

THE LOCAL GOVERNMENT ORDINANCE, 1961 (Ordinance No. 11 Of 1961)

THE LAHAD DATU DISTRICT COUNCIL (MESSAGE ESTABLISHMENTS) BY-LAWS, 1991

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

1. Citation and commencement.

These By-laws may be cited as the Lahad Datu District Council (Message Establishments) By-laws 1991 and shall come into force on the date of publication in the *Gazette*.

2. Interpretation.

In these By-laws –

“Council” means the Lahad Datu District Council;

“client” means any person of 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 massage, manicure, chiropody, electrical treatment, vapour or other baths or other similar treatment.

3. Licensing of person to carry on massage establishment.

(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.

(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. Application for licences.

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

(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 the applicant 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. Issue of licence.

- (1) Every licence issued by the Council shall be in Form B of the Schedule hereto, and shall be valid for a period not exceeding one year from the date of issue.
- (2) The Council may impose such condition of 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 to the licensee and shall retain the duplicate.
- (4) There shall be affixed to the original copy and to the duplicate a passport-sized photograph of the licensee (if an individual).

6. Licence Register.

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

7. Fee for a licence.

The licence fee payable in respect of each massage establishment shall be six hundred ringgit per annum.

8. Registration.

No licence under these By-laws shall be issued to -

- (a) any premises located inside a hotel which in the opinion of the Council is not a hotel 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;
- (d) in respect of any massage establishment which is being or is likely to be carried on in contravention of these By-laws; or
- (e) any premises which is not recommended by the Council and approved by the Minister by reason of it being unsuitable for massage establishment.

9. Security.

- (1) The Council shall before issuing or renewing a licence, obtain from the applicant cash in the form of a deposit of two thousand ringgit (\$2,000.00) to ensure that the provisions of these By-laws and of the conditions of the licence are duly observed.
- (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. Revocation of licence.

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

- (a) that there has been a breach of any of the condition 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 of any offence under the Women and Girls Protection Act 1973 or section 16 of the Minor Offences Ordinance, or any similar law.

11. Display of licence and signboard.

Subject to the requirements of the Council every licensee shall –

- (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-sized photographs of all his employees with names and identity card numbers.

12. Prohibition.

No licensee shall –

- (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 (21) 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. Swing doors to be fitted to rooms.

Every room used for the purpose of treatment shall be fitted with swing doors which shall not be capable of being locked up or made fast.

14. Notification of change of name, etc..

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 change:

Provided that no change in location of the massage establishment is allowed.

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.

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

16. Ventilation and artificial lighting.

- (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, whichever is the greater.
- (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 ventilator shafts, mechanical ventilation or a flue having an unobstructed sectional area of at least fifty square inches.
- (4) Every room, staircase, passage and landing forming part of any massage establishment shall be provided with adequate lighting.

17. Fire equipment and escapes.

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

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

19. Sanitary facilities for clients and staff.

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.

20. Premises to be kept clean.

- (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.
- (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. Dustbins.

- (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 as directed by the Council.

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

22. Maintenance and repair.

- (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.
- (2) All yards, areas, forecourts and open spaces 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 more as directed by the Council.

23. Power to enter and inspect premises.

The Council or any officer duly authorised by the Council in writing in that behalf may –

- (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 licensee 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.

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 licensee to comply with and secure the observance of these By-laws.

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.

SCHEDULE

**LAHAD DATU DISTRICT COUNCIL
(MESSAGE ESTABLISHMENTS) BY-LAWS, 1991
[By-law 4 (i)]**

For Office use only.
Ref. No.

FORM OF APPLICATION FOR A LICENCE

The Chairman,
Lahad Datu District Council,
Lahad Datu.

Date

MESSAGE ESTABLISHMENT

We/I hereby apply for a licence/the renewal 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 is 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 address of partners (if any)

6. Address to which correspondence is to be sent

7. (a) Qualification of applicant

(b) Qualification 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 commence 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
 If so, date of issue and licence No.

(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
 with this application.

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

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

FORM B

LAHAD DATU DISTRICT COUNCIL
(MESSAGE ESTABLISHMENTS) BY-LAWS, 1991
[By-law 5 (i)]

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 situate at
subject to the provisions of the Lahad Datu District Council (Massage Establishments)
By-laws, 1991.

This licence will continue in force until
..... unless cancelled prior to such
date under the provisions of the said By-laws.

CONDITIONS:

Lahad Datu , this day of 1991.

*Chairman,
Lahad Datu District Council.*

*Delete where not applicable.

Dated at Lahad Datu, this 29th day of January, 1991.

MICHEAL EMBAN,
*Chairman,
Lahad Datu District Council.*

I approve the foregoing By-laws.

Dated at Kota Kinabalu, this 6th day of July, 1992.

DATUK AHMAD BAHROM BIN
DATUK HJ. ABU BAKAR TITINGAN,
Minister of Local Government and Housing.