked By-laws shall continue to be in full force and effect.

(3) Any proceeding pending or commenced under the revoked By-laws before the coming into operation of these By-laws shall be continued and concluded under the revoked By-laws as if these By-laws had not been made.

SCHEDULE

[by-laws 4, 9, 10 and 11]

1. Licence Fee: (per month)

Type of Food Establishment \ Category of Local Authority	City Council	Municipal Council	District Council/ Town Board
(i) Restaurant, food court, coffee house or coffee shop not serving alcoholic beverages	RM1.00 per square metre or part thereof	RM0.80 per square metre or part thereof	RM0.60 per square metre or part thereof
(ii) Restaurant, food court, coffee house or coffee shop serving alcoholic beverages	RM1.20 per square metre or part thereof	RM1.20 per square metre or part thereof	RM1.20 per square metre or part thereof
(iii) Side stall or kiosk in a restaurant, coffee house, coffee shop, food court supermarket, shopping mall or any other premises	RM50.00	RM30.00	RM25.00
(iv) School canteen	RM60.00	RM40.00	RM30.00
(v) Bakery, ice cream parlour or any other food establishment not included under this Schedule —			
(a) retail with dine-in facilities	RM80.00	RM60.00	RM50.00
(b) retail without dine-in facilities	RM60.00	RM50.00	RM40.00
(vi) Food Factory including processing of edible oil	RM1.20 per square metre or part thereof	RM1.00 per square metre or part thereof	RM1.00 per square metre or part thereof
(vii) Catering Services	RM100.00	RM80.00	RM60.00

2. Processing Fee:

(i) application for licence	RM 20.00
(ii) renewal of licence	RM 20.00
(iii) transfer of license	RM 20.00
(iv) certifying true copy or replacement of licence	RM 20.00

I approve the foregoing By-laws.

Dated this 24th day of November 2022.

DATUK SERI PANGLIMA HAJI MASIDI BIN MANJUN,
Minister of Local Government and Housing.