



LAWS OF SARAWAK

Chapter 49

CITY OF KUCHING NORTH ORDINANCE, 1988

(Revised—2002)

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LAWS OF SARAWAK**Chapter 49****CITY OF KUCHING NORTH ORDINANCE, 1988****(Revised—2002)**

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LAWS OF SARAWAK

Chapter 49

CITY OF KUCHING NORTH ORDINANCE, 1988

(Revised—2002)

An Ordinance to provide for the establishment and administration of the City of Kuching North, and for incidental matters.

[1st August, 1988].

Enacted by the Legislature of Sarawak—

Short title

1. This Ordinance may be cited as the City of Kuching North Ordinance, 1988.

Interpretation

2.—(1) In this Ordinance—

“City of Kuching North” means the area under the jurisdiction of the Commission as described in the Schedule;

“Commission” means the Commission of the City of Kuching North established under section 4;

“Commissioner” means the Commissioner of the City of Kuching North or in Bahasa Malaysia “Datuk Bandar Kuching Utara” appointed under section 5(1), and includes any person appointed under section 5(4) to discharge temporarily the duties and functions of the Commissioner;

“Director” means the Director of the Commission appointed under section 8(1);

“Member” means a Member of the Commission appointed under section 6.

[Sub. Cap. A85.]

(2) In this Ordinance, a reference to the Yang di-Pertua Negeri shall be construed as a reference to the Yang di-Pertua Negeri acting in accordance with the advice of the Majlis Mesyuarat Kerajaan Negeri or by a member of it acting under the general authority of the Majlis.

Area of the City of Kuching North

3.—(1) The area of the City of Kuching North shall comprise of the area described in the Schedule which shall be the local authority area under the Jurisdiction of the Commission.

(2) The Yang di-Pertua Negeri may, by notification in the *Gazette*, divide the City of Kuching North into districts or other subdivisions and exempt from the operation of this Ordinance or of any written law affecting the City of Kuching North such place or places within the boundaries of the City of Kuching North as may be specified in that notification.

(3) The Yang di-Pertua Negeri may by Order in the *Gazette* amend the Schedule.

[*Am. Ord. No. 11/91; Am. Cap. A85.*]

Establishment of Commission

4.—(1) There shall be established a Commission to be known as the Commission of the City of Kuching North or in Bahasa Malaysia "Dewan Bandaraya Kuching Utara".

(2) The Commission shall comprise the following:

(a) the Commissioner; and

(b) not less than five and not more than ten other Members,

to be appointed under sections 5 and 6.

(3) The Commission shall be a body corporate with perpetual succession, may sue or be sued and shall have the capacity to enter into contracts, in its corporate name, and shall have a corporate seal which shall be authenticated by the Commissioner or any person authorized by the Commissioner with the approval of the Commission.

(4) The seal of the Commission shall be officially and judicially noticed, and every document purporting to be issued or made by the Commission and sealed with the seal of the Commission, authenticated as provided under subsection (3), shall, in any dealing, transaction, litigation or proceeding, be deemed to be so made or issued without further proof, unless the contrary is shown.

(5) A certificate signed by the Commissioner certifying that any document or instrument purporting to be made or issued by the Commission or by him, as Commissioner, was so made or issued shall be conclusive evidence of the fact so certified.

(6) The Commission shall, for the purposes of the Land Code [*Cap. 81 (1958 Ed.)*], be deemed to be a native of Sarawak.

[*Sub. Cap. A85.*]

Appointment of Commissioner

5.—(1) The Commissioner shall be appointed by the Yang di-Pertua Negeri for a term of not exceeding three years on such terms and conditions, including those pertaining to his remuneration, privileges and allowances, as the Yang di-Pertua Negeri may determine.

(2) The Commissioner shall hold office at the pleasure of the Yang di-Pertua Negeri and his appointment may be revoked by the Yang di-Pertua Negeri without assigning any reason for it.

(3) Any person appointed to be the Commissioner shall be eligible for re-appointment upon the expiry of his term of office.

(4) (a) The Chief Minister may, by notification published in the *Gazette*, appoint any person to temporarily discharge the duties and functions of the Commissioner during the period in which the Commissioner is unable to discharge his duties and functions owing to his absence from the State, ill health or any other cause or during any vacancy in the office of the Commissioner.

(b) During the period in which the person is appointed under paragraph (a) to discharge the duties and functions of the Commissioner, he shall be paid such remuneration and entitled to such privileges and allowances as are paid to the Commissioner.

[Sub. Cap. A85.]

Appointment of Members of Commission

6.—(1) Members of the Commission shall be appointed by the Majlis Mesyuarat Kerajaan Negeri for a term not exceeding three years, and their appointment may be revoked by the Majlis Mesyuarat Kerajaan Negeri without assigning any reason for it.

(2) Notwithstanding subsection (1), the appointment of a Member shall be deemed to have been terminated if—

- (a) he dies; or
- (b) there has been proved against him, or he has been convicted of, a charge in respect of:
 - (i) an offence under any law relating to corruption, fraud or dishonesty; or
 - (ii) any other offence punishable with imprisonment (in itself or in addition to or instead of a fine) for more than two years; or
- (c) he has been adjudged a bankrupt by a court of competent jurisdiction in Malaysia or elsewhere; or
- (d) he has been certified by a medical officer in the service of the Government of Malaysia, to be a person of unsound mind; or
- (e) he absents himself from three consecutive meetings of the Commission without leave from the Commissioner or without any reasonable cause.

(3) Upon the occurrence of any of the events stipulated in subsection (2), the Commissioner shall notify the Chief Minister of it, and then, the Chief Minister shall declare that the Member concerned has ceased to be a Member of the Commission. Subsequently, the Majlis Mesyuarat Kerajaan Negeri may proceed to fill the vacancy arising from it.

(4) (a) A Member may be paid such allowance and may be entitled to such privilege as the Chief Minister may approve in writing.

(b) The entitlement of a Member to that allowance and privilege shall cease on the date of the expiry of his term of office or revocation of his appointment or when the Chief Minister declares under subsection (3) that he has ceased to be a Member of the Commission.

[Sub. Cap. A85.]

Powers and authority of Commission

6A.—(1) The administration of the public affairs of the City of Kuching North, the provision of local authority services within the area described in the Schedule and the exercise of all those powers or functions conferred on a local authority under the Local Authorities Ordinance, 1996 [Cap. 20] or under this Ordinance or any other written law, shall be vested in and exercised by the Commission.

(2) Without prejudice to subsection (1) and notwithstanding the provisions of any other written law regulating the powers, duties and functions of a local authority or a local council, the powers, duties and functions of a local authority or a local council under any written law pertaining to—

(a) road traffic; and

(b) food and public health,

shall, within the City of Kuching North, be exercisable and discharged by the Commission, and accordingly, any reference in that written law to “local council” or “local authority”, as the case may be, shall be construed to include the Commission.

(3) The Commission shall, in the discharge of its functions or the exercise of the powers conferred upon the Commission by this Ordinance, the Local Authorities Ordinance, 1996 [Cap. 20] and any other written law, comply with and give effect to any direction not inconsistent with this Ordinance, given by the Chief Minister to the Commission.

[Sub. Cap. A85.]

Proceedings of Commission

7.—(1) All meetings of the Commission shall be presided over by the Commissioner, or in his absence, by any Member appointed by other Members of the Commission present at the meeting, to preside over those meetings.

(2) The Commission shall, subject to this Ordinance and any direction from the Chief Minister, by Order, regulate its own procedures for the conduct of its meetings.

(3) The Commission shall meet at least four times a year or whenever summoned by the Commissioner.

(4) The Commission shall, in consultation with the Chief Minister, appoint a Secretary for the Commission and in the absence of that appointment, the Director shall be the Secretary.

(5) The Secretary shall—

(a) at the direction of the Commissioner, issue notices of meeting of the Commission or any committee established under subsection (7);

(b) prepare and keep proper records of all meetings of the Commission and of any of its committee, and shall transmit a copy of the minutes of the Commission to the Chief Minister through the State Secretary; and

(c) have custody of the corporate seal of the Commission.

(6) (a) The Commissioner and any two other Members or any three Members shall constitute a quorum for any meeting of the Commission.

(b) All decisions of the Commission shall be decided by a majority of the votes of the Members present at the meeting and in the case of an equality of votes, the Commissioner, or in his absence, the Member presiding shall have a second or casting vote.

(c) The Director and Secretary of the Commission shall attend meetings of the Commission but shall not be entitled to vote on any matter under consideration by the Commission.

(7) For the purpose of discharging its functions or carrying out any of its activities, the Commission may establish committees consisting of such of its Members and other officers of the Commission and shall fix a term of reference and authority of those committees.

(8) The Commission may, with the approval of the Chief Minister, delegate to the Commissioner, or to any committee established under subsection (7) or any Member, or to the Director or any officer of the Commission, such of its powers, duties or functions upon such terms and conditions as the Commission may impose.

[Sub. Cap. A85.]

Appointment of staff, etc.

8.—(1) The Commission shall, in consultation with the State Secretary, appoint a Director for the Commission, upon such terms and conditions as may be determined by the Commission in consultation with the State Secretary.

(2) The Director shall—

(a) be the Chief Administrative Officer of the Commission;

(b) execute and implement all decisions of the Commission;

(c) assist the Commissioner in the discharge of any duties or functions conferred or imposed on the Commissioner by this Ordinance or under any other written law;

(d) be responsible for the administration, supervision and control of the officers and employees of the Commission, and the management and supervision of its staff; and

(e) carry out such other duties as may be assigned to him by the Commissioner or delegated to him by the Commission.

(3) The Commission may appoint and engage such other officers, employees, advisors or consultants as may be required to enable the Commission to discharge its duties and functions under this Ordinance or any other written law.

[Sub. Cap. A85.]

Public servants

8A. The Commissioner, all Members, the Director and all officers and employees of the Commission shall be deemed to be public servants within the meaning of the Penal Code [Act 574].

[Ins. Cap. A85.]

Commissioner may differ from a decision of the Commission

9. The Commissioner may, after consultation with the Chief Minister, differ from a decision of the Commission, if in any case he shall think fit to do so, but in any such case—

(a) he shall record fully in writing, for inclusion in the minutes, the grounds and reasons for his decision; and

(b) it shall be competent for any member of the Advisory Board to require that there shall be recorded in the minutes any advice or opinion that he may have given upon the question in dispute and the grounds therefor.

[Am. Cap. A85.]

Public authorities protection

10. The Public Authorities Protection Act 1948 [*Act 198*] shall apply to any action, suit, prosecution or proceeding against the Commission or any member of the Advisory Board or against any officer, servant or agent of the Commission in respect of any act, neglect or default done or committed by it or him in that capacity.

[*Am. Cap. A85.*]

11. [*Deleted by Cap. A85.*]

Chief Minister to issue directions

12.—(1) The Chief Minister may from time to time give the Commission directions of a general character, and not inconsistent with this Ordinance, on the policy to be followed in the exercise of the powers conferred and the duties imposed on the Commission by or under this Ordinance in relation to matters which appear to him to affect the interests of the City of Kuching North, and the Commission shall as soon as possible give effect to all those directions.

(2) The Commission shall furnish the Chief Minister with such returns, accounts and other information with respect to the property and activities of the Commission as the Chief Minister may from time to time require.

[*Am. Cap. A85.*]

Existing law, etc.

13.—(1) Subject to this Ordinance—

(a) all subsidiary legislation made or deemed to have been made by the former Kuching Municipal Council under the former Kuching Municipal Ordinance [*Cap. 116 (1958 Ed.)*] or under any other written law affecting that part of the City of Kuching North which immediately before the commencement of this Ordinance were under the jurisdiction of the former Kuching Municipal Council; and

(b) all subsidiary legislation made or deemed to have been made by the former Kuching Rural District Council under the former Local Authority Ordinance [*Cap. 117 (1958 Ed.)*] or under any other written law affecting that part of the City of Kuching North which immediately before the commencement of this Ordinance were under the jurisdiction of the former Kuching Rural District Council,

shall, until amended or revoked by the Commission, apply to and continue to have effect in the respective areas in the City of Kuching North after the commencement of this Ordinance as if made under this Ordinance; and, unless the context otherwise requires, references in them—

(a) to the former Kuching Municipal Council and the former Kuching Rural District Council or to the Chairman or to any Councillor or officer of them shall be construed as references to the Commission; and

(b) to the Minister shall be construed as references to the Chief Minister.

(2) In their application to the City of Kuching North, the Chief Minister may, by Order published in the *Gazette*, make such modification as appear to him necessary or expedient to any subsidiary legislation applicable as mentioned above.

Transfer and secondment of Council staff

14.—(1) The appointment of any officer or employee of the former Kuching Municipal Council or the former Kuching Rural District Council subsisting immediately before the coming into operation of the Ordinance shall, if that officer or employee so agrees, be deemed to be made by the Commission under this Ordinance, and for the purpose of determining the rights of pension or gratuity or provident fund on retirement, the service of that officer or employee shall be regarded as continuous from the time he was appointed by the former Kuching Municipal Council or the former Kuching Rural District Council as the case may be.

(2) The former Kuching Municipal Council and the former Kuching Rural District Council may, at the request of the Commission, second any of its officers or employees to the service of the Commission. Any officer or employee so seconded shall remain a member of the service to which he belongs, but his remuneration shall be paid by the Commission to whose service he is seconded.

Transfer of properties

15. All lands, buildings, projects, works and other properties in that part of the City of Kuching North which immediately before the commencement of this Ordinance were owned by or vested in the former Kuching Municipal Council and the former Kuching Rural District Council shall, on the commencement of this Ordinance, be deemed to have been transferred to and vested in the Commission without further assurance.

Licence and permit to continue to have affect in the City of Kuching North

16.—(1) Every licence and permit granted or issued by the former Kuching Municipal Council, or the former Kuching Rural District Council, by virtue of any written law affecting that part of the City of Kuching North before the commencement of this Ordinance and still in force shall, during its currency and until the date of expiry, have effect in the City of Kuching North.

(2) All fees, rates, cesses and other revenues as may be levied and collected by the former Kuching Municipal Council and the former Kuching Rural District Council in respect of the period commencing from the date of operation of this Ordinance and affecting the areas referred to above shall be paid into the Funds of the Commission.

Existing contracts

17. All deeds, bonds, agreements, instruments and working arrangements subsisting immediately before the commencement of this Ordinance and affecting any of the property transferred under section 15, shall be in full force and effect against or in favour of the Commission and enforceable as fully and effectually as if, instead of the former Kuching Municipal Council or the former Kuching Rural District Council, the Commission had been named in them or had been a party to them.

Continuance of civil proceedings

18.—(1) Any civil proceedings or cause of action pending or existing immediately before the commencement of this Ordinance by or against the former Kuching Municipal Council or the former Kuching Rural District Council as administrators of the property transferred under section 15 may be continued or instituted by or against the Commission as it might have been by or against those Councils.

(2) Any appeal brought or any leave to appeal applied for, on or after the commencement of this Ordinance against a decision given before the commencement of this Ordinance in any legal proceedings to which the former Kuching Municipal Council or the former Kuching Rural District Council, as the case may be, was a party may, if the appeal relates to any property transferred under section 15, be brought by or against the Commission.

Prevention of difficulties or anomalies

19.—(1) If any difficulty or anomaly arises in connection with the implementation of the provisions of this Ordinance, the Chief Minister may by order make such modification in them as may appear to him necessary for removing or preventing that difficulty or anomaly.

(2) The Chief Minister shall not exercise the powers conferred by subsection (1) after the expiration of three years from the commencement of this Ordinance.

20. [Omitted].

SCHEDULE

(Section 3)

LIMITS OF THE CITY OF KUCHING NORTH

All that area in Kuching District containing an area approximately 369.48 square kilometres and bounded by lines commencing from a point 4.5 kilometres east of the estuary of Sungai Beradik, near Tanjung Embang; thence the boundary runs upstream along the true right bank of Sungai Sarawak to a point northeast of survey mark No. 89; thence crossing Sungai Sarawak with bearing approximately $310^{\circ} 00'$ to Pending Point, on the true right bank of Sungai Sarawak; thence upstream along the true right bank of Sungai Sarawak to a point northeast of Survey mark No. 22; thence upstream along the true right bank of Sungai Sarawak, excluding all wharves and jetties to survey mark No. IR 111; thence joining successively survey mark Nos. IR 111, 51, 52, 47, 45 and 54; thence crossing Jalan Abell to survey mark Nos. 135 screw, 134, 133 and 132 screw; thence crossing Jalan Padungan to survey mark No. 107 nail; thence joining successively survey mark Nos. 107 nail, 25, 24, 2, 101, 103, 102, 111, 10, 6, 80 and 106; thence swings to Jalan Mathie's joining successively survey mark Nos. 106, 5, 109, 105, 113, 19, 112, 125, 27, 51, 306, 307, 7, 6, 125, 123, 113, 121 and 122; thence along Jalan Tabuan joining successively survey mark Nos. 122, 105, 106, 107, 108, 109, 110, 103, 30, 14, 32, 33, 34, 35, 36, 37, 38, 43, 8, 102, 7, 18, 5, 15, 17, 4, 3, 16, 25, 43, 42, 2, 33, 32, 31, 51, 52, 28, 27, 25, 19, 20, 194, 195, 202, 203, 204, 26, 3, 48, 49, 50, 33, 320, 31, 30, 20, 21, 22, 44, 45, 43, 35, 42, 40, 44, 1, 4, 3, 4, 8, 5, 68, 70, 2, 28, 87, 26, 27, 11, 12, 21, 30, 31, 28, 43, 46, 47, 107, 133, 134, 132, 103, 89, 90, 91, 52, 53 and 54; thence crossing the Jalan Mendu/Jalan Simpang Tiga/Jalan Batu Lintang/Jalan Tabuan Roundabout to survey mark No. 91; thence along Jalan Batu Lintang joining successively survey mark Nos. 91, 92, 93, 94, 96, 14, 15, 16, 67, 66, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 51, 50, 32, 33, 87, 6, 33, 13, 294, 293, 291, 290, 289, 288, 287, 286, 53, 31, 15, 30, 22, 29, 28, 27, 86, 1001, 175, 35, 37, 3, 1, 63, 61, 5, 8, 10, 7, 115, 100, 56, 55, 106, 105, 113, 11, 105, 4, 13, 14, 69, 7, 5, 6, 7 and 43; thence crossing Jalan Rock to survey mark No. 15, at the junction of Jalan Kereta Api and Jalan Green, the boundary runs southward along the left hand side of the existing Jalan Kereta Api road reserve to a point on the true right bank of Sungai Maong, south of survey mark No. 2; thence downstream along the true right bank of Sungai Maong to a point northwest of survey mark No. 5; thence with bearing approximately $332^{\circ} 00'$ to a point southeast of survey mark No. 101, on the true left bank of Sungai Sarawak; thence upstream along the true left bank of Sungai Sarawak to its confluence with Sungai Maong Paroh; thence upstream along the true left bank of Sungai Maong Paroh to a point approximately 40.0 metres southwest of survey mark No. 117; thence in northeasterly direction to survey mark No. 117; thence generally in northeasterly direction and joining successively survey mark Nos. 117, 119, 170, 168, 167, 128, 126, 162, 160, 159, 157, 155, 154, 152, 151, 148, 5, 24, 59, 23, 62, 14, 15, 2, 100, 47, 43; thence to survey mark No. 4; thence

joining successively survey mark Nos. 4, 45, 46, 1, 2, 47, 8, 22, 20, 15, 14, 17, 16, 80, 81, 83, 86, 84, 1/5204, 87, 1/5205, 36, 1, 5 and 7; thence with produced line and distance approximately 50 metres to a point on the true left bank of Sungai Semarjang Kanan; thence downstream along the true left bank of Sungai Semariang Kanan to its confluence with Batang Semariang; thence downstream along the true left bank of Batang Semariang and Batang Salak to a point approximately 25 metres northwest of Sungai Labu; thence with bearing approximately $30^{\circ} 00'$ to Tanjung Batu; thence in northerly direction along the sea coast to a point approximately 500 metres northwest of Sungai Pa Lawai; thence with bearing approximately $330^{\circ} 00'$ to Batu Buaya, at Santubong; thence in northerly direction and following the sea coast to a point approximately 500 metres southeast of Gunung Lasak thence with bearing approximately $150^{\circ} 00'$ to the point of commencement.

Provided that in any case in which the boundary of the City of Kuching North passes through any lot then, if:

(a) one half or more of the lot lies within the limits of the City of Kuching North, the whole of that lot shall be deemed to lie within the City of Kuching North; or

(b) less than one half of the lot lies within the City of Kuching North, the whole of that lot shall be deemed to lie outside the City of Kuching North.

(The boundaries of the land described are more particularly delineated on the Land and Survey Department Miscellaneous Plan No. 60371/1, deposited in the office of the Director of Lands and Surveys, Sarawak.)

[Sub. Ord. No. 11/91].

LAWS OF SARAWAK

Chapter 49

CITY OF KUCHING NORTH ORDINANCE, 1988

(Revised—2002)

LIST OF AMENDMENTS

Amending Law	Short Title	In force from
Swk. L.N. 47/88	... Date of Commencement Notification	1.8.1988
Ord. No. 11/91	... City of Kuching and Kuching Rural District Council (Alteration of Boundaries) Order, 1991	1.1.1992
Cap. A85	... City of Kuching North (Amendment) Ordinance, 2001	1.1.2001 (Swk. L.G. 59/2001)

LIST OF LAWS OR PARTS OF THEM SUPERSEDED

No.	Short Title
Ord. No. 3/88	... City of Kuching North Ordinance, 1988



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