



LAWS OF SARAWAK

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Chapter 3

PUBLIC PARKS AND GREENS ORDINANCE, 1993

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LAWS OF SARAWAK

Chapter 3

PUBLIC PARKS AND GREENS ORDINANCE, 1993

An Ordinance to provide for the preservation and protection of greens in special areas, the creation of more green areas and open spaces; the control and management of public parks and special areas, and for purposes connected therewith and incidental thereto.

**[1st July, 1993]
(Swk. L.N. 34/93)*

Enacted by the Legislature of Sarawak—

Short title and commencement

1. This Ordinance may be cited as the Public Parks and Greens Ordinance, 1993, and shall come into force on such date as the Minister may, by notification in the **Gazette*, appoint.

Interpretation

2.—(1) In this Ordinance—

“approved plan and conditions” means the plan and conditions relating to any sub-division or development of land approved under Part X of the Land Code [*Cap. 81 (1958 Ed.)*];

[Sub. Cap. A107.]

“Board” means the Natural Resources and Environment Board established under section 3 of the Natural Resources and Environment Ordinance [*Cap. 84 (1958 Ed.)*];

[Sub. Cap. A107.]

“greens” means trees, plants, shrubs, palms, bamboo, bushes, saplings, stumps, grass, leaves, roots, flowers, fruits, tubers, bulbs, corms, stocks, cuttings, layers, slips, suckers, seeds and any part of a plant and includes any garden or ornamental or other ground or land which may from time to time be acquired or appropriated for any experimental plantation or for cultivation of

greens for the beautification, improvement or enhancement of any special area;

[Am. Cap. A107.]

“local authority” means any local authority named in the First Schedule to the Local Authorities Ordinance, 1996 [**Cap. 20**];

[Sub. Cap. A107.]

“management agency” means the agency appointed under section 3(3) to manage, maintain, administer or exercise control over any special area;

[Ins. Cap. A107.]

“occupier”, in relation to land, means any person in actual occupation of the land, and includes the owner or lessee of the land and any other person in receipt of the rents or profits thereof, and any agent or trustee of an occupier of the land;

“open space” means any land, whether inclosed or not, and whether or not there are buildings thereon, and the whole of which is laid out as a garden or is used for purposes of a park or recreation or pleasure ground or such other purposes as are specified on the approved plan and conditions, or lies waste and unoccupied;

[Am. Cap. A107.]

“public park” includes all parks (other than National Parks and Nature Reserves constituted under the National Parks and Nature Reserves Ordinance, 1998 [**Cap. 27**], gardens, recreational grounds, open spaces, esplanades or other land or areas (including any marine, estuarine or foreshore areas) which has been designated for public use or enjoyment and which are maintained by or placed under the control or management of a local authority or a management agency;

[Sub. Cap. A107.]

“public place” means any public place as defined in section 3 of the Interpretation Ordinance, 2005 [**Cap. 61**], which has become vested in the local authority;

“public road” means any road or street over which the public has a right of way which has been transferred to or has become vested in the local authority;

“special area” means the area of land designated under section 3 to be a special area for the purposes of this Ordinance;

“State Planning Authority” means the State Planning Authority established under section 228 of the Land Code [*Cap. 81 (1958 Ed.)*];

[*Am. Cap. A107.*]

“tree” includes all tree species and plants;

“vacant land” means any land which has not been developed for residential, commercial or industrial purposes, and includes any land on which any building or structure has been erected in contravention of any written law.

(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 of a member thereof acting under the general authority of the Majlis.

Power of Chief Minister to declare any area to be a special area

3.—(1) Where any area of land (whether alienated or unalienated) is, in the opinion of the Chief Minister, of special interest by reason of its greens or that it should be preserved or protected in the public interest, the Chief Minister may, by notification in the *Gazette*, declare such area of land to be a special area for the purposes of this Ordinance:

[*Am. Cap. A107.*]

Provided that the following areas shall not be declared to be a special area for the purposes of this Ordinance:

(a) traditional burial grounds and shrines; or

(b) any place, building, site or structure that has been declared a historical monument or a historical site under the Sarawak Cultural Heritage Ordinance, 1993 [*Cap. 6*].

(2) Upon an area being declared to be a special area, notwithstanding the provisions of any other written law, the land forming such area shall not be alienated, transferred or disposed of or used for any purpose other than as a special area, unless an authorization is obtained by a resolution passed by the Dewan Undangan Negeri.

(3) (a) The Chief Minister may, at the time of making the notification under subsection (1) or at any time thereafter, by notification published in the *Gazette*, designate a management agency to manage, maintain, administer or exercise control over any special area.

(b) In the absence of any notification made under paragraph (a), the local authority having jurisdiction over the special area, shall maintain, manage and exercise control over the special area in accordance with the provisions of sections 5 and 6.

[Sub. Cap. A107.]

(4) Notwithstanding any written law or the terms of any lease, in any case where any alienated land has been declared to be a special area, such land may be acquired by compulsory acquisition in accordance with the provisions of Part IV of the Land Code [*Cap. 81 (1958 Ed.)*].

[Am. Cap. A107.]

(5) The purpose for which land is acquired pursuant to the provisions of this section shall be deemed to be a public purpose under the Land Code.

(6) The expenses and compensation in respect of any land acquired pursuant to the provisions of this section shall be paid out of the State Consolidated Fund.

[Am. Cap. A107.]

Functions and powers of a management agency

4. A management agency for any special area appointed under section 3(3) shall exercise the following functions and powers in relation to the special area:

(a) control and supervision over the special area and be responsible for the proper maintenance, conservation and protection of greens therein;

(b) subject to the direction of the State Planning Authority, to build, establish or provide any facilities within the special area;

(c) prohibit, restrict and regulate any activities in the special area and regulating persons entering, using or carrying on activities within the special area;

(d) prevent the destruction or damage to any greens within the special area or the breaking up of open spaces therein; and

(e) not to allow the special area to be used in a manner that is inconsistent with the objectives of a special area declared under this Ordinance.

[Sub. Cap. A107.]

Administration and management of public parks and greens in special areas

5. Subject to this Ordinance and to any directions which may be given by the State Planning Authority under section 6(1), it shall be the duty and function of a local authority to administer, manage and maintain public parks and greens in any special areas situated within its area of jurisdiction.

[Am. Cap. A107.]

Duties of a local authority

6.—(1) It shall be the duty of the local authority subject to any direction that may be given by the State Planning Authority—

[Am. Cap. A107.]

(a) to exercise general supervision over special areas situated within its area of jurisdiction;

(b) to develop, manage and beautify such special areas;

(c) to stimulate public interest in the conservation and protection of greens;

(d) to encourage the use and development of public parks for the purposes of recreation and tourism;

(e) to preserve and protect the greens in public parks;

(f) to preserve and maintain buildings and sites of historic or cultural significance within a special area but without prejudice to the Sarawak Cultural Heritage Ordinance, 1993 [*Cap. 6*];

(g) to provide facilities and services for public enjoyment of special areas;

(h) to make plans and recommendations concerning the development, protection and regulation of public parks within a special area, and the preservation and protection of greens in the State;

(i) to submit proposals to the Board on the steps to be taken on the development and implementation of policies for or affecting special areas; or

(j) to carry out such other duties as the Board may direct.

(2) The State Planning Authority may by Order delegate the responsibility to give direction under subsection (1) and section 7 to the Minister for the time being having responsibility for local authorities.

[Ins. Cap. A107.]

Public parks

7. The local authority may, subject to any direction from the State Planning Authority, in respect of any public park within a special area, undertake to develop and to provide facilities and services for public enjoyment within the public park, and may—

[Am. Cap. A107.]

(a) erect thereon any aquarium, pavilion, recreation room, public conveniences, outhouse or other building, and charge for admission thereto;

(b) provide entertainment or any amenity thereof or therein;

(c) set apart any part of such land for the purpose of any game or recreation and exclude the public from the part set apart while it is in actual use for that purpose;

(d) provide any apparatus for games and recreation and facilities for swimming and boating, and charge for the use thereof;

(e) place, or authorize any person to place, chairs or seats on such land, and charge for the use thereof;

(f) provide and maintain refreshment stalls, foodstalls and restaurants on any such land and either manage them itself or, if it deems fit, let them to any person on such conditions as it may determine;

(g) plant greens in or about the public park; and

(h) inclose the public park or keep it inclosed with proper railings and gates, and may drain, level, lay out, turf, ornament, light and otherwise improve it, and do all such works and things as may be requisite for the purposes aforesaid.

State Planning Authority may prohibit the cutting, topping, lopping or destruction of trees in any special area

8.—(1) If it appears to the State Planning Authority that it is expedient in the interest of amenity to make provision for the preservation of any tree, trees or group of trees in any special area, the State Planning Authority may for that purpose make an order prohibiting the cutting down, topping, lopping or wilful destruction of such tree, trees or group of trees, except with the written permission of the State Planning Authority.

[Am. Cap. A107.]

(2) Any person who acts in contravention of an order made under subsection (1) shall be guilty of an offence: Penalty, a fine of two thousand ringgit and imprisonment for one year.

Power of Chief Minister to give directions

9.—(1) The Chief Minister may give such directions as he thinks fit, either generally or in any particular case, with respect to the exercise or performance by the management agency or a local authority of any powers, functions or duties under this Ordinance.

(2) The management agency and every local authority shall, in the exercise or performance of any powers, functions or duties under this Ordinance, comply with or give effect to any directions given by the Chief Minister under subsection (1).

[Am. Cap. A107.]

Grants in aid

10. Grants in aid may be made from the Consolidated Fund of the State to local authorities in the execution of their duties and functions under this Ordinance and in respect of the maintenance of public parks within a special area and the conservation and protection of greens therein.

Additional powers of Director of Lands and Surveys in relation to sub-division

11.—(1) Notwithstanding section 232(1)(a) and (2) of the Land Code [*Cap. 81 (1958 Ed.)*], the State Planning Authority may before approving any sub-division or development plan submitted under section 231 of the Land Code [*Cap. 81 (1958 Ed.)*]—

[Am. Cap. A107.]

(a) impose conditions for the preservation or planting of greens and the making up of open spaces for such purposes as may be specified by the State Planning Authority; and

(b) require the applicant to deposit with a local authority such sum of money as the Director of Lands and Surveys may determine to ensure that—

(i) the conditions for the preservation or planting of greens will be complied with in accordance with the approved plan and specification; and

(ii) the open spaces are made up according to the approved plan and specification.

(2) The amount determined by the Director of Lands and Surveys under subsection (1)(b) shall be deposited with the local authority before the commencement of any work for the construction of the new buildings in accordance with the approved plan and specification. Such a deposit shall not be refunded except in accordance with section 14 or 15, and shall bear no interest.

(3) Any person who is dissatisfied with the decision of the Director of Lands and Surveys under subsection (1)(b) may, within fourteen (14) days of the date of notification of the decision of the Director of Lands and Surveys, appeal in writing to the State Planning Authority whose decision shall be conclusive and final.

[Am. Cap. A107.]

Land set aside as open space to be vested in the Board or the local authority

12. Any area of land which has been set aside on the approved plan and specification as an open space for the purpose of a public park or a public recreation ground or for such other purposes as may be specified in the approved plan and specification shall, upon the owner being granted a new title to his land in pursuance of sections 229(1)(b) and 232(2) of the Land Code [*Cap. 81 (1958 Ed.)*], be vested in the Board where the land is within a special area, and in other cases in the local authority possessing jurisdiction over that area of land, on the condition that the land shall be appropriated to the purposes as indicated on the approved plan and specification.

[Am. Cap. A107.]

Local authority may cause greens to be properly planted, etc.

13.—(1) If—

(a) greens are not planted in accordance with the approved plan and conditions; or

(b) the open spaces are not made up in accordance with the approved plan and conditions,

to the satisfaction of the State Planning Authority in any case where a deposit has been made under section 11, the local authority may, upon direction from the State Planning Authority and, after the service of a notice on the person who made the deposit cause the greens to be planted, or execute or cause works to be carried out to ensure that the open spaces are made up, in accordance with the approved plan and conditions.

[Am. Cap. A107.]

(2) The cost of any works to be carried out by the local authority under subsection (1) shall be recovered from the deposit made under section 11.

Refund of deposit on completion of works

14.—(1) If—

- (a) greens have been planted; or
- (b) the open spaces have been made up and vested in a local authority,

in accordance with the approved plan and condition to the satisfaction of the State Planning Authority or local authorities, as the case may be; where a deposit has been made under section 11, the local authority may, upon an application being made by the person who made the deposit, refund the whole or part of the deposit to the depositor.

[Am. Cap. A107.]

(2) The local authority may retain the deposit or part thereof if it is of the opinion that—

- (a) greens have not been properly planted; or
- (b) the open spaces have not been properly made up, in accordance with the approved plan and condition; or
- (c) the deposit is required for a period of maintenance, which period shall not exceed twelve (12) months from the date of completion of the works described in the approved plan and condition.

[Am. Cap. A107.]

Refund of deposit when building works are not commenced

15. Any person who has made a deposit under section 11, and who subsequently does not proceed with the construction of the buildings on the cancellation of the approval of the building plan granted by a local authority, may notify the Director of Lands and Surveys who may in his discretion direct the local authority to refund the deposit or such part thereof as the Director of Lands and Surveys may determine.

Conduct of prosecution

15A. Prosecution of any offence under this Ordinance or its rules may be conducted by the Public Prosecutor or any person authorized by him under section 377(b) of the Criminal Procedure Code [*Act 593*].

Investigation of offences

15B. Any person duly authorized by the State Planning Authority or a local authority (to be referred to in sections 16, 17 and 18 as a “duly authorized officer”) may investigate any offence under this Ordinance or its rules.

[Added Cap. A107.]

Power to compound

16.—(1) A duly authorized officer may compound any offence committed under this Ordinance or any rules made thereunder by accepting a sum not exceeding five hundred ringgit from the person who is reasonably suspected of having committed the offence.

[Am. Cap. A107.]

(2) On payment of such sum of money, no further proceedings shall be taken against that person in respect of that offence.

Local authority officer required to produce identification card

17.—(1) Any duly authorized officer who seeks to exercise any of the powers conferred upon a local authority by this Ordinance shall declare his office and produce such identification card as may be issued to him by the local authority.

[Am. Cap. A107.]

(2) It shall not be an offence for any person to refuse to comply with any request, demand or order made by any such officer acting or purporting to act under this Ordinance if the officer refuses to declare his office and to produce his identification card, on demand being made therefor by that person.

Power of arrest, etc.

18.—(1) A person who is reasonably suspected by any police officer or any duly authorized officer of having committed an offence under this Ordinance or any rules made thereunder shall give his name and address to the police officer or any duly authorized officer, if so required.

[Am. Cap. A107.]

(2) Any police officer or any duly authorized officer may within a public park or special area arrest any person committing in his view or who he has reasonable cause to believe has committed an offence under this Ordinance or any rules made thereunder—

- (a) if the name and address of the person are unknown to him;
- (b) if the person declines to give his name and address; or
- (c) if there is reason to doubt the accuracy of the name and address, if given.

(3) A person arrested under this section may be detained until his name and address are correctly ascertained:

Provided that no person so arrested shall be detained longer than is necessary for bringing him before a court unless the order of a court for his detention is obtained.

Enforcement order relating to erection of building and activities carried out unlawfully in special areas

19.—(1) Where in any special area—

- (a) any building or structure has been constructed or erected or being constructed or erected or has not been completed therein; or

(b) any activities other than those prescribed under section 3(2) are being carried out therein,

without the approval of the State Planning Authority or where it appears to have caused or lead to the destruction of greens or whenever the use thereof is not in conformity with the approved plan and specification, the State Planning Authority may make an order directing the local authority or the person responsible for the construction or erection of the building or structure or the person responsible for carrying out the activity, as the case may be, to take such steps as may be prescribed in the order and to execute the enforcement of the order including the demolition of any building or structure constructed or erected thereon within the time and in the manner prescribed in the order.

[Am. Cap. A107.]

(2) Any person who without lawful excuse, contravenes or fails to comply with an order issued under subsection (1) shall be guilty of an offence: Penalty, a fine of ten thousand ringgit and imprisonment for three years.

Protection from liability for *bona fide* acts

20. No action shall lie against the State Planning Authority or a management agency or a local authority or any person acting under the direction of the State Planning Authority or a management agency or a local authority in respect of any matter or thing done *bona fide* for the purposes of carrying out the provisions of this Ordinance.

[Am. Cap. A107.]

Rules

21. The Yang di-Pertua Negeri may make rules generally for carrying out of the provisions of this Ordinance and, in particular, such rules may provide for any of the following purposes:

(a) the management and control of public parks within special areas;

(b) the preservation and protection of greens and other property in a public place or park or a special area;

(c) regulating and prescribing standards for the planting, aeration and maintenance of greens in the State;

(d) prohibiting or restricting the entry of persons, vehicles and animals into, or movement within a special area;

(e) preservation of good order and prevention of abuses and nuisances in any public park;

(f) prescribing the fees or charges payable in connection with the admission into a public park within a special area;

(g) prescribing the days and times of admission into a public park within a special area or any part thereof;

(h) the seizure and disposal of any vehicle, animal or other article or thing in respect of which any rules made under this section is contravened;

(i) prescribing that any act or omission in contravention of the provisions of any rules made under this Ordinance shall be an offence and prescribing penalties for such offences, which penalties shall not exceed a fine of two thousand ringgit and imprisonment for one year;

(j) declaring what portion of land in a public park in a special area shall be required as nurseries, offices or for other purposes, and not accessible to the public except by special permission;

(k) prohibiting any interference with or damage to or the destruction of trees, plants, fruits, flowers, gates, fences or other things in a public place or park or a special area;

(l) prohibiting the depositing of rubbish and the leaving of litter in a public park;

(m) all matters or things which are necessary or expedient to be prescribed for giving effect to this Ordinance.

LAWS OF SARAWAK**Chapter 3****PUBLIC PARKS AND GREENS ORDINANCE, 1993**

LIST OF AMENDMENTS

Amending law	Short title	In force from
Swk. L.N 34/93	Date of Commencement Notification of the Ordinance	1.7.1993
Cap. A107	Public Parks and Greens (Amendment) Ordinance, 2003	1.1.2004