

LOCAL GOVERNMENT (LILONGWE CITY COUNCIL) (NURSERY SCHOOLS)
BY-LAWS, 2018

ARRANGEMENT OF BY-LAWS

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GOVERNMENT NOTICE NO. ...

LOCAL GOVERNMENT ACT
(CAP 22:01)

LOCAL GOVERNMENT (LILONGWE CITY COUNCIL)
(NURSERY SCHOOLS) BY-LAWS, 2018

IN EXERCISE of the powers conferred by section 103 of the Local Government Act, the Lilongwe City Council has made the following By-laws—

PART I—PRELIMINARY

Citation 1. —These By-laws may be cited as the Local Government (Lilongwe City Council) (Nursery Schools) By-laws, 2018.

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

“authorized person” means a person authorized by the Council to inspect premises, examine persons or do any other act under its statutory powers;

“child” means a person who is under six years old;

“Council” means the Lilongwe City Council;

“guardian” means any person who has custody of a child by reason of the death, illness, absence or incapacitation of its parent or any other cause;

“nursery school” means any premises where children under the age of six years are received to be looked after at a fee for the day or a substantial part of the day or for any longer period for the purpose of imparting on them some form of educational instructions and includes premises offering day care services;

“occupier” means any person in actual occupation of premises without regard to the title under which he occupies such premises, and in case of premises subdivided and let to tenants, means each one of the tenants individually or all of them collectively;

“parent” means father or mother of a child;

“premises” means any building or structure together with the land on which it is situated and the adjoining land or other land or building used in connection with a nursery school;

“proprietor” means any person who is vested with the ownership, custody or control of a nursery school or premises at which the nursery school is carried on and equipment and other things provided for the children attending the nursery school and, where such ownership, custody or control is vested in more than one person, it includes all of them; and

“relative” means a grandparent, brother, sister, uncle, aunt or any other relationship whether by way of consanguinity, affinity or in consequence of adoption.

Application **3.**—These By-laws shall apply within the area of jurisdiction of the Lilongwe City Council.

PART II—GENERAL PROVISIONS

Nursery school licence **4.**— (1) A person shall not establish a nursery school, unless he has a licence issued by the Council under these By-laws.

(2) An application for a licence to establish a nursery school under these By-laws shall —

- (a) be in the Form specified in Part I of the First Schedule;
- (b) be accompanied by appropriate non-refundable fees set out in Part II of the First Schedule; and
- (c) be supported by a business premises licence obtained in accordance with provisions of by-law 8 below.

Refusal to grant licence **5.**— The Council may refuse to issue a licence where it is satisfied that the proprietor, volunteer or any other person employed or proposed to be employed by him to provide any services at the nursery school, is not a fit and proper person to control or provide care and support to children.

Form of licence and conditions **6.**— (1) Where a nursery school licence is granted or renewed after its expiry, the Council shall issue a licence in the form specified in the Second Schedule.

(2) A licence issued under paragraph (1) shall not be transferable to any other person or premises.

(3) A licence issued under paragraph (1) shall be displayed at a conspicuous place in a prominent part of a building on the premises to which it relates, and shall be available for inspection by any authorized person, parent or guardian at any reasonable time, including when there are children on the premises.

(4) Where the Council is satisfied that a licence issued under these By-laws has been lost, destroyed or mutilated, the Council may, subject to such licence remaining valid at the time of the application or re-issue, whichever is later, and subject further to the payment of the appropriate fee set out in Part II of the First Schedule, issue a replacement licence.

(5) A licence issued under these By-laws shall expire on the last day of the financial year in which it was issued.

Power to
impose
conditions

7.— (1) The Council may, subject to paragraph (2) and (3) of this by-law, determine that a licence to operate a nursery school shall be issued or renewed subject to any or all of the following conditions—

- (a) that no greater number of children shall be received in the premises than may be specified in the licence;
- (b) that the number of children received under paragraph (a) together with any other children resident on the premises shall not, at any time, exceed such number as may be specified in the licence;
- (c) that children in any specified age group or children who have not completed the vaccination schedule applicable to them, shall not be received in the premises or exceed such number as may be specified in the licence;
- (d) that a person with such qualifications as may be specified in the licence shall be in charge of the premises and of the persons employed thereat;
- (e) that the nursery schools shall be adequately staffed as regards the calibre, qualifications and experience of the instructors or tutors employed at the school;
- (f) that any repairs, alterations or additions be carried out on the premises as determined and approved by the Council;

- (g) that the premises shall be equipped in accordance with the Second Schedule and that the equipment shall be adequately maintained;
- (h) that there shall be adequate arrangements for the provision of an adequate and suitable diet to the children received on the premises.
- (i) that the children received on the premises shall be under medical supervision;
- (j) that persons employed on the premises shall undergo medical examination at the time of granting or renewing a licence and any other time the Council may deem fit; and
- (k) any other condition as the Council may deem it necessary to impose.

(2) Where the Council determines to impose any condition, it shall give notice in writing to the applicant of its intention and the proposed conditions and shall not proceed with the issuance of the licence until the requirement of paragraph (3) is satisfied.

(3) An applicant who receives a notice under the foregoing paragraph shall, within fourteen days of receipt thereof, inform the Council in writing that—

- (a) he agrees with the imposition of such conditions;
- (b) he has abandoned his application; or
- (c) he intends to appeal under by-law 14:

Provided that if an applicant who has informed the Council of his intention to appeal does not lodge such appeal within the time prescribed under by-law 14, his application shall be deemed to have been abandoned.

(4) The Council may, by notice to the proprietor, vary, add to or revoke any condition imposed either in the licence or at any subsequent time.

(5) Any condition imposed under this by-law shall be in addition to the minimum standard requirements under by-law 16.

Effect of false information	<p>8. — Where, on receipt of an application for a licence or renewal thereof or at a later stage after a licence is issued, the Council discovers that the applicant withheld relevant information or provided false information, the Council shall deny the licence or, if issued, revoke it forthwith.</p>
Business premises licence	<p>9. — (1) An owner or lessee of premises who desires to operate a nursery school on the premises shall apply to be granted a business premises licence under the Local Government (Lilongwe City Council) (Business Premises Licensing) By-laws, 2018.</p> <p style="padding-left: 40px;">(2) A licence under paragraph (1) shall not be issued or renewed unless the premises meet the minimum standards set out in the <u>Third Schedule</u>.</p>
Register of Nursery schools	<p>10. —The Council shall keep and maintain a register in the form specified in the <u>Forth Schedule</u>, containing all licensed nursery schools in the City of Lilongwe and such register shall be open to inspection at all reasonable times.</p>
Records of children	<p>11. —A proprietor of a licenced nursery school shall keep or cause to be kept—</p> <p style="padding-left: 40px;">(a) a record of particulars of each child in the form specified in the <u>Fifth Schedule</u>; and</p> <p style="padding-left: 40px;">(b) a daily attendance register for the school.</p>
Power of entry and inspection	<p>12.— (1) An authorized person may, at all reasonable times, enter any premises which are used as a nursery school for the purposes of inspecting the premises and the children as received therein, the arrangements for their welfare and any records relating to them kept in pursuance of these By-laws.</p> <p style="padding-left: 40px;">(2) An authorized person intending to exercise power of entry or inspection conferred by or under this by-law shall, if so required, produce a duly authenticated document showing his authority to exercise such power.</p> <p style="padding-left: 40px;">(3) Where an authorized person has reasonable cause to believe children are being received in a person’s home or in any other premises in contravention of these By-laws, such authorized person shall have power to enter such home or premises and carry out any such inspection as prescribed under paragraph (1) of this by-law.</p> <p style="padding-left: 40px;">(4) A person who refuses admission to an authorized person or who obstructs the exercise of any power conferred by or under this by-law commits an offence.</p>
Cancellation of licence and registration	<p>13.— (1) Subject to paragraph (2) and (3) of this by-law, where—</p>

- (a) a person contravenes any condition imposed under these By-laws;
- (b) it appears to the Council, with respect to any licenced person or premises, that circumstances exist which would have justified refusal of a Nursery School Licence or Premises Licence;
- (c) a licence issued under by-law 6 has been transferred to any other person or premises;
- (d) a proprietor, volunteer or any other person employed to provide any services at the nursery school has been convicted of an offence against these By-laws; or
- (e) the Council is of the opinion that it is in the best interest or welfare of children attending a nursery school that it be closed,

the Council may revoke the licence, impose new or additional condition or vary any such condition imposed under bylaw 7.

(2) The Council shall give at least fourteen days' notice to a licenced proprietor of the nursery school of its intention to make such revocation, impose new or additional condition or vary any such condition imposed under by-law 7 before revoking the licence under paragraph (1) or imposing or varying the condition.

(3) A notice issued under paragraph (2) shall state the ground on which the Council intends to make the revocation, impose or vary the condition and shall call upon the person to whom the notice is given to show cause, within fourteen days after receipt of the notice, why the licence should not be revoked or the condition not be imposed or varied.

(4) Where the Council after giving the said notice and affording the proprietor the opportunity to show cause as aforesaid decides to revoke the licence, impose or vary the condition, it shall do so and, by a notice in writing, inform the proprietor of its decision.

(5) Notwithstanding paragraphs (1), (2), (3) and (4), where in the opinion of the Council it is necessary on medical or other emergency grounds to immediately suspend the operations of a nursery school, the Council shall immediately suspend the operation of such nursery school until such a time when the medical or other emergency has been addressed.

Appeal **14.—** (1) A person aggrieved by a decision of the Council under these By-laws may, within thirty days of receipt by him of the notification of such decision, appeal to the Minister.

(2) The decision of the Minister under this by-law shall be subject to review by the High Court.

(3) An appeal or review lodged under this by-law shall not operate as a stay of execution of the decision of the Council.

Exemption of certain institutions **15.—** Nothing in these By-laws shall apply to the reception of children in—

(a) any hospital, nursing home, convalescent home or any other such institution;

Cap 30:01 (b) any school registered under the Education Act;

(c) any institution established by or under any written law for the reception of children below the age of six for any purpose other than the purpose under these By-laws; and

(e) a relative's home.

Minimum standard requirements **16.—** Notwithstanding any condition imposed by the Council under by-law 7, the minimum standard requirements for premises, staffing, health, medical care and control of a nursery school shall be as set out in the Third Schedule.

Staff changes to be notified **17.** The proprietor of a nursery school shall notify the Council of any changes in the school's staff establishment.

Existing nursery schools **18.—** (1) A person who, before the commencement of these By-laws had established a nursery school or had received children into any premises in such circumstances that he would be required to comply with the provisions of these By-laws commits an offence, if after three months of the commencement of these By-laws, he continues to receive children in similar circumstances without obtaining nursery school and premises licences as prescribed under these By-laws.

(2) For the purpose of this by-law, the word "person" shall include the proprietor, occupier and any person involved in the management of such nursery school.

PART III—OFFENCES AND PENALTIES

Offences
and
penalties

19. —(1) A person who contravenes or fails to comply with the provisions of these By-laws or who fails to comply with any of the conditions imposed by the Council under these By-laws shall be liable to the following penalties—

- (a) a fine of K2,000.00, payable to the Council, upon being notified of the contravention for the first time by an official of the Council;
- (b) where the contravention continues, to a further penalty of K200.00 for each day during which the offence continues or a term of imprisonment of six months or both such fine and imprisonment; and
- (c) notwithstanding the penalties provided under paragraphs (a) and (b), the Council may suspend the licence, on such conditions as the Council may consider appropriate, or revoke the licence and close the nursery school forthwith.

(2) No part of the fees paid for a licence shall be refunded on the suspension or revocation of the licence.

(3) The Council shall recover from the licensee the cost of enforcing its decision or rectifying the damage caused by the contravention, and such costs shall, where the Council uses its own resources, conform to prevailing market rates.

FIRST SCHEDULE

(by-laws
4(2) & 6(4))

LILONGWE CITY COUNCIL

LOCAL GOVERNMENT (LILONGWE CITY COUNCIL)
(NURSERY SCHOOLS) BY-LAWS

PART I

APPLICATION FOR A LICENCE TO OPERATE A NURSERY SCHOOL

TO: The Chief Executive Officer,
Lilongwe City Council,
P.O Box 30396,
LILONGWE 3.

I/we apply for a licence to establish and operate a nursery school under by-law 4 of the Local Government (Lilongwe City Council) (Nursery Schools) By-laws.

1. (a) Name of applicant /proprietor (1)
(in block letters)
- (b) Postal address.....
Nationality.....
- (c) Telephone number
- (d) E-mail
2. (a) Name of nursery school
- (b) Plot numberRoad/Street
- (c) Postal address
- (d) Telephone number
3. (a) Age of applicant /proprietor
- (b) Other occupation of applicant/proprietor
- (c) Full names of applicant's /Proprietor's spouse.....
- (d) Occupation of spouse.....
- (e) Names and ages of applicant's /proprietor's children (if any).....
.....

-
-
4. (a) Is applicant's /proprietor's residence different or the same as premises of the nursery school?
- (b) Other occupants of the premises of the nursery school.....
-
-
-
5. (a) Details of any special qualification held by applicant /proprietor¹.....
-
-
-
- (b) Brief details of applicant/proprietor's experience in the field of nursery school management (including number of children, place and year)
-
-
-
6. (a) Number of children for which proposed nursery school is to cater—
- (i) Babies (6 months -2 years).....
- (ii) Children (2-4 years).....
- (iii) Children (4-6 years)
-
7. Normal hours of business
- Is Saturday included?.....
- Is Sunday included?.....
8. (a) Size of classrooms to be used by children (each room to be numbered and measured separately)
-
-
-
- (b) Available rooms to be used for other purposes: (if available tick)
- (i) Office

¹ In the case of a legal person, insert the details of the owner(s) of the entity.

- (ii) Isolation of sick children
 - (iii) Resting, eating, playing.....
 - (c) Description of outdoor play facilities—
 - (i) Babies (6 months to 2 years)
 - (ii) Children (2-4years)
 - (iii) Children (4-6years)
9. (a) Arrangement for regular examination of children.....
- (b) Name of medical practitioner
- (c) Address.....
- (d) Telephone number(s)
- (e) E-mail
10. Details of staff to be employed in running the nursery school:

NAME	ADDRESS	AGE	QUALIFICATION	EXPERIENCE

1. Where the applicant/proprietor or any of the proposed members of staff has previously been convicted of any criminal offence or contravention of these By-laws, give details

2. Any additional information in support of the application.....

16. Declaration

I declare that the information I have given above is true to the best of my knowledge and am aware that failure to disclose relevant information or provision of false information shall result in refusal of the licence or, if issued, immediate revocation of the licence upon discovery of the anomaly.

Dated this.....day of.....20.....

Signed
 Applicant/Proprietor

PART II

FEE PAYABLE FOR LICENCE
LCC: TO REVIEW & SYNCH=PREMISES LICENCE
FEE

1.	Application Fee	K5,000.00
2.	Inspection fee	K 30,000.00
3.	(a) Fee payable on the issue of a licence to establish a Class A Nursery School (International school)	K300,000.00
	(b) Fee payable on the issue of a licence to establish a Class B Nursery School (Low and Medium Density areas)	K150,000.00
	(c) Fee payable on the issue of a licence to establish a Class C Nursery School (High Density Areas)	K 50,000.00
(a)	Licence Replacement fee	K 10,000.00

SECOND SCHEDULE

(by-law 6(1))

LILONGWE CITY COUNCIL

LOCAL GOVERNMENT (LILONGWE CITY COUNCIL) (NURSERY SCHOOLS)
BY-LAWS

NURSERY SCHOOL LICENCE

Mr/Mrs/Miss/Dr/Prof of
..... is hereby licensed as Proprietor and is/are
permitted to establish/ continue to run a Nursery School under the name and title of
.....
at Plot Number at
in the City of Lilongwe until the 30th June, 20.....

This licence is issued /renewed/replaced subject to the following conditions:

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

Fee Paid Receipt No

Previous licence No (if any) Year.....

Issued thisday of 20.....

Signed
LICENSING OFFICER

LILONGWE CITY COUNCIL

LOCAL GOVERNMENT (LILONGWE CITY COUNCIL) (NURSERY SCHOOLS)
BY-LAWS

STANDARD REQUIREMENTS

- | | |
|-------------------------------|--|
| Premises | 1. The building shall preferably be single storied, but where space on the site is limited, service rooms, such as resting and feeding rooms etc, may be provided on an upper floor. |
| Minimum floor space per child | 2. In any room, the minimum floor space per child shall be 1.12 square metres and each room shall be measured separately for the purpose of calculating the number of children to be accommodated in the building. |
| Maximum number of children | 3. The maximum number of children to be received in any nursery school shall be determined by the amount of floor space in the rooms and the number of toilet facilities on the premises. |
| Position | 4. (a) Any room to be used by children shall have direct access to outdoor playing space or to an open and unobstructed veranda which shall have direct access to outdoor playing space.

(b) Rooms shall be arranged in such a way as to enable children of the same age group to be accommodated together.

(c) At least one room shall be for infants and, if possible, older children's room shall be placed next to one another.

(d) It is an advantage to arrange the rooms so that various age groups can join on occasion and so that it is possible to receive a wider range in any unit should its demand for admission vary.

(e) Rooms can be separated by moveable and stable partitions but no room used by children shall serve as a passage.

(f) All rooms shall have doors opening outwards. |

(g) Provision of a First Aid kit and at any point in time of operation there must be one person knowledgeable in first aid.

Height of rooms **5.** No room shall have a mean height of less than 3 metres and, where ceiling follow the line of rafters, the minimum height at plate level shall be not less than 2.6 metres.

Lighting and ventilation **6.** Every room shall be exposed to sufficient lighting and natural light through or cross ventilation either by openings into the external air or into an open and unobstructed veranda.

windows **7.** The windows provided for any room shall be equal to or not less than one-fifth of the floor area of such room and shall be made to open.

Floors **8.** Floors shall be made of permanent material, safe for children and easy to clean.

Office **9.** (a) There shall be an office for use by the proprietor or any person employed by him to have the care of the children received or proposed to be received.

(b) The office shall have a welcoming appearance and be large enough for several parents or guardians and children to be received in it at a time.

(c) The office shall, where reasonably possible, have a connecting door to a room which shall be used for the medical examination or isolation of children.

Children's cloakrooms and toilets **10.—** (1) For each unit of a minimum of 10 children of 6 months -2 year old—

- (a) 1 bathing sink;
- (b) 1 low level wash hand basin;
- (c) 1 low level water closet;
- (d) 1 fixture for towels and flannels; and
- (e) 1 wash hand basin and towel master fitment for staff.

(2) For each unit of a maximum of 20 children of 2 to 4 year old—

- (a) 1 bathing sink;
- (b) 2 low level wash hand basins;
- (c) 2 low level water closets;
- (d) 2 fixtures for towels and flannels; and
- (e) 1 wash hand basin and towel master fitment for staff.

(3) For each unit of a maximum of 12 children of 4 to 6 years old—

- (a) 1 water closet;
- (b) 2 wash hand basins of varying heights;
- (c) 1 fixture for towels and flannels; and
- (d) 1 wash hand basin and towel master fitment for staff.

(4) The purpose of paragraphs (1), (2) and (3) above is that children of varying ages should have different cloakroom and toilet facilities suitable to their height and requirements but, where it will not be convenient or advantageous to separate them according to age groups, the Council may, on the recommendation of a Health Officer, approve provision of facilities either of options (1) (2) or (3) above or a combination of them.

Staff
cloakroom

11.— (1) The staff cloakroom shall contain individual lockers with suitable hanging space and toilet facilities and it shall be large enough to be used for changing. The requirement for up to eight members of staff is—

- (a) 1 water closet; and
- (b) 1 wash hand basin.

(2) Staff toilet facilities must be separate from those of children and on no account must staff and children use the same toilet facilities.

Kitchen

12.— (1) The minimum size of a kitchen is 25 square metres per place of staff, of which 3.75 square metres is for shelf and 3.75 square metres for lockable store.

(2) The kitchen may be equipped with—

- (a) 1 refrigerator;
- (b) 1 oven/cooker;
- (c) 1,450mm x 300 mm sink for vegetable preparation;
- (d) 1,600 mm x 300 mm sink for washing cooking pans;
- (e) 1 table covered with laminated plastic;
- (f) cupboards for cookery and cooking utensils;
- (g) cupboards for stores;
- (h) locked shelves for storage of pre-packed food;
- (i) satisfactory and adequate un-chipped crockery; and
- (j) clean eating and cooking utensils.

Furnishing

13.— (1) The furniture shall be light, easy to move and easy to keep clean.

(2) Moveable fitments may be used both for storing toys and smaller play things and for dividing the rooms in varied ways.

(3) Soft equipment or furnishings, including rugs shall be of a type that can easily be washed.

Playground **14.**— (1) The open space for use as playground shall be 18.50 square metres minimum of which a minimum of 3.75 square metres shall be paved and the remainder planted with grass or partly shaded by trees or other means from the sun.

(2) The playground must be enclosed by a strong fence with gate and high latches.

FOURTH SCHEDULE

(by-law 10)

LILONGWE CITY COUNCIL

LOCAL GOVERNMENT (LILONGWE CITY COUNCIL) (NURSERY SCHOOLS)
BY-LAWS

NURSERY SCHOOLS REGISTER

Date of issuance of licence	Licence No.	Name of Nursery School	Name and address of a person to whom licence was issued	Contact details (Tel. No, E-mail and physical address) of a licence holder	School location (Street /Road name, plot no.)	Name and particulars of person in charge of the school (Tel. No, and E-mail)	Conditions (if any)

FIFTH SCHEDULE

(By-law 11)

LILONGWE CITY COUNCIL

LOCAL GOVERNMENT (LILONGWE CITY COUNCIL) (NURSERY SCHOOLS)
BY-LAWS

RECORD OF CHILD ADMITTED OR TO BE ADMITTED AT A NURSERY
SCHOOL

Name

Address

Age

Date of Admission.....

Parent/Guardian
Name.....

Address.....

...

Telephone Number
.....

E-mail
.....

Date of medical Examination.....

Name of Medical Practitioner

Result of Medical Examination.....

HISTORY OF IMMUNIZATION

BCG Date	DPT-HepB-HiB Date	Polio Date	Measles Date	Others Date

Any medical condition.....

.....

.....

.....

Any special remark.....

.....

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

Made this..... day of 2018

.....
MAXON MOZA ZELEZA
Chief Executive Officer

.....
COUNCILLOR DESMOND BIKOKO (PhD)
Mayor

Approved by the Minister of Local Government and Rural Development

This.....day of 2018

.....
KONDWANI NANKHUMWA
Minister of Local Government
and Rural Development

(FILE NO:LG/1/13/25)