

【Statute Title】 Regulation on the Implementation of the Land Administration Law of the Peoples Republic of China (1998) [Revised]

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Regulation on the Implementation of the Land Administration Law of the Peoples Republic of China (1998)

(Promulgated by Decree No. 256 of the State Council of the People's Republic of China on December 27, 1998)

中华人民共和国国务院令
(第 2 5 6 号)

《中华人民共和国土地管理法实施条例》已经 1 9 9 8 年 1 2 月 2 4 日国务院第 1 2 次常务会议通过, 现予发布, 自 1 9 9 9 年 1 月 1 日起施行。

总理 朱镕基

1 9 9 8 年 1 2 月 2 7 日

中华人民共和国土地管理法实施条例

Chapter I General Provisions

第一章 总则

Article 1 This Regulation is formulated in accordance with the Land Administration Law of the People's Republic of China (hereinafter referred to as the Land Administration Law for abbreviation).

第一条 根据《中华人民共和国土地管理法》(以下简称《土地管理法》), 制定本条例。

Chapter II Land Ownership and Use Right

第二章 土地的所有权和使用权

Article 2 The following land belongs to ownership by the entire people, that is, state ownership:

- (1) land in urban districts of municipalities;
- (2) land in rural areas and suburban districts of municipalities that have been confiscated, requisitioned or purchased according to law and turned into state ownership;
- (3) land requisitioned by the state according to law;
- (4) forest land, grassland, barren land, shoals and other land not under collective ownership according to law;
- (5) land previously under collective ownership by the members of a rural collective economic organization whose entire membership have become urban and township residents; and
- (6) land previously under collective ownership by the migrated peasants but no longer in use after the peasants' collective migration and shifting due to state-organized migration or natural disasters.

第二条 下列土地属于全民所有即国家所有：

- (一) 城市市区的土地；
- (二) 农村和城市郊区中已经依法没收、征收、征购为国有的土地；
- (三) 国家依法征用的土地；
- (四) 依法不属于集体所有的林地、草地、荒地、滩涂及其他土地；
- (五) 农村集体经济组织全部成员转为城镇居民的，原属于其成员集体所有的土地；
- (六) 因国家组织移民、自然灾害等原因，农民成建制地集体迁移后不再使用的原属于迁移农民集体所有的土地。

Article 3 The state practises the system of land registration and certificate issuance according to law. Land ownership and land use right registered according to law are protected by law upon which no unit or individual shall infringe.

Contents of land registration and format of land ownership certificate shall be uniformly prescribed by the competent department of land administration under the State Council.

Land registration information may be open to inquiry.

Confirmation of forest land and grassland ownership or use right and confirmation of use right for breeding and cultivation of water surface and shoals shall be processed pursuant to the relevant provisions of the Forestry Law, Prairie Law and Fishery Law respectively.

第三条 国家依法实行土地登记发证制度。依法登记的土地所有权和土地使用权受法律保护，任何单位和个人不得侵犯。

土地登记内容和土地权属证书式样由国务院土地行政主管部门统一规定。

土地登记资料可以公开查询。

确认林地、草原的所有权或者使用权，确认水面、滩涂的养殖使用权，分别依照《森林法》、《草原法》和《渔业法》的有关规定办理。

Article 4 For land under peasants' collective ownership, the land owners shall file an application for land registration with the competent department of land administration of people's government at the county level of the locality wherein the land is located, people's government at the county level shall enter a registration in the register, verify and issue a certificate of

collective land ownership in confirmation of the ownership.

For land under peasants' collective ownership to be used for nonagricultural construction according to law, the land owners shall file an application for land registration with the competent department of land registration of people's government at the county level of the locality wherein the land is located, people's government at the county level shall enter a registration in the register, verify and issue a certificate of collective land use right in confirmation of the land use right for construction.

Municipal people's governments with subordinate districts may carry out uniform registration of land under peasants' collective ownership within districts under municipal jurisdiction.

第四条 农民集体所有的土地，由土地所有者向土地所在地的县级人民政府土地行政主管部门提出土地登记申请，由县级人民政府登记造册，核发集体土地所有权证书，确认所有权。

农民集体所有的土地依法用于非农业建设的，由土地使用者向土地所在地的县级人民政府土地行政主管部门提出土地登记申请，由县级人民政府登记造册，核发集体土地使用权证书，确认建设用地使用权。

设区的市人民政府可以对市辖区内农民集体所有的土地实行统一登记。

Article 5 For state-owned land to be used by units or individuals according to law, the land users shall file an application for land registration with the competent department of land administration of people's government above the county level of the locality wherein the land is located, the people's government above the county level shall enter a registration in the register, verify and issue a certificate of state owned land use right in confirmation of the use right. Among which, the competent department of land administration under the State Council shall be responsible for the registration and certificate issuance of use of state-owned land by organs of the Central Committee of the Chinese Communist Party and the state. Specific measures for registration and certificate issuance shall be worked out by the competent department of land administration under the State Council in conjunction with the General Affairs Administration for Organs under the State Council and other departments concerned. For state-owned land the use right of which is not determined, people's governments above the county level shall enter a registration in the register and be responsible for the protection and administration.

第五条 单位和个人依法使用的国有土地，由土地使用者向土地所在地的县级以上人民政府土地行政主管部门提出土地登记申请，由县级以上人民政府登记造册，核发国有土地使用权证书，确认使用权。其中，中央国家机关使用的国有土地的登记发证，由国务院土地行政主管部门负责，具体登记发证办法由国务院土地行政主管部门会同国务院机关事务管理局等有关部门制定。

未确定使用权的国有土地，由县级以上人民政府登记造册，负责保护管理。

Article 6 Whoever changes in land ownership and use right according to law as a result of transfer according to law of such appendices as ground constructions and structures leading to the transfer of land use right, must file an application for change in land registration with the competent department of land administration of people's government above the county level of the locality wherein the land is located, the original land registration organ shall effect the change in registration of land ownership and use right. The change in land ownership and use right takes

effect as of the date of change in registration.

Whoever effects a change in land use according to law must, on the strength of the approval document, file an application for change in land registration with the competent department of land administration of people's government above the county level of the locality wherein the land is located, and the original land registration organ shall make the change in registration according to law.

第六条 依法改变土地所有权、使用权的，因依法转让地上建筑物、构筑物等附着物导致土地使用权转移的，必须向土地所在地的县级以上人民政府土地行政主管部门提出土地变更登记申请，由原土地登记机关依法进行土地所有权、使用权变更登记。土地所有权、使用权的变更，自变更登记之日起生效。

依法改变土地用途的，必须持批准文件，向土地所在地的县级以上人民政府土地行政主管部门提出土地变更登记申请，由原土地登记机关依法进行变更登记。

Article 7 The original land registration organ shall nullify the land registration for withdrawal of the land use right of a land use unit pursuant to the relevant provisions of the Land Administration Law.

The original land registration organ shall nullify the land registration when a land user fails to apply for extension or fails to win approval of the application for extension on expiry of the duration of use agreed upon in the contract for the paid-for use of land use right.

第七条 依照《土地管理法》的有关规定，收回用地单位的土地使用权的，由原土地登记机关注销土地登记。

土地使用权有偿使用合同约定的使用期限届满，土地使用者未申请续期或者虽申请续期未获批准的，由原土地登记机关注销土地登记。

Chapter III Overall Planning for Land Utilization

第三章 土地利用总体规划

Article 8 The national overall planning for land utilization shall be compiled by the competent department of land administration under the State Council in conjunction with the departments concerned under the State Council and submitted to the State Council for approval.

Overall planning for land utilization of the provinces, autonomous regions and municipalities directly under the Central Government shall be compiled by the competent departments of land administration and other departments concerned at the same level under the organization of people's governments of the provinces, autonomous regions and municipalities directly under the Central Government and submitted to the State Council for approval.

Overall planning for land utilization of municipalities that are seats of people's governments of the provinces and autonomous regions, municipalities with a population of over one million and municipalities designated by the State Council shall be compiled by the competent departments of land administration and other departments concerned at the same level under the organization of people's governments of the respective municipalities and submitted to the State Council for approval upon examination and consent of people's governments of the provinces and autonomous regions.

Overall planning for land utilization beside those provided for in the First Paragraph, Second Paragraph and Third Paragraph of this Article shall be compiled by the competent departments of

land administration and other departments concerned at the same level under the organization of the people's governments concerned and submitted level by level to people's governments of the provinces, autonomous regions and municipalities directly under the Central Government for approval; among which, village(township)overall planning for land utilization shall be compiled by village(township)people's governments and submitted level by level to people's governments of the provinces, autonomous regions and municipalities directly under the Central Government or people's governments of municipalities with subordinate districts and autonomous prefectures authorized by people's governments of the provinces, autonomous regions and municipalities directly under the Central Government for approval.

第八条 全国土地利用总体规划，由国务院土地行政主管部门会同国务院有关部门编制，报国务院批准。

省、自治区、直辖市的土地利用总体规划，由省、自治区、直辖市人民政府组织本级土地行政主管部门和其他有关部门编制，报国务院批准。

省、自治区人民政府所在地的市、人口在100万以上的城市以及国务院指定的城市的土地利用总体规划，由各该市人民政府组织本级土地行政主管部门和其他有关部门编制，经省、自治区人民政府审查同意后，报国务院批准。

本条第一款、第二款、第三款规定以外的土地利用总体规划，由有关人民政府组织本级土地行政主管部门和其他有关部门编制，逐级上报省、自治区、直辖市人民政府批准；其中，乡（镇）土地利用总体规划，由乡（镇）人民政府编制，逐级上报省、自治区、直辖市人民政府或者省、自治区、直辖市人民政府授权的设区的市、自治州人民政府批准。

Article 9 The planning duration of overall planning for land utilization shall generally be 15 years.

第九条 土地利用总体规划的规划期限一般为15年。

Article 10 Overall planning for land utilization should, pursuant to the provisions of the Land Administration Law, classify land into agricultural land, land for construction and un-utilized land.

County-level and village(township) overall planning for land utilization should, in accordance with requirements, delimit basic farmland protection zone, land reclamation zone, land for construction zone and reclamation prohibition zone, etc; among which, village(township) overall planning for land utilization should also, in the light of land use conditions, determine the use of each plot of land.

Specific measures for land classification and delimitation of land utilization zones shall be worked out by the competent department of land administration under the State Council in conjunction with the departments concerned under the State Council.

第十条 依照《土地管理法》规定，土地利用总体规划应当将土地划分为农用地、建设用地和未利用地。

县级和乡（镇）土地利用总体规划应当根据需要，划定基本农田保护区、土地开垦区、建设用地区和禁止开垦区等；其中，乡（镇）土地利用总体规划还应当根据土地使用条件，确定每一块土地的用途。

土地分类和划定土地利用区的具体办法，由国务院土地行政主管部门会同国务院有关部门制定。

Article 11 Village(township) people's governments should make an announcement within the respective administrative areas upon approval of the village(township) overall planning for land

utilization according to law.

The announcement should contain the following contents:

- (1)planning targets;
- (2)planning duration;
- (3)planning scope;
- (4)plot uses; and
- (5)approval organ and approval date.

第十一条 乡（镇）土地利用总体规划经依法批准后，乡（镇）人民政府应当在本行政区域内予以公告。

公告应当包括下列内容：

- （一）规划目标；
- （二）规划期限；
- （三）规划范围；
- （四）地块用途；
- （五）批准机关和批准日期。

Article 12 Revision of overall planning for land utilization pursuant to the provisions of the Second Paragraph and Third Paragraph of Article 26 of the Land Administration Law shall be made by the original compiling organ in accordance with the approval document of the State Council or people's governments of the provinces, autonomous regions and municipalities directly under the Central Government. The revised overall planning for land utilization should be submitted to the original approval organ for approval.

When the revised overall planning for land utilization at the next higher level involves revision of overall planning for land utilization at the next lower level, people's government at the next higher level shall notify people's government at the next lower level to make corresponding revision and submit it to the original approval organ for the record.

第十二条 依照《土地管理法》第二十六条第二款、第三款规定修改土地利用总体规划的，由原编制机关根据国务院或者省、自治区、直辖市人民政府的批准文件修改。修改后的土地利用总体规划应当报原批准机关批准。

上一级土地利用总体规划修改后，涉及修改下一级土地利用总体规划的，由上一级人民政府通知下一级人民政府作出相应修改，并报原批准机关备案。

Article 13 People's governments at all levels should strengthen the management of annual plans for land utilization and exercise aggregate control over land for construction. Annual plans for land utilization must, upon approval and transmission to the lower levels, be strictly adhered to.

An annual plan for land utilization should contain the following contents:

- (1)planned targets for the diversion of agricultural land to other uses;
- (2)planned targets for retained quantum of cultivated land; and
- (3)planned targets for land development and arrangement.

第十三条 各级人民政府应当加强土地利用年度计划管理，实行建设用地总量控制。土地利用年度计划一经批准下达，必须严格执行。

土地利用年度计划应当包括下列内容：

- （一）农用地转用计划指标；
- （二）耕地保有量计划指标；

(三) 土地开发整理计划指标。

Article 14 Competent departments of land administration of people's governments above the county level should, in conjunction with the departments concerned at the same level, conduct land survey.

Land survey should contain the following contents:

- (1) land ownership;
- (2) state of land utilization; and
- (3) conditions of land.

Survey results of the current state of local land utilization should be made public in society upon examination and verification of people's governments at the corresponding level and approval of people's government at the next higher level; survey results of the current state of national land utilization should, upon approval of the State Council, be made public in society. Land survey procedures shall be formulated by the competent department of land administration under the State Council in conjunction with the departments concerned under the State Council.

第十四条 县级以上人民政府土地行政主管部门应当会同同级有关部门进行土地调查。

土地调查应当包括下列内容：

- (一) 土地权属；
- (二) 土地利用现状；
- (三) 土地条件。

地方土地利用现状调查结果，经本级人民政府审核，报上一级人民政府批准后，应当向社会公布；全国土地利用现状调查结果，报国务院批准后，应当向社会公布。土地调查规程，由国务院土地行政主管部门会同国务院有关部门制定。

Article 15 The competent department of land administration under the State Council shall, in conjunction with the departments concerned under the State Council, fix the standards for land grade evaluation.

The competent departments of land administration of people's governments above the county level should, in conjunction with the departments concerned at the same level, evaluate land grades in accordance with the standards for land grade evaluation. Results of local land grade evaluation should be made public in society upon examination and verification of people's government at the corresponding level and approval of the competent department of land administration at the next higher level.

Adjustment in land grades shall be made once every six years in accordance with the state of national economic and social development.

第十五条 国务院土地行政主管部门会同国务院有关部门制定土地等级评定标准。

县级以上人民政府土地行政主管部门应当会同同级有关部门根据土地等级评定标准，对土地等级进行评定。地方土地等级评定结果，经本级人民政府审核，报上一级人民政府土地行政主管部门批准后，应当向社会公布。

根据国民经济和社会发展状况，土地等级每 6 年调整 1 次。

Chapter IV Cultivated Land Protection

第四章 耕地保护

Article 16 Municipal, county people's governments, rural collective economic organizations and construction units shall, pursuant to the provisions of Article 31 of the Land Administration Law, be responsible respectively for the reclamation of cultivated land for occupation of cultivated land within the scope of land use for urban, village and township construction determined in the overall planning for land utilization in implementing urban planning and village, township planning, as well as occupation of cultivated land for such construction projects as energy, communications, water conservancy, mines and military installations outside the scope of land use for urban construction determined in the overall planning for land utilization; where there are no conditions for reclamation or the reclaimed cultivated land fails to conform to the requirements, payment of cultivated land reclamation fee should be effected pursuant to the provisions of the provinces, autonomous regions and municipalities directly under the Central Government.

第十六条 在土地利用总体规划确定的城市和村庄、集镇建设用地范围内，为实施城市规划和村庄、集镇规划占用耕地，以及在土地利用总体规划确定的城市建设用地范围外的能源、交通、水利、矿山、军事设施等建设项目占用耕地的，分别由市、县人民政府、农村集体经济组织和建设单位依照《土地管理法》第三十一条的规定负责开垦耕地；没有条件开垦或者开垦的耕地不符合要求的，应当按照省、自治区、直辖市的规定缴纳耕地开垦费。

Article 17 Units or individuals are prohibited from engaging in land development activities in reclamation prohibition zones determined by the overall planning for land utilization.

Whoever engages in development of state-owned barren hills, barren land or barren shoals the land use right of which has been established for cultivation, forestry, animal husbandry and fishery production in land reclamation zones determined by the overall planning for land utilization should file an application with the competent department of land administration of people's government above the county level of the locality wherein the land is located and submit the same to people's government with the authority of approval for approval.

Whoever engages in single-time development of state-owned barren hills, barren land or barren shoals under 600 hectares the land use right of which has not been established shall be subject to the approval of local people's government above the county level pursuant to the limits of authority prescribed by the provinces, autonomous regions and municipalities directly under the Central Government; the case of development of over 600 hectares shall be submitted to the State Council for approval.

Development of state-owned barren hills, barren land or barren shoals the land use right of which has not been established for cultivation, forestry, animal husbandry or fishery production may, upon approval of people's government above the county level, be assigned to development units or individuals for long-term use, and the longest duration of use shall not exceed 50 years.

第十七条 禁止单位和个人在土地利用总体规划确定的禁止开垦区内从事土地开发活动。

在土地利用总体规划确定的土地开垦区内，开发未确定土地使用权的国有荒山、荒地、荒滩从事种植业、林业、畜牧业、渔业生产的，应当向土地所在地的县级以上人民政府土地行政主管部门提出申请，报有批准权的人民政府批准。

一次性开发未确定土地使用权的国有荒山、荒地、荒滩 600 公顷以下的，按照省、自治区、直辖市规定的权限，由县级以上地方人民政府批准；开发 600 公顷以上的，报国务

院批准。

开发未确定土地使用权的国有荒山、荒地、荒滩从事种植业、林业、畜牧业或者渔业生产的，经县级以上人民政府依法批准，可以确定给开发单位或者个人长期使用，使用期限最长不得超过 50 年。

Article 18 County and village(township) people's government should, pursuant to the overall planning for land utilization, organize rural collective economic organizations in formulating land arrangement schemes and organize their implementation.

Local people's governments at all levels should, pursuant to the overall planning for land utilization, take measures to press ahead with land arrangement. 60% of the area of the newly-added cultivated land through land arrangement may be used as compensation targets to compensate for the cultivated land occupied for construction.

Expenses required for land arrangement shall, in accordance with the principle of whoever is the beneficiary shall bear the expenses, be jointly borne by the rural collective economic organizations and land users.

第十八条 县、乡（镇）人民政府应当按照土地利用总体规划，组织农村集体经济组织制定土地整理方案，并组织实施。

地方各级人民政府应当采取措施，按照土地利用总体规划推进土地整理。土地整理新增耕地面积的百分之六十可以用作折抵建设占用耕地的补偿指标。

土地整理所需费用，按照谁受益谁负担的原则，由农村集体经济组织和土地使用者共同承担。

Chapter V Land for Construction

第五章 建设用地

Article 19 Occupation of land for construction involving turning agricultural land into land for construction should conform to the agricultural land conversion targets set in the overall planning for land utilization and annual plan for land utilization; occupation of land for urban, village and township construction involving conversion of agricultural land should also conform to urban planning and village, township planning. Where it fails to conform to the provisions, no approval shall be granted for the conversion of agricultural land into land for construction.

第十九条 建设占用土地，涉及农用地转为建设用地的，应当符合土地利用总体规划和土地利用年度计划中确定的农用地转用指标；城市和村庄、集镇建设占用土地，涉及农用地转用的，还应当符合城市规划和村庄、集镇规划。不符合规定的，不得批准农用地转为建设用地。

Article 20 Occupation of land for the implementation of urban planning within the scope of land for urban construction determined in the overall planning for land utilization shall be handled pursuant to the following provisions:

(1)municipal, county people's governments shall, pursuant to the annual plans for land utilization, draft agricultural land conversion plans, cultivated land supplement plans, land requisition plans, and submit them in batches and level by level to people's governments with the authority of approval.

(2)the competent departments of land administration of people's governments with the

authority of approval shall examine the agricultural land conversion plans, cultivated land supplement plans, land requisition plans, put forth examination remarks and submit the same to people's governments with the authority of approval for approval; among which, the cultivated land supplement plans shall be approved simultaneously with the approval of agricultural land conversion plans by people's governments that approve the agricultural land conversion plans.

(3)municipal, county people's governments shall, upon approval of the agricultural land conversion plans, cultivated land supplement plans and land requisition plans, organize their implementation and provide land separately according to specific construction projects.

For occupation of land for the implementation of village and township planning within the scope of land for village and township construction determined in the overall planning for land utilization, municipal, county people's governments shall draft agricultural land conversion plans and cultivated land supplement plans and process them pursuant to the procedures prescribed in the preceding paragraph.

第二十条 在土地利用总体规划确定的城市建设用地范围内，为实施城市规划占用土地的，按照下列规定办理：

（一）市、县人民政府按照土地利用年度计划拟订农用地转用方案、补充耕地方案、征用土地方案，分批次逐级上报有批准权的人民政府。

（二）有批准权的人民政府土地行政主管部门对农用地转用方案、补充耕地方案、征用土地方案进行审查，提出审查意见，报有批准权的人民政府批准；其中，补充耕地方案由批准农用地转用方案的人民政府在批准农用地转用方案时一并批准。

（三）农用地转用方案、补充耕地方案、征用土地方案经批准后，由市、县人民政府组织实施，按具体建设项目分别供地。

在土地利用总体规划确定的村庄、集镇建设用地范围内，为实施村庄、集镇规划占用土地的，由市、县人民政府拟订农用地转用方案、补充耕地方案，依照前款规定的程序办理。

Article 21 For need of land use for a specific construction project, the construction unit should, in accordance with the gross design of the construction project, file a one-time application, and go through the formalities of examination and approval of land for construction; where a project the construction of which is to be carried out in phases, applications for land for construction may be filed in phases on the basis of the schemes determined in the feasibility study and the relevant formalities of examination and approval completed in phases.

第二十一条 具体建设项目需要使用土地的，建设单位应当根据建设项目的总体设计一次申请，办理建设用地审批手续；分期建设的项目，可以根据可行性研究报告确定的方案分期申请建设用地，分期办理建设用地有关审批手续。

Article 22 Need of occupation of state-owned land for construction for a specific construction project within the scope of land for urban construction determined in the overall planning for land utilization shall be handled pursuant to the following provisions:

(1)at the time of the construction project feasibility study, the competent department of land administration shall examine the matters relating to land use for the construction project and come up with a report on the preliminary examination of land use for the construction project; at the time of submission of the feasibility study for approval, the report on the preliminary examination of land use for the construction project produced by the competent department of land administration must be enclosed therewith.

(2)the construction unit shall, on the strength of the relevant approval document of the construction project, file an application for land for construction with the competent department of land administration of municipal or county people's government, the competent department of land administration of the municipal or county government shall examine the same, draft a land provision plan and submit it to the municipal or county people's government for approval; where approval by people's government at the next higher level is required, it should be submitted to the people's government at the next higher level for approval.

(3)municipal or county people's government shall, upon approval of the land provision plan, issue a certificate of approval for land for construction for the construction unit. In the case of paid-for use of state-owned land, the competent department of land administration of municipal or county people's government shall conclude a contract on the paid-for use of state-owned land with the land user; in the case of appropriation for use of state-owned land, the competent department of land administration shall verify and issue a certificate of decision on the appropriation of state-owned land.

(4)the land user should file an application for land registration according to law.

For provision of use right of state-owned land for construction in the form of tender or auction, the competent departments of municipal or county people's governments shall, in conjunction with the departments concerned, draw up a plan and submit it to the municipal or county people's government, the competent department of land administration of municipal or county people's government shall organize its implementation upon approval, and conclude a contract on the paid-for use of the land with the land user. The land user should file an application for land registration according to law.

第二十三条 具体建设项目需要占用土地利用总体规划确定的城市建设用地范围内的国有建设用地的，按照下列规定办理：

（一）建设项目可行性研究论证时，由土地行政主管部门对建设项目用地有关事项进行审查，提出建设项目用地预审报告；可行性研究报告报批时，必须附具土地行政主管部门出具的建设项目用地预审报告。

（二）建设单位持建设项目的有关批准文件，向市、县人民政府土地行政主管部门提出建设用地申请，由市、县人民政府土地行政主管部门审查，拟订供地方案，报市、县人民政府批准；需要上级人民政府批准的，应当报上级人民政府批准。

（三）供地方案经批准后，由市、县人民政府向建设单位颁发建设用地批准书。有偿使用国有土地的，由市、县人民政府土地行政主管部门与土地使用者签订国有土地有偿使用合同；划拨使用国有土地的，由市、县人民政府土地行政主管部门向土地使用者核发国有土地划拨决定书。

（四）土地使用者应当依法申请土地登记。

通过招标、拍卖方式提供国有建设用地使用权的，由市、县人民政府土地行政主管部门会同有关部门拟订方案，报市、县人民政府批准后，由市、县人民政府土地行政主管部门组织实施，并与土地使用者签订土地有偿使用合同。土地使用者应当依法申请土地登记。

Article 23 For need to use land for a specific construction project, an application must be filed according to law for the use of state-owned land for construction within the scope of urban land for construction determined in the overall planning for land utilization. Where an actual need arises for the use of land outside the scope of land for urban construction determined by the overall planning for land utilization for such construction projects as energy, communications,

water conservancy, mines and military installations involving agricultural land, it shall be handled pursuant to the following provisions:

(1)at the time of the construction project feasibility study authentication, the competent department of land administration shall examine the matters relating to land use for the construction project and come up with a report on the preliminary examination of land use for the construction project; at the time of submission of the feasibility study for approval, the report on the preliminary examination of land use for the construction project produced by the competent department of land administration must be enclosed therewith.

(2)The construction unit shall, on the strength of the relevant approval decumbent of the construction project, file an application for land for construction with the competent department of municipal or county people's government, the competent department of municipal or county people's government shall examine the application, draw up an agricultural land conversion plan, land requisition plan and land provision plan(where state owned agricultural land is involved, no land requisition plan shall be drafted), which shall, upon examination, verification and consent of the municipal or county people's government, be submitted level by level to the people's government with the authority of approval for approval; among which, the cultivated land supplement plan shall be simultaneously approved by the people's government that approves the agricultural land conversion plan at the time of approval of the agricultural land conversion plan; the land provision plan shall be simultaneously approved by the people's government that approves land requisition at the time of approval of the land requisition plan(where state-owned agricultural land is involved, the land provision plan shall be simultaneously approved by the people's government that approves the agricultural land conversion at the time of approval of the agricultural land conversion plan).

(3)Municipal, county people's governments shall, upon approval of the agricultural land conversion plan, cultivated land supplement plan, land requisition plan and land provision plan, organise their implementation and issue the certificate of approval of land for construction to the construction unit. Where there is paid-for use of state-owned land, the competent department of land administration of municipal or county people's government shall conclude a contract on the paid-for use of state owned land with the land user; where state-owned land is appropriated for use, the competent department of land administration of municipal or county people's government shall verify and issue a certificate of decision on the appropriation of state-owned land to the land user.

(4)The land user should file an application for land registration according to law.

Where an actual need arises for land use for a construction project outside the scope of land for urban construction determined in the overall planning for land utilization involving un-utilized land under peasants' collective ownership, only land requisition plan and land provision plan shall be submitted for approval.

第二十三条 具体建设项目需要使用土地的, 必须依法申请使用土地利用总体规划确定的城市建设用地范围内的国有建设用地。能源、交通、水利、矿山、军事设施等建设项目确需使用土地利用总体规划确定的城市建设用地范围外的土地, 涉及农用地的, 按照下列规定办理:

(一) 建设项目可行性研究论证时, 由土地行政主管部门对建设项目用地有关事项进行审查, 提出建设项目用地预审报告; 可行性研究报告报批时, 必须附具土地行政主管部门出具的建设项目用地预审报告。

(二) 建设单位持建设项目的有关批准文件,向市、县人民政府土地行政主管部门提出建设用地申请,由市、县人民政府土地行政主管部门审查,拟订农用地转用方案、补充耕地方案、征用土地方案和供地方案(涉及国有农用地的,不拟订征用土地方案),经市、县人民政府审核同意后,逐级上报有批准权的人民政府批准;其中,补充耕地方案由批准农用地转用方案的人民政府在批准农用地转用方案时一并批准;供地方案由批准征用土地的人民政府在批准征用土地方案时一并批准(涉及国有农用地的,供地方案由批准农用地转用的人民政府在批准农用地转用方案时一并批准)。

(三) 农用地转用方案、补充耕地方案、征用土地方案和供地方案经批准后,由市、县人民政府组织实施,向建设单位颁发建设用地批准书。有偿使用国有土地的,由市、县人民政府土地行政主管部门与土地使用者签订国有土地有偿使用合同;划拨使用国有土地的,由市、县人民政府土地行政主管部门向土地使用者核发国有土地划拨决定书。

(四) 土地使用者应当依法申请土地登记。

建设项目确需使用土地利用总体规划确定的城市建设用地范围外的土地,涉及农民集体所有的未利用地的,只报批征用土地方案和供地方案。

Article 24 Where a need arises for the occupation of state-owned un-utilized land determined in the overall planning for land utilization for a specific construction project, it shall be handled pursuant to the provisions of the provinces, autonomous regions and municipalities directly under the Central Government; however, land use for key state construction projects, military installations and construction projects transcending the administrative areas of the provinces, autonomous regions and municipalities directly under the Central Government should be submitted to the State Council for approval.

第二十四条 具体建设项目需要占用土地利用总体规划确定的国有未利用地的,按照省、自治区、直辖市的规定办理;但是,国家重点建设项目、军事设施和跨省、自治区、直辖市行政区域的建设项目以及国务院规定的其他建设项目用地,应当报国务院批准。

Article 25 Municipal, county people's government of the locality whose land has been requisitioned shall, upon approval of the land requisition plan according to law, organize its implementation, and make an announcement in the village(township), hamlet whose land has been requisitioned on the approval organ of the land requisition, number of the approval document, use, scope and area of the requisitioned land as well as the rates for compensation of land requisition, measures for the resettlement of agricultural personnel and duration for processing land requisition compensation.

Persons of ownership and persons of use right of the requisitioned land should, within the duration prescribed in the announcement, go to the competent department of people's government designated in the announcement to go through the registration for land requisition compensation on the strength of land ownership certificates.

The competent departments of municipal, county people's governments shall, on the basis of the approved land requisition plan and in conjunction with the departments concerned, draw up land requisition compensation and resettlement plan, make an announcement thereof in the village(township),hamlet wherein the requisitioned land is located to solicit the views of the rural collective economic organizations and peasants on the requisitioned land. The competent departments of land administration of municipal, county people's governments shall, upon approval of the land requisition compensation and resettlement plan submitted to the municipal,

county people's governments, organize its implementation. Where a dispute arises over the compensation rates, coordination shall be carried out by local people's government above the county level; where coordination has failed, arbitration shall be resorted to by the people's government that approved the land requisition. Land requisition compensation and resettlement dispute shall not affect the implementation of the land requisition plan.

Payment of various expenses for land requisition should be effected in full within 3 months starting from the date of approval of the land requisition and resettlement plan.

第二十五条 征用土地方案经依法批准后，由被征用土地所在地的市、县人民政府组织实施，并将批准征地机关、批准文号、征用土地的用途、范围、面积以及征地补偿标准、农业人员安置办法和办理征地补偿的期限等，在被征用土地所在地的乡（镇）、村予以公告。

被征用土地的所有权人、使用权人应当在公告规定的期限内，持土地权属证书到公告指定的人民政府土地行政主管部门办理征地补偿登记。

市、县人民政府土地行政主管部门根据经批准的征用土地方案，会同有关部门拟订征地补偿、安置方案，在被征用土地所在地的乡（镇）、村予以公告，听取被征用土地的农村集体经济组织和农民的意见。征地补偿、安置方案报市、县人民政府批准后，由市、县人民政府土地行政主管部门组织实施。对补偿标准有争议的，由县级以上地方人民政府协调；协调不成的，由批准征用土地的人民政府裁决。征地补偿、安置争议不影响征用土地方案的实施。

征用土地的各项费用应当自征地补偿、安置方案批准之日起 3 个月内全额支付。

Article 26 Land compensation fee goes to the rural collective economic organization; compensation fee for ground appendices and young crops shall be for the owner(s) of ground appendices and young crops.

Funds earmarked for land requisition resettlement subsidy must be used for the designated purpose and shall not be diverted to any other purpose. For persons required to be resettled by the rural collective economic organization, payment of the resettlement subsidy shall be made to the rural collective economic organization to be administered and used by the rural collective economic organization; where resettlement is to be arranged by other units, the resettlement subsidy shall be paid to the resettlement units; where no unified resettlement is required, the resettlement subsidy shall be given to the individuals to be resettled or used for the payment of insurance premium for the resettled persons on gaining the consent of the resettled persons.

Municipal, county and village(township) people's governments should strengthen supervision over the use of resettlement subsidy.

第二十六条 土地补偿费归农村集体经济组织所有；地上附着物及青苗补偿费归地上附着物及青苗的所有者所有。

征用土地的安置补助费必须专款专用，不得挪作他用。需要安置的人员由农村集体经济组织安置的，安置补助费支付给农村集体经济组织，由农村集体经济组织管理和使用；由其他单位安置的，安置补助费支付给安置单位；不需要统一安置的，安置补助费发放给被安置人员个人或者征得被安置人员同意后用于支付被安置人员的保险费用。

市、县和乡（镇）人民政府应当加强对安置补助费使用情况的监督。

Article 27 For emergency use of land required for dealing with an emergency or disaster relief, the land may be used first. Among which, where the land is for temporary use, the original state should be restored when the disaster is over and the land shall be returned to its original user for use, and formalities of examination and approval for land use are no longer required; when it falls

into land for permanent construction, the construction unit should, within 6 months after the disaster is over, file an application for making up the formalities of examination and approval of land for construction.

第二十七条 抢险救灾等急需使用土地的，可以先行使用土地。其中，属于临时用地的，灾后应当恢复原状并交还原土地使用者使用，不再办理用地审批手续；属于永久性建设用地的，建设单位应当在灾情结束后 6 个月内申请补办建设用地审批手续。

Article 28 Where a need arises for the temporary occupation of cultivated land for the construction and geological survey of a construction project, the land user should, within one year starting from the date of expiry of temporary land use, restore the conditions for cultivation.

第二十八条 建设项目施工和地质勘查需要临时占用耕地的，土地使用者应当自临时用地期满之日起 1 年内恢复种植条件。

Article 29 Forms of paid-for use of state-owned land include:

- (1) transfer of state-owned land use right;
- (2) leasing of state-owned land; and
- (3) contribution at a fixed value or equity participation for state-owned land use right.

第二十九条 国有土地有偿使用的方式包括：

- （一）国有土地使用权出让；
- （二）国有土地租赁；
- （三）国有土地使用权作价出资或者入股。

Article 30 The paid-for land use fee for newly-added land for construction prescribed in the third article of the Land Administration Law means the average land net income the state should accrue from the newly added land for construction.

Article 55 of the Land Administration Law means the average land net income the state should accrue from the newly added land for construction.

第六章 监督检查

Chapter VI Supervision and Inspection

第三十一条 土地管理监督检查人员应当经过培训，经考核合格后，方可从事土地管理监督检查工作。

Article 31 Inspectors of land administration supervision should receive training and may engage in the work of land administration supervision and inspection only upon passing evaluation.

第三十二条 土地行政主管部门履行监督检查职责，除采取《土地管理法》第六十七条规定的措施外，还可以采取下列措施：

- （一）询问违法案件的当事人、嫌疑人和证人；
- （二）进入被检查单位或者个人非法占用的土地现场进行拍照、摄像；
- （三）责令当事人停止正在进行的土地违法行为；
- （四）对涉嫌土地违法的单位或者个人，停止办理有关土地审批、登记手续；
- （五）责令违法嫌疑人在调查期间不得变卖、转移与案件有关的财物。

Article 32 In fulfilling the duties and responsibilities of supervision and inspection, the competent departments of land administration may, in addition to taking the measures provided for in Article 67 of the Land Administration Law, adopt the following measures:

- (1) inquire the party(parties) concerned, suspect(s) and witness(es) of a law-breaking case;
- (2) enter the site of land illegally occupied by the unit or individual under inspection to take photos or make video recording;
- (3) order the party(parties) concerned to stop illegal acts relating to land under way;
- (4) stop processing formalities of examination and approval and registration of land with respect to the unit or individual suspected of violation of law on land; and
- (5) order the law-breaking suspect(s) not to sell, transfer properties relevant to the case during investigation.

第三十三条 依照《土地管理法》第七十二条规定给予行政处分的，由责令作出行政处罚决定或者直接给予行政处罚决定的上级人民政府土地行政主管部门作出。对于警告、记过、记大过的行政处分决定，上级土地行政主管部门可以直接作出；对于降级、撤职、开除的行政处分决定，上级土地行政主管部门应当按照国家有关人事管理权限和处理程序的规定，向有关机关提出行政处分建议，由有关机关依法处理。

Article 33 Where administrative sanctions are to be imposed pursuant to the provisions of Article 72 of the Land Administration Law, they shall be imposed by the competent department of land administration of people's government at the next higher level that has taken the decision on administrative penalty or made the decision on imposing direct administrative penalty. The competent department of land administration at the next higher level may directly make a decision on administrative penalties of meteing out a warning, recording a demerit or recording a major demerit; with respect to decisions on administrative penalties of demotion, removal from office and dismissal, the competent department of land administration at the next higher level should, pursuant to the state provisions concerning limits of authority of personnel management and procedures of handling, put forth a proposal for administrative sanctions to the organ concerned, and it shall be handled by the organ concerned according to law.

第七章 法律责任

Chapter VII Legal Liability

第三十四条 违反本条例第十七条的规定，在土地利用总体规划确定的禁止开垦区内进行开垦的，由县级以上人民政府土地行政主管部门责令限期改正；逾期不改正的，依照《土地管理法》第七十六条的规定处罚。

Article 34 Whoever carries out reclamation within the reclamation prohibition zone determined by the overall planning for land utilization in violation of the provisions of Article 17 of this Regulation, the competent department of land administration of people's government above the county level shall order him/her to make a rectification within a given time period; whoever fails to make a rectification on expiry of the given time period, a penalty shall be imposed pursuant to the provisions of Article 76 of the Land Administration Law.

第三十五条 在临时使用的土地上修建永久性建筑物、构筑物的，由县级以上人民政府土地行政主管部门责令限期拆除；逾期不拆除的，由作出处罚决定的机关依法申请人民法院强制执行。

Article 35 Whoever builds permanent construction(s) or structure(s) on land for temporary use, the competent department of land administration of people's government above the county level shall order him/her to dismantle it(them) within a given time period; whoever fails to dismantle on expiry of the given time period, the organ that made the penalty decision shall file an application for mandatory enforcement with a people's court according to law.

第三十六条 对在土地利用总体规划制定前已建的不符合土地利用总体规划确定的用途的建筑物、构筑物重建、扩建的，由县级以上人民政府土地行政主管部门责令限期拆除；逾期不拆除的，由作出处罚决定的机关依法申请人民法院强制执行。

Article 36 The reconstructed or expanded constructions or structures that fail to conform to the uses determined in the overall planning for land utilization prior to the formulation of the overall planning for land utilization shall be ordered by the competent department of land administration of people's government above the county level to be dismantled within a given time period; whoever fails to dismantle on expiry of the given time period, the organ that made the penalty decision shall file an application with a people's court for mandatory enforcement according to law.

第三十七条 阻碍土地行政主管部门的工作人员依法执行职务的，依法给予治安管理处罚或者追究刑事责任。

Article 37 Whoever obstructs functionaries of the competent department of land administration in the discharge of duties according to law shall be imposed penalty of public security administration or investigated of the legal liability according to law.

第三十八条 依照《土地管理法》第七十三条的规定处以罚款的，罚款额为非法所得的百分之五十以下。

Article 38 Where a fine is to be imposed pursuant to the provisions of Article 73 of the Land Administration Law, the amount of fine shall be less than 50% of the illegal income.

第三十九条 依照《土地管理法》第八十一条的规定处以罚款的，罚款额为非法所得的百分之五以上百分之二十以下。

Article 39 Where a fine is to be imposed pursuant to the provisions of Article 81 of the Land Administration Law, the amount of fine shall be more than 5% less than 20% of the illegal income.

第四十条 依照《土地管理法》第七十四条的规定处以罚款的，罚款额为耕地开垦费的 2 倍以下。

Article 40 Where a fine is to be imposed pursuant to the provisions of Article 74 of the Land Administration Law, the amount of fine shall be less than 200% of the cultivated land reclamation fee.

第四十一条 依照《土地管理法》第七十五条的规定处以罚款的，罚款额为土地复垦费的 2 倍以下。

Article 41 Where a fine is to be imposed pursuant to the provisions of Article 75 of the Land

Administration Law, the amount of fine shall be less than 200% of the land reclamation fee.

第四十二条 依照《土地管理法》第七十六条的规定处以罚款的，罚款额为非法占用土地每平方米30元以下。

Article 42 Where a fine is to be imposed pursuant to the provisions of Article 76 of the Land Administration Law, the amount of fine shall be less than RMB 30 yuan per square meter of the illegally occupied land.

第四十三条 依照《土地管理法》第八十条的规定处以罚款的，罚款额为非法占用土地每平方米10元以上30元以下。

Article 43 Where a fine is to be imposed pursuant to the provisions of Article 80 of the Land Administration Law, the amount of fine shall be more than RMB 10 Yuan less than RMB 30 Yuan per square meter of the illegally occupied land.

第四十四条 违反本条例第二十八条的规定，逾期不恢复种植条件的，由县级以上人民政府土地行政主管部门责令限期改正，可以处耕地复垦费2倍以下的罚款。

Article 44 Whoever fails to restore the cultivation conditions on expiry of the given time period in violation of the provisions of Article 28 of this Regulation shall be ordered by the competent department of land administration of people's government above the county level to make a rectification within the given time period, and may be imposed a fine less than 200% of the cultivated land reclamation fee.

第四十五条 违反土地管理法律、法规规定，阻挠国家建设征用土地的，由县级以上人民政府土地行政主管部门责令交出土地；拒不交出土地的，申请人民法院强制执行。

Article 45 Whoever obstructs requisition of land for construction by the state in violation of the provisions of laws and regulations on land administration shall be ordered by the competent department of land administration of people's government above the county level to hand over the land; whoever refuses to hand over the land, an application shall be filed with a people's court for mandatory enforcement.

Chapter VIII Supplementary Provision

第八章 附则

Article 46 This Regulation shall enter into force as of January 1, 1999.

The Regulation on the Implementation of the Land Administration Law of the People's Republic of China promulgated by the State Council on January 4, 1991 is simultaneously superseded.

第四十六条 本条例自1999年1月1日起施行。1991年1月4日国务院发布的《中华人民共和国土地管理法实施条例》同时废止。

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