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CONSERVATION OF ENVIRONMENT ENACTMENT, 1996

CONSERVATION OF ENVIRONMENT
(CONTROL OF WASTEWATER POLLUTION) RULES, 200x

[Made under section 22 (w)]

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CONSERVATION OF ENVIRONMENT ENACTMENT, 1996

CONSERVATION OF ENVIRONMENT (CONTROL OF WASTEWATER POLLUTION) RULES, 200x

(Made Under Section 22(w))

In exercise of powers conferred by section 22(w) of the Conservation of Environment Enactment, 1996, the Yang di -Pertua Negeri has made the following Rules;

PART I

GENERAL

1. These Rules may be cited as the Conservation Of Environment (Control of Wastewater Pollution) Rules, 200x, and shall come into force on xx xx 200x.
2. The objectives for the Rules are to prevent and minimize pollution and nuisances from drainage, storage, treatment and disposal of wastewater.
3. These Rules applies to all public and private wastewater systems, and domestic wastewater.

4. In these Rules -

“1 population equivalent (p.e.)” means the wastewater load that has a biochemical oxygen demand over 5 days (BOD₅) of 21.9 kg oxygen per year;

“approval” means an approval issued by the approving authority;

“approving authority” means the local council or the Environmental Conservation Department;

“capacity” of a wastewater system means the amount of wastewater with its load of pollutants expressed in population equivalents (p.e.) that may be discharged under an approval issued by the local council or the Environmental Conservation Department;

“disposal of wastewater from dispersed settlements” means individual or collective discharge of wastewater from properties representing a total wastewater load of 100 p.e. or less;

“domestic wastewater” means wastewater from household activities, including discharges from water closets;

“holding tank for wastewater” means a watertight container of a type that is or can be approved for the storage of wastewater by the approving authority;

“operator” is a person who owns the wastewater system, or is responsible for the care, control and management of the wastewater system;

“owner” means (i) in relation to land, the registered proprietor thereof and any person in occupation of land by virtue of any license issued or rights recognized under the Land Ordinance, Sabah Cap 68; and (ii) in relation to wastewater, any person who owns the wastewater system or is responsible for the care, control and management of the wastewater system;

“private wastewater systems” means common wastewater systems other than those defined as public wastewater systems;

“public wastewater systems” means common wastewater systems whose operation and/or maintenance is/are the responsibility of one or more local councils or of the Public Works Department;

“Rules” means the Conservation of Environment (Control of Wastewater Pollution) Rules, 200x;

“waste” means human faecal matter and urine;

“wastewater” means any water containing waste discharged from residential or other buildings, including run-off from areas impervious to water;

“wastewater system” means a system of open as well as closed conduits and other facilities used for the drainage and/or treatment of wastewater prior to discharge into watercourses, drained into the ground or otherwise disposed of;

“watercourse” includes any river, stream, canal, drain, well, spring, pond, pool, waterfall, reservoir, lake and any part of the sea abutting the foreshore, and any other body of water, including water on wetlands.

PART 2

APPROVAL FOR DISCHARGE OF WASTEWATER INTO WATER COURSES

5. (1) The local council is the approving authority in cases involving discharge of wastewater into watercourses from private wastewater systems.

(2) The local council shall before issuing an approval for a private wastewater system submit the proposal for the establishment of the private wastewater system to the Environmental Conservation Department for comments. The Environmental Conservation Department shall:

- (i) Permit the issuing of a local council approval;
- (ii) Permit the issuing of a local council approval with conditions;
- (iii) Not permit the issuing of a local council approval.

6. The Environmental Conservation Department is the approving authority in cases involving the discharge of wastewater from public wastewater systems or systems not covered by Section 5 (1).

7. (1) Applications for approval to discharge wastewater from wastewater systems into watercourses shall be submitted to the approving authority.

(2) The approving authority shall define the kind of information to be submitted with the application.

(3) When approving private wastewater systems, the approving authority shall attach special importance to the following:

- (i) That the implementation of the project does not conflict with the intentions of sound and appropriate urban development;
- (ii) That the implementation of the project conforms with the wastewater catchment plan and the guidelines for water quality and ground water protection set out in the wastewater catchment plan.

8. The approving authority shall define the required capacity of the wastewater system in the discharge approval.

9. (1) In the case of competence disputes between the local council and the Environmental Conservation Department, the Environmental Conservation Department shall be the approving authority.

(2) Decisions by the Environmental Conservation Department under subsection (2) above cannot be brought before other administrative authorities.

PART 3

PUBLIC WASTEWATER TREATMENT SYSTEMS

Wastewater catchment plans

10. (1) The local council's plan for disposal of wastewater in the district (the wastewater catchment plan) shall contain information on the existing common wastewater systems in the district with a definition of:

- (i) The individual sewerage catchment areas;
- (ii) The properties that are connected to the public wastewater system and the extent of such connections;
- (iii) The location of the sewerage system;
- (iv) The location of pumping stations;
- (v) The location of treatment plants;
- (vi) The locations of the waters to which the wastewater from the individual sewerage catchment areas are discharged;
- (vii) The final discharge point to the receiving waters;
- (viii) An estimate of the volumes that are discharged;
- (ix) The manner of desludging;
- (x) The location for the disposal of sludge;
- (xi) The expenditures used to operate and maintain the existing public wastewater systems;
- (xii) An indication of whether the wastewater system is under public or private ownership.

(2) The local council's wastewater catchment plan shall furthermore contain information on planned wastewater systems in the district with a definition of:

- (i) Planned extensions of the public wastewater systems in the district with a definition of the individual sewage catchment areas;
- (ii) The planned properties that will be connected to the public collecting system and the extent of such connections;
- (iii) A renovation plan for the districts sewerage system listing objectives in order of priority;

- (iv) The plan shall include a timetable and a financial plan for the extensions or renovations.

(3) The wastewater catchment plan shall contain a statement by the local council which renders it probable that the discharge of wastewater to the receiving waters does not conflict with existing watercourse plans, for example the use of the watercourses for water supply, fisheries, tourism.

(4) In cases, where the public wastewater system is operated not by the local council, the local council shall liaise closely with the operator in the preparation of the wastewater catchment plans.

11. (1) The wastewater catchment plan shall be submitted to the Environmental Conservation Department for approval at the latest one year after entry into force of these Rules.

(2) Whenever there is a change in the assumptions on which the wastewater plan is based, the local council shall update the plan for wastewater disposal in the district, including the catchment area boundaries and the timetable for implementing the plan. The updated plan shall be submitted to the Environmental Conservation Department.

(3) The wastewater catchment plan shall be revised at least every 5 years and the revised wastewater catchment plan shall be submitted to the Environmental Conservation Department for approval.

(4) The Environmental Department may upon receipt of the wastewater catchment plan or revisions hereof:

- (i) Request further information;
- (ii) Make special conditions to the plan and the implementation thereof;
- (iii) Non-approve the plan and request for a resubmission;
- (iv) Approve the plan.

Connection of wastewater discharges to the public wastewater system

12. (1) Connection of wastewater to the public collecting system is mandatory on properties located within one of the sewage catchment areas of the public wastewater system defined in the wastewater catchment plan. The connection shall be established at the property owner's own cost and through open or closed conduits.

(2) Proposed developments, housing estates, extensions of existing housing estates, etc. that falls outside catchment areas of the public wastewater system as defined in the wastewater catchment plan, shall be included in the water catchment area by a redefinition of the catchment boundary. Only in exceptional circumstances may housing estates, etc. be allowed to operate private wastewater treatment systems, cf. Part IV.

(3) Design of connections shall be approved by the local council before implementation.

(4) All activities and constructions which are not complying with the wastewater catchment plan are illegal and shall be stopped or demolished.

(5) The local council can draw up by-laws for establishment, operation and maintenance of public wastewater system.

PART 4

PRIVATE WASTEWATER TREATMENT

*Termination of the right and duty to connect
(withdrawal from the public wastewater service partnership)*

13. (1) The local council may grant permission for property owners to withdraw in full or in part from the public wastewater service partnership on the following conditions:

- (i) That the withdrawal does not conflict with the local council's plan for the disposal of wastewater in the district;
- (ii) That the withdrawal is agreed between the property owner and the local council;
- (iii) That the withdrawal does not have serious adverse effects on the overall economy of the wastewater service;
- (iv) That a cost-benefit analysis supports the establishment of a private wastewater treatment system, including compared cost for a connection to the public wastewater system;
- (v) That an operation and maintenance analysis and plan supports the establishment of a private wastewater treatment system;
- (vi) That the location of the wastewater treatment plant does not result in nuisance to the surroundings;
- (vii) That the location of final discharge does not conflict with any existing use of the watercourse;
- (viii) That the withdrawal does not prevent the proper technical functioning of the wastewater service;
- (ix) Permission from the Environmental Conservation Department has been received by the local council.

(2) Permission to withdraw in full or in part from the public wastewater service partnership is only granted to property owners who have obtained an approval to use an alternative method of wastewater disposal or discharge. The approval of an alternative method of disposal or discharge of wastewater is subject to the following:

- (i) That the alternative method of disposal or discharge is compatible with the objectives set out in the wastewater catchment plan for the quality and use of watercourses, lakes or coastal waters, as well as with the objectives for the use and protection of the ground water;
- (ii) That the alternative method of discharge will not interfere with the quality of the treatment to which the overall volume of wastewater is subjected.

(3) Whenever a property owner who has obtained the permission referred to in subsection (1) above, an entry to this effect shall be made in the wastewater catchment plan, in order to provide a register of these private wastewater systems.

14. (1) The owners of buildings and land affected by the proposed private wastewater system shall set up a local property owners' wastewater association, which will be responsible for the establishment, operation and maintenance of the plant.

(2) A draft of the association's by-laws shall be submitted to the local council together with the proposal for establishment of the private wastewater system.

(3) When the private wastewater system has been approved and included in the wastewater catchment plan, an entry regarding the adoption of the final by-laws of the association shall be made in the title register maintained by the Land Register for each of the properties concerned.

(4) Private wastewater systems operated by water association are not liable to payment of the sewerage rate to the local council.

(5) Were the local councils, in extraordinary cases, takes over the ownership and operation of private wastewater systems, the local council and the developer of the private wastewater system shall undertake an agreement on the terms and conditions for the taking over of the system. The agreement shall be forwarded to the Environmental Conservation Department for approval before finalization. Users connected to the private wastewater systems will then be liable to payment of the sewerage rate to the local council.

15. All proposals for establishment of private wastewater systems shall be submitted to the Environmental Conservation Department for approval. The submissions shall at least include:

- (i) Justifications for the application to withdraw from the public wastewater service partnership;
- (ii) Design of the proposed wastewater disposal project, including design load, process description, technical description and layout plan of proposed facilities;
- (iii) Outline of an operation and maintenance plan;
- (iv) Description of ownership, organization and establishment of the wastewater association.

16. The local council can draw up by-laws for establishment, operation and maintenance of private wastewater system.

PART 5

WASTEWATER FROM DISPERSED SETTLEMENTS

Establishment of holding tanks

17. (1) The local council shall approve the discharge of domestic wastewater from single properties with one or two households to holding tanks wholly or partly buried in the ground, subject to the following:

- (i) That the holding tank is deemed by the local council to fulfil quality criteria for the storage of domestic wastewater;
- (ii) That the holding tank can be approved by the local council for inclusion in a toilet system whose operation requires the tank to be completely watertight (vacuum systems);
- (iii) That the holding tank is made of concrete and built in accordance with a design approved by the local council;
- (iv) That the holding tank is sited on the property with at distance of at least 2 m to the property boundary or any road;
- (v) That the capacity of the holding tank is appropriate to the desired emptying frequency and the inflow of domestic wastewater;
- (vi) That the tank is sited and installed with easy access for emptying.

18. (1) If water-intake for water supply is located on or nearby the property, specific conditions to the establishment and maintenance of the holding tank may be imposed.

(2) Prior to approving the establishment of a holding tank, the local council shall ensure that the tank will not expose humans or animals to health hazards, nor create unnecessary nuisance to neighbours.

(3) Prior to approving the establishment of a holding tank on a property, it shall be verified that the tank will be appropriately emptied, and that a contract has been concluded for the transfer of the contents of the tank.

Collection and disposal schemes for the contents of holding tanks

19. (1) The local council shall arrange for collective collection and disposal of wastewater from holding tanks in all parts of the district.

(2) The use of such a collection and disposal scheme is mandatory on all property owners.

(3) The local council shall be responsible for the administration of the collection and disposal schemes.

(4) The local council shall draw up by-laws for the collection and disposal schemes, whether private or public. The by-laws shall stipulate emptying frequencies, drainage facilities, etc. depending on size, design and/or wastewater load. The by-laws shall furthermore stipulate the locations and manner of final disposal.

(5) The local council shall approve all operators involved in the collection of holding tank contents and shall approve all locations for final discharge.

(5) The local council shall ensure that the rules and regulations governing the collection schemes are published in local newspapers widely circulated in the district.

20. Draft collection and disposal scheme and by-laws shall be submitted to the Environmental Conservation Department for approval before they are made final.

PART 6

DISPOSAL OF SLUDGE

21. (1) Sludge from wastewater treatment facilities or holding tanks shall either be disposed to landfills, or to open land, agricultural or forest areas for the purpose of fertilizing.

(2) Sludge is to be removed from the wastewater treatment facilities at least once a year.

(3) Sludge is to be disposed of at designated areas approved by the local council.

22. (1) Sludge shall not be disposed of to open land on Fridays, Saturdays or Sundays on areas with a distance of less than 200 m to residential zones or residential houses in the rural/countryside zones. Disposal of sludge shall not result in unnecessary nuisances. Sludge shall not be disposed of in such a way that it will drain to waterways during rain.

(2) Setbacks for areas receiving sludge are 200 m from the boundary of property where an occupied residence is located, and 10 m from streams, rivers, and other waterways.

23. If a wastewater treatment owner produces more sludge than the owner has land available for disposal, the owner shall make agreements with landowners that secures that the surplus sludge can be disposed of. Such agreements shall be signed by supplier and receiver, and a copy shall be forwarded to and kept by the local council.

PART 7

SUPERVISION AND REPORTING

24. (1) The local council shall supervise all wastewater systems that are connected to a public wastewater system, including the associated outfalls; all private wastewater systems, including the associated outfalls; and all private wastewater holding tanks, including collection and disposal activities.

(2) The local council shall supervise:

- (i) That all wastewater treatment systems are operating as planned. This includes supervision of power consumption in relation to the operation of the treatment facilities. Power consumption shall be continuously monitored and registered;
- (ii) The discharge quality of all wastewater treatment systems within its jurisdiction. This includes the taking water quality samples and the analysis hereof. Sampling has to be undertaken for outlets and inlets at least 6 times a year;
- (iii) That an operation and maintenance manual exists for each treatment facility and pumping station and are available at the treatment facility and station;
- (iv) That each treatment facility and pumping station uses a logbook to register electricity consumption, water flow, air temperature and precipitation;
- (v) That all treatment facilities are desludged at least once a year and disposed of only at the designated locations. This includes inspection and photographic registration of desludging and disposal activities;
- (vi) That holding tanks are emptied regularly and disposed of at the designated locations. This includes monitoring and photographic registration of emptying and disposal activities;
- (vii) That sewerage systems are properly maintained;
- (viii) The financial aspects of operation and maintenance of the wastewater systems. This includes budgeting and registration of actual expenditures.

25. A bi-monthly operation review report for all wastewater treatment facilities with a capacity of more than 1000 p.e. is required undertaken by the local council. Each of these facilities has to be supervised and reported for in relation to the items listed under Section 20. The report shall meet the needs of the Environmental Conservation Department, and be submitted to the Environmental Conservation Department latest the last day of the following month.

26. (1) Mandatory reporting to the Environmental Conservation Department is furthermore required for incidents that results in reduced treatment, as for example:

- (i) Any deterioration or leak in treatment facilities that poses an major threat to the environment;
- (ii) Failure to operate and maintain the treatment facilities as planned;
- (iii) Disposal of sludge in areas without permission;

- (iv) Any discharge bypassing the treatment facilities, unless caused by excessive rain periods.
- (2) Reports of the incidents are to be made to the owner or operator of the wastewater treatment facility and the Environmental Conservation Department.
- (3) If the local council during supervision assesses a risk for leakage or failure of the treatment facilities, an Order to implement mitigation measures shall immediately be issued by the local council or the Environmental Conservation Department.

PART 8

INSPECTION AND ENFORCEMENT

27. (1) The Environmental Conservation Department is responsible for inspection and enforcement according to the rules set forth in the present Rules.

(2) The Environmental Conservation Department shall enforce that:

- (i) A wastewater catchment plan exists and are regularly updated in all local councils;
- (ii) All private wastewater systems have been approved by the Environmental Department;
- (iii) That water associations for private wastewater systems have been established and by-laws exists;
- (iv) Collection and disposal schemes for sludge and holding tanks are prepared and implemented in all local councils;
- (v) All treatment facilities are functional and in operation;
- (vi) Wastewater are discharged to waterways in accordance with the standards listed in the Third Schedule of the Environmental Quality Act 1974 under the Environmental Quality (Sewage and Industrial) Regulations, 1979, regulations 8 (1-3);
- (vii) Operation and maintenance manuals and logbooks exists and are used for all treatment facilities and pumping stations;
- (viii) Treatment facilities are desludged regularly and disposed of only at the designated locations;
- (ix) Holding tanks are emptied regularly and disposed of only at the designated locations;
- (x) The sewerage systems are properly maintained;
- (xi) sufficient financial resources are available for operation and maintenance of the existing wastewater systems;
- (xii) Reporting is undertaken as determined in the present Rules.

(3) The Environmental Conservation Department shall undertake at least the following inspections in relation to the implementation of the Rules:

- (i) Yearly inspections of all treatment facilities under the supervision of the local council;
- (ii) Yearly inspections of the effectiveness of all collection and disposal schemes for holding tanks.

28. (1) The local council shall seek approval from the Environmental Conservation Department regarding all exemptions made in relation to these Rules.

(2) The local council can initiate a public hearing or an Environmental Impact Assessment before a decision on any establishment or extension of any wastewater system is made, cf. The Conservation of Environment Enactment, 1996.

(3) Appeals shall be made to the Environmental Conservation Department latest 4 weeks after the local council or the Environmental Conservation Department have made a decision. The appeal will be settled by the Environmental Conservation Department, which decision will be final.

PART 9

PENALTIES

29. (1) The Conservation of Environment Enactment, 1996, provides the legal authority for decisions made under the present Rules.

(2) Unless heavier penalty is warranted by other legislation, all items listed under Section 24 (2) shall be deemed offences punishable by fine or imprisonment.

(3) Any person, company or authority who shall be guilty of an offence against these Rules including the offence(s) stated at Section 24 shall, on conviction, be liable to imprisonment for a term not exceeding one year or to a fine not exceeding two thousand ringgit or to both such imprisonment and fine and in the event of a second or subsequent conviction be liable to imprisonment for a term not exceeding two years or to a fine for a term not exceeding fifteen thousand ringgit or to or to both such imprisonment and fine.

30. (1) Companies, associations etc. (legal entities) can be held liable under Part xx of the Criminal Code, cf. Section xx of the xx.

(2) Authorities, councils etc. (legal entities) can be held liable under Part xx of the Criminal Code, cf. Section xx of the xx.

31. By-laws issued by a local council may include a provision to the effect that violation of such by-laws shall be punishable by a fine.

PART 10

ENTRY INTO FORCE AND INTERIM PROVISIONS

32. (1) The Rules enters into force on xx xx, 200x.

(2) Rules No. xx of xx xx 19xx issued by the xx on the xx Pursuant to Parts xx and xx of the xx Act is hereby repealed.

33. (1) Wastewater plans or wastewater plan supplements drawn up pursuant to these Rules shall continue in full force and effect until superseded by wastewater catchment plans drawn up pursuant to this present Rules.

(2) Rules and by-laws issued pursuant to these Rules shall continue in full force and effect until superseded by regulations issued pursuant to this present Rules, unless otherwise provided herein.

(3) Any violation of such rules and by-laws shall be punishable under the provisions of this present Rules. However, violations committed before the entry into force of this Rules shall be punishable under the rules and by-laws applicable at such time.

Made this

2002

By His Excellency's Command,

Datuk Chong Kah Kiat
Minister of Environment, Tourism
Development, Science and Technology