

Guangzhou Municipal Measures on Public Participation in Formulating Rules

(Adopted by the Guangzhou Municipal Government Standing Committee on June 27, 2006, effective January 1, 2007)

Chapter I General Principles

Article 1. (Purpose) These Measures are formulated in order to promote and standardize the work of public participation in the course of formulating rules and ensure that the formulation of rules is scientific, democratic and lawful, in accordance with the provisions of such laws and regulations as the Legislation Law of the People's Republic of China and the Regulations [of the State Council] on Procedures for Formulating Rules, and taking into account the actual circumstances of this Municipality.

Article 2. (Definitions) The term “public” as used in these Measures means natural persons, legal persons and other organizations.

The term “public participation” as used in these Measures means the activities of the public participating in such phases as the establishment, drafting, review and implementation of rules and submitting opinions, and of administrative agencies, which decide whether to adopt such opinions and promptly provide feedback.

Article 3. (Applicable Scope) These Measures shall apply to the work of formulating rules in this Municipality.

Article 4. (Requirements for the Opinions Raised by the Public). When the public states their opinions, they should observe the country's laws, regulations and policies, may not violate good customs and may not maliciously attack the country, the government, organizations or individuals.

Article 5. (Principles of Public Participation) Public participation shall carry out the principles of openness, equality, inclusiveness [广泛] and convenience.

Article 6. (Exceptions to the Principle of Openness) The opinions raised in the course of public participation should be made public, except for the following opinions:

- (1) Opinions involving state secrets, commercial secrets or personal privacy;
- (2) Opinions that violate the norms of morality;
- (3) Where the public, at the time of submitting opinions, requests the administrative agency not to make the opinions public;

- (4) Opinions that the administrative agency has reasonable grounds to believe are not suitable to be made public.

Article 7. (Implementing Departments) The municipal government legislative affairs office is responsible for organizing and implementing public participation in the work of formulating rules.

The rule drafting departments are responsible for the relevant public participation work during the course of formulating rules according to these Measures.

Article 8. (Guarantee of Costs) The necessary costs of the municipal government legislative affairs office and the rule drafting departments to organize the work of public participation in the course of formulating rules shall be guaranteed by the municipal finances.

Article 9. (Encouragement Measures) The municipal government guarantees in accordance with law the right of the public to participate in legislation. When the public actively participates in the work of formulating rules, and their opinions are accepted, the municipal government legislative affairs office shall issue honorary certificates or give commendations.

Chapter II Public Participation in Rule Establishment

Article 10. (Right to Propose Rules) The public may submit opinions on the formulation, revision or repeal of rules to the municipal government legislative affairs office by such written means as letter, fax or e-mail. The opinions should include the name of the rule, the reason for formulation, revision or repeal, the feasibility and necessity for the action, and the major issues that must be resolved and methods to be adopted.

The municipal government legislative affairs office should publish on its website relevant information such as the mailing address, fax number and e-mail address for receiving opinions.

Article 11. (Handling Opinions on the Formulation of Rules) The municipal government legislative affairs office should consider the public's opinions for the formulation, revision or repeal of rules or refer them to the relevant departments for research. The relevant departments should, within 30 days of receiving the opinions from the municipal government legislative affairs office, respond to the municipal government legislative affairs office with their views on how to handle the opinions. The municipal government legislative affairs office should accept the feasible opinions when drawing up the proposed rulemaking agenda.

The municipal government legislative affairs office should, within 45 days of receiving the public's opinions or within 15 days of receiving the response to the

opinions of the relevant departments, make public the handling of the opinions on the municipal government legislative affairs office website.

The municipal government legislative affairs office should publish the opinions submitted by the public on the municipal government legislative affairs office website within five business days of receiving them.

Article 12. (Soliciting Opinions on the Rulemaking Work Agenda) The municipal government legislative affairs office should solicit the public's opinions on the proposed municipal government annual rulemaking work agenda, prior to submitting it to the municipal government standing committee or the plenary session for discussion, by such means as posting it on the municipal government website and the municipal government legislative affairs office website.

When soliciting the public's opinions on the annual rulemaking work agenda, it should at the same time make public the following information:

- (1) The name, drafting department, major contents, drafting basis, necessity and feasibility of the rule;
- (2) The time period within which opinions are being solicited;
- (3) The channels for the public to submit opinions;
- (4) Other issues that require explanation.

The time period for soliciting the public's opinions on the annual rulemaking work agenda proposed by the municipal government legislative affairs office may not be less than 15 days.

Article 13. (Handling of Opinions on the Rulemaking Work Agenda) If the public submits opinions relating to the contents of paragraph 2, item (1) of Article 12, they should do so in writing and explain the reasons therefor.

If the public submits opinions to increase or reduce items in the annual rulemaking work agenda, they should sign their names and explain the reasons therefor.

The municipal government legislative affairs office should make public the opinions submitted by the public within five business days of receiving them on the municipal government legislative affairs office website.

The municipal government legislative affairs office should earnestly consider and "demonstrate" [论证] the opinions submitted by the public. If it believes the draft truly needs to be revised, it should revise the proposed annual rulemaking work agenda.

Article 14. (Publication and Feedback on the Rulemaking Work Agenda) The municipal government legislative affairs office should publish the annual rulemaking work agenda within 20 days of its formal discussion and adoption by the municipal government standing committee or the plenary session on the municipal government

website and the municipal government legislative affairs office website, and make a unified response to the public opinions, providing at the same time an explanation of the reasons why certain opinions were not accepted.

If in the course of implementing the annual rulemaking work agenda, the municipal government makes some adjustments to it, the municipal government legislative affairs office should publish it and explain the reason for the adjustment on the municipal government legislative affairs office website.

Chapter III Public Participation in Rule Drafting

Article 15. (Rule Drafting Departments to Issue a Notice of Soliciting Opinions)

For rules that have been entered into the annual rulemaking work agenda, the rule drafting departments should, prior to submitting a Draft Rule for Examination to the municipal government legislative affairs office for examination, issue a notice to society and solicit the public's opinions [on the draft rule].

The notice should include the following:

- (1) Background materials on the drafting of the rule and the purpose, necessity and feasibility of formulating the rule;
- (2) An explanation of the possible influence of formulating the rule on relevant personnel or groups;
- (3) The time period for soliciting opinions;
- (4) The channels for the public to submit opinions;
- (5) The full text of a Draft for Soliciting Opinions or the channels through which the public can obtain the Draft for Soliciting Opinions;
- (6) The contact department;
- (7) The mailing address and contact telephone number, fax and e-mail address.

Article 16. (Manner of Issuing Notices) When rule drafting departments issue a notice in accordance with Article 15 of these Measures, they should at the same time use the following methods of making it public:

- (1) Publish on the website of the rule drafting department;
- (2) Publish the full text or a summary in media with a definite influence within the administrative area of this Municipality;
- (3) Establish a link on the website of the municipal government or of the municipal legislative affairs office.

The time period for soliciting the public's opinions by rule drafting departments may not be less than 30 days.

Article 17. (Making Public the Public's Opinions) The rule drafting departments should make public on their website the opinions submitted by the public within five business days of receiving them.

Article 18. (Forms of Soliciting the Public's Opinions) After the rule drafting departments have issued the notice, they should solicit the public's opinions by means of workshops [座谈会] and may also, in accordance with the scope of impact of the proposed rule, distinguishing among different impacts, the degree of impact, etc., use such forms as open meetings to listen to opinions, hearings and expert "demonstration" meetings [论证会] to broadly solicit the public's opinions.

If the rule affects an area in which there are business associations, intermediary entities or other social organizations, the rule drafting department may entrust them to organize meetings to listen to opinions.

Article 19. (Workshops) Workshops refer to where the rule drafting departments, based on the major issues that need to be resolved, the major methods that are to be adopted and the major systems proposed to be established, convene meetings to listen to opinions in which representatives of the public participate.

The rule drafting department should, five business days in advance of convening a workshop, publish in a notice to society the time, place and major topics of the meeting and at the same time notify the municipal legislative affairs office. The municipal legislative affairs office should send relevant personnel to participate.

The rule drafting department should produce a workshop meeting record based on the on-the-spot record of the meeting within five business days after the workshop was convened, and make it public to society on the rule drafting department's website.

Article 20. (Open Meetings to Listen to Opinions) Open meetings to listen to opinions [开放式听取意见] refers to the method where rule drafting departments openly listen to the public's opinions, within a specified period at a specified place.

When the rule drafting department decides to adopt the method of open meetings to listen to opinions, it should, five business days prior to holding the open meeting to listen to opinions, publish to society the time, place and other relevant matters.

The public may, within the time limits and at the designated place, state their own opinions in written or oral form. The staff of the rule drafting department should record for the record the opinions raised orally and have them signed in confirmation by the person who raised them.

The rule drafting department should, within five business days after the open meeting to listen to opinions concludes, make the public's opinions public to society on the rule drafting department's website.

Article 21. (Hearings) Hearings refer to the procedure where the rule drafting departments organize representatives of the public and listen to opinions by means of argumentation [申辯] and questioning witnesses about issues relating to the major interests of the public. Hearings shall be organized in accordance with the following procedures:

(1) The hearing should be open and the rule drafting department should, 30 days in advance of holding the hearing, give notice of the time, place, contents of the hearing and measures for registration to participate.

(2) The rule drafting department should comprehensively consider such factors as the region, profession, expertise, ability to express themselves, and the degree of impact of the rule to reasonably select the hearing representatives from those who have registered for the hearing.

(3) The relevant agencies, organizations and citizens participating in the hearing shall have the right to ask questions and express their opinions about the draft rule.

(4) There should be a written record of the hearing that accurately records the main points and reasons of those who speak.

The rule drafting departments should, within five business days after the hearing is concluded, make the written record of the hearing public to society on the rule drafting department's website.

Article 22. (Expert Demonstration Meetings) Expert demonstration meetings refer to meetings in which the rule drafting departments organize relevant experts to “demonstrate” [论证] the specialized technical issues in the draft rule about which differences of opinion exist.

The rule drafting departments should, within five business days after the expert demonstration meeting is concluded, make a written report of the results of the “demonstration” and, after the report has been signed in confirmation by the personnel who took part in the expert demonstration meeting, make it public to society on the rule drafting department's website.

Article 23. (Handling the Public's Opinions) The rule drafting department should sort through, categorize and analyze the opinions they receive from the public and formulate them into an Explanation of the Circumstances of Public Participation in Drafting the Rule.

The Explanation of the Circumstances of Public Participation in Drafting the Rule should include the following content:

- (1) The forms of public participation;
- (2) An outline of the public's opinions;

- (3) Those opinions of the public that were accepted and the reasons therefor.

The rule drafting department may, if necessary, organize an expert advisory committee to consider the public's opinions on the drafting of the rule, make a judgment on their rationality and make suggestions on how to handle the opinions.

Article 24. (Submission of the Explanation of the Circumstances of Public Participation in Drafting the Rule) At the same time the rule drafting department submits the Draft Rule Submitted for Examination to the municipal government legislative affairs office, it should attach the Explanation of the Circumstances of Public Participation in Drafting the Rule.

Article 25. (Transfer of Electronic Texts of Public Participation in the Course of Drafting the Rule) At the same time the rule drafting department submits the Draft Rule Submitted for Examination to the municipal government legislative affairs office, it should transfer electronic texts of the following documents from public participation in the course of drafting the rule:

- (1) The notice(s) issued by the rule drafting department;
- (2) The opinions of the public;
- (3) Relevant records of workshops or open meetings to listen to opinions, hearings and expert demonstration meetings;
- (4) Other relevant documents on public participation in drafting the rule.

Article 26. (Public Participation in the Drafting of Rules Carried Out by the Legislative Affairs Office Itself) When the municipal legislative affairs office drafts rules on its own, it shall do so according to the relevant provisions of Articles 15 through 23 of these Measures.

Chapter IV Public Participation in Rule Examination

Article 27. (Examination by the Municipal Government Legislative Affairs Office) When the municipal legislative affairs office reviews the Draft Rule Submitted for Examination, at the same time it should examine the Explanation of the Circumstances of Public Participation in Drafting the Rule. If the contents of the Explanation do not conform to those stipulated in Article 23 or if the rule drafting department did not organize public participation work in accordance with these Measures, the municipal legislative affairs office should return the Draft Rule Submitted for Examination to the rule drafting department and request it to again organize public participation work according to these Measures.

Article 28. (Soliciting the Public's Opinions during the Rule Examination Phase) After the municipal legislative affairs office reviews and revises the Draft Rule Submitted for Examination, it shall formulate a Draft Rule for Soliciting Opinions and, prior to submitting the draft rule to the municipal government standing committee or the plenary

session for discussion, it may solicit the public's opinions over the municipal legislative affairs office website. The period for soliciting opinions shall not be less than 15 days.

If the municipal legislative affairs office believes it is necessary to further listen to the public's opinions on the major issues in the Draft Rule for Soliciting Opinions, it may use such forms as workshops and expert demonstration meetings to listen to the public's opinions, convening them in accordance with the relevant procedures stipulated in Articles 19 and 22 of these Measures.

The municipal legislative affairs office should, within five business days of receiving opinions from the public, publish them on the municipal legislative affairs office website.

Article 29. (Explanation of the Circumstances of Public Participation) The municipal legislative affairs office should treat the public's opinions objectively and fairly and, after collecting the various opinions on the Draft Rule for Soliciting Opinions, revise the draft and formulate an Explanation of the Circumstances of Public Participation.

The Explanation of the Circumstances of Public Participation should include:

- (1) The forms of public participation;
- (2) The circumstances of soliciting the public's opinions during the course of drafting the rule;
- (3) The circumstances regarding accepting opinions of the public in the draft rule and the reasons therefor.

When the municipal legislative affairs office proposes the draft rule for discussion at the municipal government executive meeting or the full plenary meeting, it should attach the Explanation of the Circumstances of Public Participation.

Chapter V Public Participation in Rule Implementation

Article 30. (Feedback on Opinions from Public Participation in the Formulation of Rules) The municipal legislative affairs office should, within 30 days of a rule's promulgation, use the following methods to publish at the same time the Explanation of the Circumstances of Public Participation and the text of the rule:

- (1) Publish on the municipal legislative affairs office website;
- (2) Publish a summary in media with a definite influence within the administrative area of this Municipality;
- (3) Establish a relevant link on the website of the municipal government.

Article 31. (Public Participation in Evaluating Implementation of Rules) The municipal legislative affairs office may carry out evaluation of the implementation of rules after they have been promulgated and implemented for one year or more.

When the municipal legislative affairs office carries out evaluation of implementation of a rule, it should solicit the public's opinions by means of the municipal legislative affairs office website.

The municipal government legislative affairs office should make public the evaluation opinions submitted by the public within five business days of receiving them on the municipal government legislative affairs office website.

The municipal legislative affairs office should publish a report on the evaluation of the rule's implementation on the municipal government legislative affairs office website.

Chapter VI Supplementary Principles

Article 32. (Electronic Docket on Public Participation in Formulation of Rules) The municipal government legislative affairs office should establish on its website an electronic docket on public participation in the formulation of rules. The electronic docket should include the following contents:

- (1) Background materials on formulation of the rule;
- (2) The record(s) of public participation in the course of formulating the rule;
- (3) The official text of the rule and the Explanation of the Circumstances of Public Participation;
- (4) Other materials relevant to public participation.

If the public has difficulty directly searching the electronic docket, they may search the docket directly at the municipal legislative affairs office.

Article 33. (Implementation with Reference) When the municipal government in accordance with law takes on the responsibility for drafting local regulations, the public participation activities in the course of submitting for examination and other legislative work shall be carried out with reference to the relevant provisions of these Measures.

Article 34. (Effective Date) These Measures shall be implemented from January 1, 2007.

