

LOCAL GOVERNMENT ORDINANCE 1961

(No. 11 of 1961)

PENAMPANG DISTRICT COUNCIL STANDING ORDERS 2014

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In exercise of the powers conferred by section 22 of the Local Government Ordinance 1961, the Penampang District Council with the approval of the Minister, hereby makes the following standing orders:

Citation

1. These standing orders may be cited as the Penampang District Council Standing Orders 2014.

Interpretation

2. In these Standing Orders, unless the context otherwise requires -

"Chairman" means the person elected or appointed under section 13 of the Ordinance provided that for the purpose of Standing Orders 7, 8, 10, 11 and 12, it shall mean a person actually presiding over the meeting;

"committee" means any committee appointed by the Council under the Ordinance;

"co-opted member" means any Government officer or any person with professional or special qualifications appointed as a member of a committee or chairman of a committee under sections 27 and 28 of the Ordinance;

"Council" means the Penampang District Council;

"Executive Officer" means the Executive Officer appointed by the Council under section 69 of the Ordinance;

"Instrument" means the Penampang District Council Instrument 1961 issued under section 3 of the Ordinance;

"member" means a member of the Council duly elected or appointed in accordance with the provisions of the Instrument;

"Minister" means the Minister charged with the responsibility for local government;

"Ordinance" means the Local Government Ordinance 1961;

"Vice- Chairman" means the person elected under the Instrument.

Chairman of Council meeting

3. In the absence of the Chairman and Vice-Chairman, members shall elect a Chairman from amongst those present and such Chairman shall preside at the meeting for which he has been elected only and shall exercise in relation to the conduct of that meeting only, all the powers and duties assigned to the Chairman.

Ordinary meeting

4. (1) The Council shall hold full Council or ordinary meetings at such places and at such times as it may appoint.

(2) Such meeting shall not be less often than is prescribed in the Instrument.

Special meeting

5. The Chairman may at any time and shall, at the request in writing of not less than one-third of the members stating the object of the meeting of the Council, call a special meeting and the day fixed for such meeting shall be within fourteen days of the presentation of such request. The notice of any special meeting shall specify the object of the meeting, and no other subjects than those specified in such notice shall be discussed at such meeting.

Quorum

6. No business shall be transacted at any meeting of the Council in the absence of the quorum as defined in the Instrument.

Limitation of business

7. Except with the prior consent of the Chairman no question shall be debated or resolution moved which is not concerned with health, order or good government of the District or the performance or execution of any powers or duties vested in or imposed on the Council and which does not come within the duties and functions conferred upon the Council by the Instrument or the Ordinance or any other written law.

Order of business

8. (1) The order of business of every meeting of the Council shall be -
- (i) in the absence of the Chairman and the Vice-Chairman, to elect a person from amongst the members to act as Chairman;
 - (ii) to read, except when minutes have been previously circulated to members, and approve as a correct record of the minutes of the last meeting of the Council. After acceptance or amendment by vote, the Chairman of the meeting shall sign them as a correct record;
 - (iii) to dispose of any matters arising out of the minutes of the previous meeting;
 - (iv) to dispose of any business remaining outstanding from the previous meeting;
 - (v) to receive and consider minutes of committees;
 - (vi) to receive and consider reports from officers of the Council;
 - (vii) to receive addresses or any communications as the Chairman may decide by or from visitors attending such meetings;
 - (viii) new business on the agenda; and
 - (ix) any other business.
- (2) The order of business may be altered at the discretion of the Chairman on the grounds of urgency or dispatch of business.

Agenda

9. Discussion at any meeting of the Council shall be confined to subjects appearing on the agenda of the meeting. All subjects for inclusion in the agenda shall be submitted to the Executive Officer orally or in writing not less than five working days before the time of the

meeting at which they are to be discussed, and the agenda shall be circulated to the members not less than two days before the time of such meeting:

Provided that this Standing Order may be suspended by special motion passed by a majority of the members present and voting to permit the discussion of a matter of urgency.

Notice of motion

10. (1) Notice of any motion having been given orally or in writing to the Executive Officer, under the provisions of Standing Order 9, may be accepted for discussion at the meeting or postponed to a later meeting at the discretion of the Chairman.

(2) The following motions shall require no notice:

- (i) appointment of Chairman for that meeting;
- (ii) motions relating to the accuracy of minutes, closure, adjournment, order of business or next business;
- (iii) reference for committee;
- (iv) that the Council resolves itself into committee;
- (v) adoption of reports and recommendation of committees or officers of the Council and any subsequent resolutions;
- (vi) appointment of members of a committee;
- (vii) amendments to motions;
- (viii) that an item of business specified in the agenda of the meeting be given precedence;
- (ix) excluding the press or public from the meeting;
- (x) motions relating to the closure or adjournment of the meeting;
- (xi) that a member named under Standing Order 23 leaves the meeting and be excluded from the meeting;

- (xii) that a motion, amendment or business of an objectionable nature be not entertained or permitted;
- (xiii) that Standing Order 9 be suspended in accordance with the provision thereto; and
- (xiv) that voting on a particular motion be by secret ballot.

Questions

11. (1) A member of the Council may question the Chairman of a committee on the proceedings of the committee being considered by the Council for that meeting provided it is done before discussion on the proceedings is concluded.
- (2) All other questions shall be put to the Chairman.
- (3) The Chairman of a committee or any member of the committee may refuse to answer a question at that meeting provided that if the Chairman rules that the question is permissible, he or a member of the committee shall answer at the next meeting.
- (4) The decision of the Chairman shall be final on the permissibility of questions.

Rules of debate

12. (1) Every motion or amendment shall be proposed and seconded before discussion commences. All motions and amendments shall be addressed to the Chairman. The Chairman shall decide on order of speaking by members.
- (2) In the event of prolonged discussion on an amendment the Chairman shall decide at what stage it shall be put the vote. The ruling of the Chairman on a point of order or on the admissibility of a motion, amendment or personal explanation shall not be open for discussion.
- (3) Unless the Chairman shall rule otherwise, any member addressing the chair during a debate shall stand.

(4) Whenever the Chairman shall rise during a debate, the member speaking then shall be silent.

(5) When a motion is under debate no other motion shall be moved except for the following:

- (i) to amend the motion;
- (ii) to postpone consideration of the motion;
- (iii) to adjourn the debate;
- (iv) to proceed to the next business;
- (v) that a member be no further heard;
- (vi) that a member do leave the meeting;
- (vii) that the subject of debate be referred back to the committee;
- (viii) to adjourn the meeting; and
- (ix) that the Council resolves itself into committee.

Decision

13. (1) All acts whatsoever authorized or required to be done by the Council and all questions coming or arising before the Council shall be done and decided by a majority of those members of the Council present at the meeting and voting thereon.

(2) In the case of an equality of votes, the person presiding at the meeting shall have a second or casting vote.

Mode of voting

14. (1) The mode of voting at any meeting of the Council shall be by show of hands, and on requisition, of any member of the Council the voting on any question shall be recorded so as to show whether each member present and voting give his vote for or against that question.

(2) The name of any member present but not voting on such requisition shall so be recorded.

(3) The Chairman shall ascertain the number of votes for or against any question and his declaration as to the result of voting shall be conclusive.

(4) The voting on any particular motion may be by secret ballot if the majority of the Council so resolves under Standing Order 10 (2) (xiv) and such ballot shall be conducted by the Executive Officer.

Power to resolve into committee

15. The Council may resolve itself into a committee of the whole Council. A motion that this may be done may be moved without previous notice at any time, and shall have absolute precedence.

Minutes of meeting

16. (1) The Executive Officer of the Council shall record the proceedings of each meeting of the Council in accordance with Section 19 of the Ordinance and shall complete the minutes of any such meeting within one week from the date such meeting was held.

(2) Copies of the minutes shall be sent to each member of the Council and to the Permanent Secretary for the time being charged with the responsibility for local government as soon as the minutes of such meeting are completed.

(3) The minutes shall be recorded in Bahasa Malaysia.

(4) Any act required to be done or performed as recorded in such minutes shall as far as is practicable be done or performed by the authority or persons named therein within two weeks such minutes are completed.

(5) At the next meeting of the Council, the person presiding shall put the question that the minutes as already circulated be taken as read and are correct. No motion or discussion shall take place on the minutes except upon their accuracy. If no such question

is raised, or if raised then as soon as it has been disposed of, the Chairman shall sign the minutes as being correct.

COMMITTEES

Appointment, powers and composition of committees

17. The Council shall appoint the following committees:

(1) Finance Committee

Composition : A Chairman and eight members. The Chairman of the Council shall be the Chairman of the committee.

Quorum : Six

Terms of Reference : (1) To regulate and control the Council's finance and other matters not specifically the concern of other committees.

(2) To prepare estimates (budget).

(3) To authorize expenditure provided in the estimates subject to any directions given by the Council from time to time.

(2) Procurement Committee

Composition : A Chairman and four members. The Chairman of the Council shall be the Chairman of the committee.

Quorum : Three

Terms of Reference : To deliberate all tenders and subsequently to make recommendations based on the existing

policy and rules of the Government.

(3) Public Health Committee

Composition : A Chairman and six members including co-opted members.

Quorum : Four

Terms of Reference : To advise the Council on the exercise of its power under section 5 of the Public Health Ordinance 1960 and to take action on routine matters in connection therewith, subject to any direction given by the full Council.

(4) Town Planning and Building Plans Committee

Composition : Chairman of the Council as Chairman and eight members including co-opted members.

Quorum : Six

Terms of Reference : (1) To advise Council pertaining to town planning.

(2) To approve or reject development plans, building plans and sub-division of land subject to any specific or general directives issued by the Council from time to time.

(3) To advise the Council on building policies.

(4) To enforce action under any building by-laws.

(5) To approve or reject building plans for renovation subject to any directives issued

by the Council from time to time.

(5) Traffic Circulation Committee

Composition : A Chairman and four members including co-opted members.

Quorum : Three

Terms of Reference : To advise the Council on the control and improvement of traffic circulation in the town area.

(6) Licensing Committee

Composition : Chairman of the Council as Chairman and six members including co-opted members.

Quorum : Four

Terms of Reference : To advise the Council on the exercise of its powers under paragraphs (46), (47), (48) and (49) of section 49 (1) of the Ordinance and under the provisions of the Instrument or any by-laws of the Council in relation to the issue of licences.

(7) Town Beautification and Cleanliness Committee

Composition : A Chairman and four members.

Quorum : Three

Terms of Reference : To advise the Council on matters concerning beautification of the town by planting, landscaping and improving appearances of public grounds and along thorough fares; provision and maintenance of gardens, parks,

open spaces in housing estates and control and regulation of advertisement hoarding and general cleanliness of the town areas.

(8) Law Committee

Composition : A Chairman and five members including co-opted members.

Quorum : Four

Terms of Reference : To advise the Council on the amendment, revision and updating of existing by-laws whenever necessary.

(9) Squatter Committee

Composition : A Chairman and five members.

Quorum : Four

Terms of Reference : To advise the Council on the control and resettlement of local squatters.

(10) Enforcement Committee

Composition : A Chairman and five members including co-opted members.

Quorum : Four

Terms of Reference : To advise the Council on the enforcement of all by-laws, regulations and policies of the Council.

(11) Steering Committee

Composition : A Chairman and four members inclusive co-

opted members.

Quorum : Three

Terms of Reference : To advise the Council on investment and assets subject to the direction of the Minister from time to time.

(12) Tourism Committee

Composition : A Chairman of Council shall be the Chairman and six members.

Quorum : Four

Terms of Reference : To be responsible for planning and implementing tourism development in the district.

(13) Divisional Committee

Composition : A Chairman and ten members including co-opted members.

Quorum : Six

Terms of Reference : To advise the Council on the exercise of its power under section 28 of the Ordinance and to take necessary action on routine matters in connection therewith, subject to any direction given by the Council

(14) Rating Appeals Tribunal

Composition : A President and four members including co-opted members.

Quorum : Three

Terms of Reference : To exercise the functions under section 79 of the Ordinance.

Membership of committees

18. Subject to the provisions of the Ordinance -
- (a) No person who is not a member of the Council but has been co-opted as an additional member shall be appointed to the Finance Committee and Staff and Disciplinary Committee.
 - (b) The Council may originally appoint or subsequently co-opt persons who are not members of the Council as members of any other committee provided that they qualify under sections 10 and 10A of the Ordinance. However, this member should not exceed one third of the membership of the committee, except in the case of the Divisional Committee, where only one member of the committee must be a member of the Council.
 - (c) The Divisional Committee itself may, if given power to do so by the Council, co-opt additional members who are not members of the Council.
 - (d) Both originally appointed and subsequently co-opted members, whether members of the Council or not, shall have the right to vote at meetings of the committee.
 - (e) The Chairman of the Council may appoint the sub-committee Chairman and committee members including co-opted members.

Proceedings in committee to be confidential

19. A member of a committee (including the Council in committee) shall not disclose a matter dealt with, by or brought before the committee until the committee gives its permission or has otherwise concluded its action on that matter.

Application of Standing Orders to committee proceedings

20. These Standing Orders shall, so far as applicable and with the necessary modifications extend to the proceedings, motions and amendments and need not be seconded, and members may speak more than once on the same questions.

GENERAL PROVISIONS

Admission of the public to meetings

21. Every meeting of the Council and of a Divisional Committee shall be open to the public and the press, except meetings of all committees or a committee of the whole Council or to any sub-committees of the Council.

Private interest of members in contract and other matters

22. Any members who have interest in any contract or other concern of the Council shall be governed by the provisions under section 23 of the Ordinance.

Disorderly conduct of members

23. (1) If any member during any meeting -

- (i) persistently disregards the ruling of the Chairman;
- (ii) behaves irregularly, improperly or offensively; or
- (iii) wilfully obstructs the business of the Council; then

the Chairman or any member may move that such member named -

- (i) be no further heard; or
- (ii) do leave the meeting,

and on being seconded it shall be put to the vote without further discussion.

Approval of plans

24. Consideration of all plans which, by virtue of the provisions of any building by-laws applicable to the Council, require passing or rejection by the Council shall stand referred without motion or debate to the Town Planning and Building Plans Committee, and it shall be the duty of that committee to consider them accordingly and to meet so often as to ensure exercising the said power within the period prescribed by law.

Restrictions on publication of certain matters

25. (1) No matter discussed by the Council in committee shall be made public in any manner except with the approval of the Chairman.

(2) Reports of committees are classified as restricted until they have been laid before the Council at a public meeting.

(3) Memorandum marked "RESTRICTED" are not for publication without the approval of the Chairman or until after they have been discussed at public meeting.

Standing Orders

26. (1) Any of these Standing Orders may be suspended so far as regards any business of the Council or of any committee at the meeting where its suspension is moved, but shall not be suspended unless there are present at least two-third of the whole numbers of members of the Council or committee.

(2) A printed copy of these Standing Orders shall be given to each member of the Council by the Executive Officer of the Council upon delivery to him of the member's declaration of acceptance of office as Councillor.

(3) In any dispute arising from the interpretation of these Standing Orders the decision of the Chairman shall be final.

Variation and revocation of Standing Orders

27. Any motion to vary or revoke the Standing Orders shall, when proposed and seconded stand adjourned without further discussion to the next ordinary meeting of the Council.

Council papers

28. Any member of the Council may have access to the Council's files on application to the Executive Officer in person; provided that it is understood that the member concerned is under an obligation not to pass on the non-members of the Council any matter contained in those files.

Custody and use of Council's seal

29. The seal of the Council shall remain in the safe custody of the Executive Officer and shall not be affixed to any document without the authority of the Chairman.

Allowances to members

30. (1) Attendance allowance shall be payable to members of the Council in respect of attendance at meetings of the Council or of the sub-committees of the Council of which they are members or discharging duties on the Council's behalf as follows:

- (i) RM100.00 per day or part of a day spent in attending the Council's meeting; and
- (ii) where a member attends a scheduled meeting but was postponed for any valid reason, such member shall only be entitled to half of the rate.

(2) Transport allowance shall be payable to members of the Council in respect of attendance of meetings of the Council or of the sub-committee meeting of the Council of which they are members or in respect of business carried out on the instructions of the Council as follows:

- (i) transport allowance (for member using their own transport), RM0.55 per kilometre for motor car and RM0.20 per kilometre for motor cycle;
- (ii) transport allowance (for members using motorboat/outboard of their own), 0.50 per kilometre; and
- (iii) if a member uses public transport or chartered transport, the amount involved for transport from the member's residence to the venue of the meeting or official duties (through shortest route and cheapest means of transport) is payable to a member.

(3) For lodging allowance if accommodation is not arranged and paid by the Council can be claimed by the members if they cannot return home before or after the Council's or committee's meeting or discharging special duties on the Council's behalf, and the payment for hotel shall be supported with receipt as follows:

- (a) Sarawak and Sabah
 - (i) maximum amount of payment for hotel - RM170.00 per night
 - (ii) lodging allowance - RM60.00 per night
- (b) West Malaysia
 - (i) maximum amount of payment for hotel - RM160.00 per night
 - (ii) lodging allowance - RM55.00 per night
- (c) Singapore and Brunei
 - (i) maximum amount of payment for hotel - RM60.00 per night
 - (ii) lodging allowance - RM30.00 per night

Council Chairman allowances

31. The Council may by resolution, with the approval of the Minister, pay a monthly Chairman allowance of five hundred ringgit to the Chairman of the Council.

Expenditure under expenditure head "Entertainment"

32. (1) The sums vested under the Expenditure Head "Entertainment" shall only be used with reasonable economic means for the entertainment of official visitors to the Council.

(2) For the purpose of these Standing Orders, "official visitor" means -

- (i) any person invited by the Council to visit it;
- (ii) any person visiting the Council at the request of the State Government;
- (iii) any person, including members of the press, having official business with the Council or with its Chairman; or
- (iv) any other person whom the Council or its Finance Committee by prior resolution decides to treat as an official visitor.

(3) So far as possible any expenditure, from this head should receive the prior approval of the Finance Committee of the Council either at its meeting or as circulated business.

(4) Actual expenditure, when known shall be in all cases be submitted to the Finance Committee of the Council for information and approval.

Refreshment

33. The Council may by resolution authorize the provisions of light refreshments at meetings of the Council.

Members not to issue orders

34. No member of the Council unless authorized to do so by the Council or the Permanent Secretary for the time being charged with the responsibility for matters relating to local government shall issue any verbal or written order respecting any administrative work which being carried out by or on behalf of the Council.

Prevalence of Ordinance, etc.

35. In the event of any conflict between these Standing Orders and the provisions of the Ordinance or the Instrument or any By-laws made thereunder, the latter shall prevail.

Revocation and savings

36. (1) The Penampang District Council Standing Orders (the "revoked Standing Orders") is revoked.

(2) Any order, approval, direction, decision or notification made, given or done under the revoked Standing Orders shall be deemed to have been made, given or done under these Standing Orders and shall continue to remain in full force and effect until amended or revoked under these Standing Orders.