

Statute Title】 Land Administration Law of the People's Republic of China (2004 Revision)
[Effective]

法规标题】 中华人民共和国土地管理法(2004 修正) [现行有效]

Promulgation date: 08-28-2004

Effective date: 01-01-1999

Department: Standing Committee of the National People's Congress

Subject: Land

发布日期: 2004-08-28

生效日期: 1999-01-01

发布部门: 全国人大常委会

类别: 土地

【本法变迁史】

中华人民共和国土地管理法[19860625]

全国人大常委会关于修改《中华人民共和国土地管理法》的决定(1988)[19881229]

中华人民共和国土地管理法(1988 修正)[19881229]

中华人民共和国土地管理法(1998 修订)[19980829]

全国人大常委会关于修改《中华人民共和国土地管理法》的决定(2004)[20040828]

中华人民共和国土地管理法(2004 修正)[20040828]

Land Administration Law of the People's Republic of China

(Revised and adopted at the Fourth Session of the Standing Committee of the Ninth National People's Congress of the People's Republic of China on August 29, 1998, to be put into effective as of January 1, 1999 Revised at the 11th Session of the Standing Committee of the Tenth National People's Congress on August 28, 2004)

CONTENTS

CHAPTER ONE GENERAL PROVISIONS

CHAPTER TWO OWNERSHIP AND RIGHT OF USE OF LAND

CHAPTER THREE GENERAL PLANS FOR THE UTILIZATION OF LAND

CHAPTER FOUR PROTECTION OF CULTIVATED LAND

CHAPTER FIVE LAND FOR CONSTRUCTION PURPOSES

CHAPTER SIX SUPERVISION AND EXAMINATION

CHAPTER SEVEN LEGAL RESPONSIBILITIES

CHAPTER EIGHT SUPPLEMENTARY PROVISIONS

中华人民共和国土地管理法

(1986 年 6 月 25 日第六届全国人民代表大会常务委员会第十六次会议通过 根据 1988 年 12 月 29 日第七届全国人民代表大会常务委员会第五次会议《关于修改〈中华人民共和国土地管理法〉的决定》第一次修正 1998 年 8 月 29 日第九届全国人民代表大会常务委员会第四次会议修订 根据 2004 年 8 月 28 日第十届全国人民代表大会常务委员会第十一次会议

《关于修改〈中华人民共和国土地管理法〉的决定》第二次修正）

（相关资料: 法律 11 篇 行政法规 21 篇 部门规章 103 篇 司法解释 5 篇 其他规范性文件 3 篇 案例 3 篇 裁判文书 1358 篇 修订沿革 相关论文 320 篇 实务指南）目录

第一章	总则
第二章	土地的所有权和使用权
第三章	土地利用总体规划
第四章	耕地保护
第五章	建设用地
第六章	监督检查
第七章	法律责任
第八章	附则

CHAPTER ONE GENERAL PROVISIONS

第一章 总则

Article 1 The law is formulated in compliance with the Constitution with a view to strengthening the administration of land, safeguarding the socialist public ownership of land, protecting and developing land resources, ensuring a rational use of and giving a real protection to cultivated land to promote sustainable development of the socialist economy.

第一条 为了加强土地管理,维护土地的社会主义公有制,保护、开发土地资源,合理利用土地,切实保护耕地,促进社会经济的可持续发展,根据宪法,制定本法。

（相关资料: 裁判文书 2 篇 修订沿革 条文释义 相关论文 4 篇）

Article 2 The People's Republic of China resorts to a socialist public ownership i.e. an ownership by the whole people and ownerships by collectives, of land.

In ownership by the whole people, the State Council is empowered to be on behalf of the State to administer the land owned by the State. No unit or individual is allowed to occupy, trade or illegally transfer land by other means. Land use right may be transferred by law. The state may make expropriation or requisition on land according to law for public interests, but shall give compensations accordingly.

The State introduces the system of compensated use of land owned by the State except the land has been allocated for use by the State according to law.

第二条 中华人民共和国实行土地的社会主义公有制,即全民所有制和劳动群众集体所有制。

全民所有,即国家所有土地的所有权由国务院代表国家行使。

任何单位和个人不得侵占、买卖或者以其他形式非法转让土地。土地使用权可以依法转让。

国家为了公共利益的需要,可以依法对土地实行征收或者征用并给予补偿。

国家依法实行国有土地有偿使用制度。但是,国家在法律规定的范围内划拨国有土地使用权的除外。

（相关资料：地方法规2篇 裁判文书44篇 修订沿革 条文释义 相关论文27篇 实务指南）

Article 3 To cherish and give a rational use to the land as well as to give a true protection to the cultivated land are seen as a basic principle of land use in the country. The people's governments at all levels should manage to make an overall plan for the use of land to strictly administer, protect and develop land resources and stop any illegal occupation of land.

第三条 十分珍惜、合理利用土地和切实保护耕地是我国的基本国策。各级人民政府应当采取措施，全面规划，严格管理，保护、开发土地资源，制止非法占用土地的行为。

（相关资料：裁判文书2篇 修订沿革 条文释义 相关论文5篇 实务指南）

Article 4 The State is to place a strict control on the usages of land. The State shall compile general plans to set usages of land including those of farm or construction use or unused. A strict control is to place on the turning of land for farm use to that for construction use to control the total amount of land for construction use and exercise a special protection on cultivated land. "Land for farm use" refers to land directly used for agricultural production, including cultivated land, wooded land, grassland, land for farmland water conservancy and water surfaces for breeding; "land for construction use" refers to land on which buildings and structures are put up, including land for urban and rural housing and public facilities, land for industrial and mining use, land for building communications and water conservancy facilities, land for tourism and land for building military installations. The term "land unused" refers to land other than that for agricultural and construction uses. Land should be used strictly in line with the purposes of land use defined in the general plan for the utilization of the land whether by units or individuals.

第四条 国家实行土地用途管制制度。

国家编制土地利用总体规划，规定土地用途，将土地分为农用地、建设用地和未利用地。严格限制农用地转为建设用地，控制建设用地总量，对耕地实行特殊保护。

前款所称农用地是指直接用于农业生产的土地，包括耕地、林地、草地、农田水利用地、养殖水面等；建设用地是指建造建筑物、构筑物的土地，包括城乡住宅和公共设施用地、工矿用地、交通水利设施用地、旅游用地、军事设施用地等；未利用地是指农用地和建设用地以外的土地。

使用土地的单位和个人必须严格按照土地利用总体规划确定的用途使用土地。

（相关资料：地方法规2篇 裁判文书21篇 修订沿革 条文释义 相关论文9篇 实务指南）

Article 5 The land administrative department of the State Council shall be unifiedly responsible for the administration and supervision of land in the whole country. The setup and functions of land administrative departments of people's governments at and above the county level shall be decided by the people's governments of provinces, autonomous regions and municipalities under the direct jurisdiction of the central government (hereinafter referred to as "municipalities" for short) according to the relevant provisions of the State Council.

第五条 国务院土地行政主管部门统一负责全国土地的管理和监督工作。

县级以上地方人民政府土地行政主管部门的设置及其职责，由省、自治区、直辖市人民政府根据国务院有关规定确定。

（相关资料：地方法规4篇 裁判文书6篇 修订沿革 条文释义 相关论文2篇）

Article 6 Units or individuals shall all be obliged to abide by the laws and regulations concerning

land administration and have the right to report or prosecute acts of violating land administration law and regulations.

第六条 任何单位和个人都有遵守土地管理法律、法规的义务，并有权对违反土地管理法律、法规的行为提出检举和控告。

（相关资料：裁判文书 7 篇 修订沿革 条文释义 相关论文 1 篇）

Article 7 People's governments shall award units or individuals who have made outstanding achievements in protecting and developing land resources, rational utilization of land and in carrying out research in this regard.

第七条 在保护和开发土地资源、合理利用土地以及进行有关的科学研究等方面成绩显著的单位和个人，由人民政府给予奖励。

（相关资料：裁判文书 3 篇 修订沿革 条文释义 实务指南）

CHAPTER TWO OWNERSHIP AND RIGHT OF USE OF LAND

第二章 土地的所有权和使用权

Article 8 Land in urban districts shall be owned by the State. Land in the rural areas and suburban areas, except otherwise provided for by the State, shall be collectively owned by peasants including land for building houses, land and hills allowed to be retained by peasants.

第八条 城市市区的土地属于国家所有。

农村和城市郊区的土地，除由法律规定属于国家所有的以外，属于农民集体所有；宅基地和自留地、自留山，属于农民集体所有。

（相关资料：地方法规 2 篇 裁判文书 51 篇 修订沿革 条文释义 相关论文 15 篇 实务指南）

Article 9 Land owned by the State and land collectively owned by peasants may be allocated to be used by units or individuals according to law. Units or individuals using land shall be responsible for the protection, management and a rational use of the land.

第九条 国有土地和农民集体所有的土地，可以依法确定给单位或者个人使用。使用土地的单位和个人，有保护、管理和合理利用土地的义务。

（相关资料：部门规章 1 篇 裁判文书 29 篇 修订沿革 条文释义 相关论文 2 篇 实务指南）

Article 10 In lands collectively owned by peasants those have been allocated to villagers for collective ownership according to law shall be operated and managed by village collective economic organizations or villagers' committee and those have allocated to two or more peasants collective economic organizations of a village, shall be operated and managed jointly by the collective economic organizations of the village or villagers' groups; and those have allocated to township (town) peasant collectives shall be operated and managed by the rural collective economic organizations of the township (town).

第十条 农民集体所有的土地依法属于村农民集体所有的，由村集体经济组织或者村民委员会经营、管理；已经分别属于村内两个以上农村集体经济组织的农民集体所有的，由村内各该农村集体经济组织或者村民小组经营、管理；已经属于乡（镇）农民集体所有的，由乡（镇）农村集体经济组织经营、管理。

（相关资料：地方法规 2 篇 裁判文书 64 篇 修订沿革 条文释义 相关论文 10 篇 实务指南）

Article 11 People's government at the county level shall register and put on record lands

collectively owned by peasants and issue certificates to certify the ownership concerned. People's government at the county level shall register and put on record the use of land collectively owned by peasants for non-agricultural construction and issue certificates to certify the right to use the land for construction purposes. People's government at the country level shall register and put on record uses of land owned by the State by units or individuals and issue certificates to certify the right of use. The State Council shall designate specific units to register and put on record State-owned land used by central government organs. Certifications of ownership or use right of wooded land and grassland and the uses of water surface and beach land for breeding purpose shall be managed according to related provisions of the "Forest Law of the People's Republic of China", the "Grassland Law of the People's Republic of China" and the "Fisheries Law of the People's Republic of China".

第十一条 农民集体所有的土地，由县级人民政府登记造册，核发证书，确认所有权。

农民集体所有的土地依法用于非农业建设的，由县级人民政府登记造册，核发证书，确认建设用地使用权。

单位和个人依法使用的国有土地，由县级以上人民政府登记造册，核发证书，确认使用权；其中，中央国家机关使用的国有土地的具体登记发证机关，由国务院确定。

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《中华人民共和国森林法》、《中华人民共和国草原法》和《中华人民共和国渔业法》的有关规定办理。

（相关资料：部门规章 1 篇 地方法规 8 篇 裁判文书 114 篇 修订沿革 条文释义 相关论文 5 篇 实务指南）

Article 12 Changes of owners and usages of land, should go through the land alteration registration procedures.

第十二条 依法改变土地权属和用途的，应当办理土地变更登记手续。

（相关资料：地方法规 3 篇 裁判文书 25 篇 修订沿革 条文释义 相关论文 10 篇 实务指南）

Article 13 The ownership and use right of land registered according to law shall be protected by law and no unit or individual is eligible to infringe upon it.

第十三条 依法登记的土地的所有权和使用权受法律保护，任何单位和个人不得侵犯。

（相关资料：裁判文书 84 篇 修订沿革 条文释义 相关论文 11 篇 实务指南）

Article 14 Land collectively owned by peasant shall be contracted out to members of the collective economic organizations for use in crop farming, forestry, animal husbandry and fisheries production under a term of 30 years. The contractees should sign a contract with the correspondents contractor to define each other's rights and obligations. Peasants who have contracted land for operation are obliged to use the land rationally according to the purposes agreed upon in the contracts. The right of operation of land contracted by peasants shall be protected by law. Within the validity term of a contract, the adjustment of land contracted by individual contractors should get the consent from over two-thirds majority vote of the villagers' congress or over two-thirds of villagers' representatives and then be submitted to land administrative departments of the township (town) people's government and county level

people's government for approval.

第十四条 农民集体所有的土地由本集体经济组织的成员承包经营，从事种植业、林业、畜牧业、渔业生产。土地承包经营期限为三十年。发包方和承包方应当订立承包合同，约定双方的权利和义务。承包经营土地的农民有保护和按照承包合同约定的用途合理利用土地的义务。农民的土地承包经营权受法律保护。

在土地承包经营期限内，对个别承包经营者之间承包的土地进行适当调整的，必须经村民会议三分之二以上成员或者三分之二以上村民代表的同意，并报乡（镇）人民政府和县级人民政府农业行政主管部门批准。

（相关资料：地方法规 1 篇 裁判文书 41 篇 修订沿革 条文释义 相关论文 3 篇 实务指南）

Article 15 Land owned by the State may be contracted out to units or individuals for farming, forestry, animal husbandry and fisheries operations. Land collectively owned by peasants may be contracted out to units or individuals who are not belonging to the corresponding collectives for farming, forestry, animal husbandry and fisheries operations. The contractees and contractors should sign land use contracts to define each other's rights and obligations. The contracted term for operation is to be agreed upon in the land use contracts. Contractors for the land operation are obliged to protect and use the land rationally according to the usages specified in the contracts. Whereas a land collectively owned by peasant is contracted out for operation to ones not belonging to the corresponding collective organizations, a consent should be got from the over two-thirds majority vote of the villagers' congress or over two-thirds of the villagers' representatives with the resulted contract being submitted to the township (town) people's government for approval.

第十五条 国有土地可以由单位或者个人承包经营，从事种植业、林业、畜牧业、渔业生产。农民集体所有的土地，可以由本集体经济组织以外的单位或者个人承包经营，从事种植业、林业、畜牧业、渔业生产。发包方和承包方应当订立承包合同，约定双方的权利和义务。土地承包经营的期限由承包合同约定。承包经营土地的单位和个人，有保护和按照承包合同约定的用途合理利用土地的义务。

农民集体所有的土地由本集体经济组织以外的单位或者个人承包经营的，必须经村民会议三分之二以上成员或者三分之二以上村民代表的同意，并报乡（镇）人民政府批准。

（相关资料：地方法规 3 篇 裁判文书 66 篇 修订沿革 条文释义 相关论文 5 篇 实务指南）

Article 16 Disputes arising from the ownership or use right of land shall be settled through consultation among parties concerned; should consultation fails, the disputes should be handled by people's governments. Disputes among units shall be handled by the people's government at and above the county level; disputes among individuals or between individuals and units shall be handled by township level people's government or people's governments at the county level or above. Whereas parties concerned refuse to accept the decisions by related people's government the dispute may be brought before the people's court within 30 days after the notification on the decision is received. No party shall change the status quo of the land before the disputes over ownership and use right are settled.

第十六条 土地所有权和使用权争议，由当事人协商解决；协商不成的，由人民政府处理。

单位之间的争议，由县级以上人民政府处理；个人之间、个人与单位之间的争议，由乡级人民政府或者县级以上人民政府处理。

当事人对有关人民政府的处理决定不服的，可以自接到处理决定通知之日起三十日内，向人民法院起诉。

在土地所有权和使用权争议解决前，任何一方不得改变土地利用现状。

（相关资料：地方法规 6 篇 裁判文书 240 篇 修订沿革 条文释义 相关论文 8 篇 实务指南）

CHAPTER THREE GENERAL PLANS FOR THE UTILIZATION OF LAND

第三章 土地利用总体规划

Article 17 People's governments at all levels shall manage to compile general plans for land uses in accordance with the national economic and social development program, requirements of national land consolidation and resources and environmental protection, land supply capacity and the requirements of various construction projects. The validity term of the general plans for land use shall be determined by the State Council.

第十七条 各级人民政府应当依据国民经济和社会发展规划、国土整治和资源环境保护的要求、土地供给能力以及各项建设对土地的需求，组织编制土地利用总体规划。

土地利用总体规划的规划期限由国务院规定。

（相关资料：地方法规 3 篇 修订沿革 条文释义 相关论文 2 篇 实务指南）

Article 18 General plans for land use at a lower level shall be compiled according to the general plans for the utilization of land at the next higher level. The total amount of land for construction uses in the general plans of land use compiled by local people's governments at all levels shall not exceed the controlled targets set in the general plans for land use at the next higher level and the total amount of cultivated land should not be lower than the controlled targets set in the general plans for land use at the next higher level. In mapping out the general plans for land use, the provinces, autonomous regions and municipalities shall ensure that the total amount of cultivated land under their jurisdiction shall not be reduced.

第十八条 下级土地利用总体规划应当依据上一级土地利用总体规划编制。

地方各级人民政府编制的土地利用总体规划中的建设用地总量不得超过上一级土地利用总体规划确定的控制指标，耕地保有量不得低于上一级土地利用总体规划确定的控制指标。

省、自治区、直辖市人民政府编制的土地利用总体规划，应当确保本行政区域内耕地总量不减少。

（相关资料：地方法规 1 篇 裁判文书 2 篇 修订沿革 条文释义 相关论文 1 篇）

Article 19 General plans for land use should be mapped out according to the following principles:

1. Strictly protect the basic farmland and control the occupation of agricultural land for nonagricultural purposes.
2. Raise the utilization rate of land.
3. Make an overall plan and arrangements about the use of land in various kinds and various areas.
4. Protect and improve the ecological environment to ensure a sustainable use of land.
5. Keep a balance between cultivated land occupied and cultivated land developed and reclaimed.

第十九条 土地利用总体规划按照下列原则编制：

- （一）严格保护基本农田，控制非农业建设占用农用地；
- （二）提高土地利用率；

- (三) 统筹安排各类、各区域用地;
 - (四) 保护和改善生态环境, 保障土地的可持续利用;
 - (五) 占用耕地与开发复垦耕地相平衡。
- (相关资料: 地方法规 1 篇 裁判文书 4 篇 修订沿革 条文释义 相关论文 2 篇)

Article 20 General plans for land use at the county level should define the areas and purposes of land use. General plans for the land use at the township (town) level should define the areas for the utilization of land and define the purpose of each tract of land according to the actual conditions for the use of land and make an announcement.

第二十条 县级土地利用总体规划应当划分土地利用区, 明确土地用途。

乡(镇)土地利用总体规划应当划分土地利用区, 根据土地使用条件, 确定每一块土地的用途, 并予以公告。

(相关资料: 地方法规 1 篇 裁判文书 1 篇 修订沿革 条文释义 实务指南)

Article 21 General plans for land use shall be examined and approved level by level.

General plans for land use of provinces, autonomous regions and municipalities shall be approved by the State Council. General plans for land of cities where the people's governments of province and autonomous regions and municipalities are seated and cities with a population of over one million and cities designated by the State Council shall be examined by the People's governments of related provinces and autonomous regions and municipalities and submit them to the State Council for approval.

General plans for land use other than those provided for in the second and third paragraphs of this article shall be submitted for approval step by step to the people's governments of provinces, autonomous regions and municipalities. General plans for land uses of townships (towns) may be approved by the people's governments of cities or autonomous prefectures authorized by the provincial level people's governments.

Once approved, the general plans for the land use shall be implemented strictly.

第二十一条 土地利用总体规划实行分级审批。

省、自治区、直辖市的土地利用总体规划, 报国务院批准。

省、自治区人民政府所在地的市、人口在一百万以上的城市以及国务院指定的城市的土地利用总体规划, 经省、自治区人民政府审查同意后, 报国务院批准。

本条第二款、第三款规定以外的土地利用总体规划, 逐级上报省、自治区、直辖市人民政府批准; 其中, 乡(镇)土地利用总体规划可以由省级人民政府授权的设区的市、自治州人民政府批准。

土地利用总体规划一经批准, 必须严格执行。

(相关资料: 地方法规 4 篇 裁判文书 2 篇 修订沿革 条文释义 相关论文 1 篇 实务指南)

Article 22 The amount of land used for urban construction shall conform to the standards prescribed by the State so as to make full use of the existing land for construction purposes, not to occupy or occupy as less agricultural land as possible. Urban general planning and the planning of villages and market towns should be in line with the general plans for land use. The amount of land for construction use in the urban general planning and the planning of villages and market towns shall not exceed the amount of land used for construction purposes in cities, villages and market towns fixed in the general plans for the utilization of land. The land for construction

purposes in cities, villages and market towns within the planned areas of cities, villages and market towns shall conform to the city planning and the planning of villages and market towns.

第二十二条 城市建设用地规模应当符合国家规定的标准,充分利用现有建设用地,不占或者尽量少占农用地。

城市总体规划、村庄和集镇规划,应当与土地利用总体规划相衔接,城市总体规划、村庄和集镇规划中建设用地规模不得超过土地利用总体规划确定的城市和村庄、集镇建设用地规模。

在城市规划区内、村庄和集镇规划区内,城市和村庄、集镇建设用地应当符合城市规划、村庄和集镇规划。

(相关资料: 地方法规 2 篇 修订沿革 条文释义 相关论文 1 篇)

Article 23 The plans for the comprehensive control, development and utilization of rivers and lakes should be in accordance with the general plans for land use. Land uses within the areas of management and protection of rivers, lakes and reservoirs and flood storage and detention areas should be in line with plans for the comprehensive control, development and utilization of rivers and lakes and to the requirements of river channels, flood flows of rivers and lakes, flood storage and water transmission.

第二十三条 江河、湖泊综合治理和开发利用规划,应当与土地利用总体规划相衔接。在江河、湖泊、水库的管理和保护范围以及蓄洪滞洪区内,土地利用应当符合江河、湖泊综合治理和开发利用规划,符合河道、湖泊行洪、蓄洪和输水的要求。

(相关资料: 修订沿革 条文释义 相关论文 1 篇 实务指南)

Article 24 People's governments at all levels shall strengthen the administration of plans for land use and exercise control of the aggregate land for construction purposes. The annual plan for the land use shall be compiled in line with the national economic and social development program, the State industrial policies, general plans for land and the actual situation about the land for construction uses and the land utilization. The examination and approval procedures for the compilation of annual land use plans shall be the same as that for the general plans for land use. Once approved, they shall be implemented strictly.

第二十四条 各级人民政府应当加强土地利用计划管理,实行建设用地总量控制。

土地利用年度计划,根据国民经济和社会发展规划、国家产业政策、土地利用总体规划以及建设用地和土地利用的实际状况编制。土地利用年度计划的编制审批程序与土地利用总体规划的编制审批程序相同,一经审批下达,必须严格执行。

(相关资料: 地方法规 4 篇 修订沿革 条文释义 相关论文 3 篇)

Article 25 The people's governments of provinces, autonomous regions and municipalities shall report the implementations of their annual plans for the use of land to the people's congresses at the same level as part of the implementation of their economic and social development plans.

第二十五条 省、自治区、直辖市人民政府应当将土地利用年度计划的执行情况列为国民经济和社会发展规划执行情况的内容,向同级人民代表大会报告。

(相关资料: 裁判文书 1 篇 修订沿革 条文释义 相关论文 1 篇 实务指南)

Article 26 Revision of the general plans for land use shall be approved by the original organ of approval. Without approval, the usages of land defined in the general plans for the utilization of

land shall not be changed.

Whereas the purpose of land use defined in the general plans for the utilization of land needs to be changed due to the construction of large energy, communications, water conservancy and other infrastructure projects approved by the State Council, it shall be changed according to the document of approval issued by the State Council. If the purpose of land defined in the general plans for the utilization of land needs to be changed due to the construction of large energy, communications, water conservancy and other infrastructure projects approved by provinces, autonomous regions and municipalities, it shall be changed according to the document of approval issued by the provincial level people's governments if it falls into their terms of reference.

第二十六条 经批准的土地利用总体规划的修改,须经原批准机关批准;未经批准,不得改变土地利用总体规划确定的土地用途。

经国务院批准的大型能源、交通、水利等基础设施建设用地,需要改变土地利用总体规划的,根据国务院的批准文件修改土地利用总体规划。

经省、自治区、直辖市人民政府批准的能源、交通、水利等基础设施建设用地,需要改变土地利用总体规划的,属于省级人民政府土地利用总体规划批准权限内的,根据省级人民政府的批准文件修改土地利用总体规划。

(相关资料: 部门规章 2 篇 地方法规 23 篇 裁判文书 10 篇 修订沿革 条文释义 相关论文 1 篇)

Article 27 The State fosters land survey system. The land administrative departments of the people's governments at and above the county level shall carry out land surveys together with related departments at the same level. Land owners or users should provide good cooperation and necessary data and materials required.

第二十七条 国家建立土地调查制度。

县级以上人民政府土地行政主管部门会同同级有关部门进行土地调查。土地所有者或者使用者应当配合调查,并提供有关资料。

(相关资料: 部门规章 1 篇 修订沿革 条文释义 相关论文 3 篇)

Article 28 Land administrative departments of the people's government at and above the county level shall, together with related departments at the same level, grade the land according to the results of the surveys, their planned uses and the unified standards formulated by the State.

第二十八条 县级以上人民政府土地行政主管部门会同同级有关部门根据土地调查成果、规划土地用途和国家制定的统一标准,评定土地等级。

(相关资料: 修订沿革 条文释义 相关论文 3 篇)

Article 29 The State establishes the land statistical system. Land administrative departments of the people's governments at and above the county level shall, together with the statistical departments at the same level shall, formulate plans for statistical surveys and compile statistics about land according to law and regularly issue statistical data about the land. Land owners and users shall provide related materials and it is strictly forbidden to provide false and concealed materials or refuse to provide or delay the delivery of materials. The statistical materials about the land areas issued by land administrative departments and statistical departments serve as the basis for people's governments at all levels in compiling the general plans for the utilization of

land.

第二十九条 国家建立土地统计制度。

县级以上人民政府土地行政主管部门和同级统计部门共同制定统计调查方案,依法进行土地统计,定期发布土地统计资料。土地所有者或者使用者应当提供有关资料,不得虚报、瞒报、拒报、迟报。

土地行政主管部门和统计部门共同发布的土地面积统计资料是各级人民政府编制土地利用总体规划的依据。

(相关资料: 修订沿革 条文释义 相关论文 1 篇)

Article 30 The State shall establish the national land management information system to conduct dynamic monitoring of the utilization of land.

第三十条 国家建立全国土地管理信息系统,对土地利用状况进行动态监测。

(相关资料: 修订沿革 条文释义 相关论文 1 篇)

CHAPTER FOUR PROTECTION OF CULTIVATED LAND

第四章 耕地保护

Article 31 The State protects the cultivated land and strictly controls the conversion of cultivated land into non-cultivated land. The State fosters the system of compensations to cultivated land to be occupied. In the case of occupying cultivated land for non-agricultural construction, the units occupying the cultivated land should be responsible for reclaiming the same amount of land in the same quality as that occupied according to the principle of "reclaiming the same amount of land occupied. Whereas units which occupy the cultivated land are not available with conditions of reclamation of land or the land reclaimed is not up to requirements, the units concerned should pay land reclamation fees prescribed by provinces, autonomous regions and municipalities for reclaiming land for cultivation the land reclaimed. The people's governments of all provinces, autonomous regions and municipalities shall formulate plans for reclamation of cultivated land, see to it that units which occupy cultivated land shall reclaim land as planned or organize the land reclamation according to plan and examine and accept the land reclaimed.

第三十一条 国家保护耕地,严格控制耕地转为非耕地。

国家实行占用耕地补偿制度。非农业建设经批准占用耕地的,按照“占多少,垦多少”的原则,由占用耕地的单位负责开垦与所占用耕地的数量和质量相当的耕地;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,专款用于开垦新的耕地。

省、自治区、直辖市人民政府应当制定开垦耕地计划,监督占用耕地的单位按照计划开垦耕地或者按照计划组织开垦耕地,并进行验收。

(相关资料: 地方法规 4 篇 裁判文书 4 篇 修订沿革 条文释义 相关论文 5 篇 实务指南)

Article 32 The local people's governments at and above the county level may demand units which occupy cultivated land to use the topsoil of the land occupied for use in the newly reclaimed land, poor land or other cultivated land for soil amelioration.

第三十二条 县级以上地方人民政府可以要求占用耕地的单位将所占用耕地耕作层的土壤用于新开垦耕地、劣质地或者其他耕地的土壤改良。

(相关资料: 裁判文书 1 篇 修订沿革 条文释义 相关论文 1 篇)

Article 33 People's governments of all provinces, autonomous regions and municipalities shall strictly implement the general plans for the utilization of land and annual plan for the use of land, adopt measures to ensure not to reduce the total amount of cultivated land within their jurisdictions. Whereas reductions occur, the State Council shall order it to organize land reclamation within the prescribed time limit to make up for the reduced land in the same quantity and quality and the land administrative department of the State Council shall, together with agricultural administrative department, examine and accept it. Whereas individual provinces and municipalities find it difficult to reclaim enough land to make up for the land occupied due to scarce reserve resources, the total amount of land due to be reclaimed in their own regions may be reduced with the approval of the State Council but the rest of land for reclamation shall be made up for elsewhere.

第三十三条 省、自治区、直辖市人民政府应当严格执行土地利用总体规划和土地利用年度计划,采取措施,确保本行政区域内耕地总量不减少;耕地总量减少的,由国务院责令在规定期限内组织开垦与所减少耕地的数量与质量相当的耕地,并由国务院土地行政主管部门会同农业行政主管部门验收。个别省、直辖市确因土地后备资源匮乏,新增建设用地后,新开垦耕地的数量不足以补偿所占用耕地的数量的,必须报经国务院批准减免本行政区域内开垦耕地的数量,进行易地开垦。

(相关资料:裁判文书 1 篇 修订沿革 条文释义)

Article 34 The State fosters the system of protecting the basic farmland. The following cultivated land shall be demarcated as basic farmland protection areas and subject to stringent control according to the general plans for the utilization of land:

1. Cultivated land in the grain, cotton and oil-bearing crops production bases approved by the land administrative department of the State Council or the local people's governments at and above the county level;
2. Cultivated land with good water conservancy and water and soil conservation facilities and medium-and low-yielding land where the execution of amelioration plan is in progress or medium-and low-yielding land that is transformable.
3. Vegetable production bases;
4. Experimental plots for research and teaching;
5. Other cultivated land that should be designated as basic farmland protection areas as provided for by the State Council.

Areas of basic farmland demarcated by various provinces, autonomous regions and municipalities should make up over 80% of the cultivated land within their administrative areas. Basic farmland protection areas shall be demarcated with township (town) as the unit and the protection of which shall be carried out by the land administrative departments of the county level people's governments together with agricultural administrative departments of the same level.

第三十四条 国家实行基本农田保护制度。下列耕地应当根据土地利用总体规划划入基本农田保护区,严格管理:

(一) 经国务院有关主管部门或者县级以上地方人民政府批准确定的粮、棉、油生产基地内的耕地;

(二) 有良好的水利与水土保持设施的耕地,正在实施改造计划以及可以改造的中、低产田;

- (三) 蔬菜生产基地;
- (四) 农业科研、教学试验田;
- (五) 国务院规定应当划入基本农田保护区的其他耕地。

各省、自治区、直辖市划定的基本农田应当占本行政区域内耕地的百分之八十以上。

基本农田保护区以乡(镇)为单位进行划区定界,由县级人民政府土地行政主管部门会同同级农业行政主管部门组织实施。

(相关资料: 裁判文书 2 篇 修订沿革 条文释义 实务指南)

Article 35 People's governments at all levels shall adopt measures to maintain and protect irrigation and drainage facilities, ameliorate the soil to raise fertility and prevent desertification, salinization, water loss and soil erosion and pollution.

第三十五条 各级人民政府应当采取措施,维护排灌工程设施,改良土壤,提高地力,防止土地荒漠化、盐渍化、水土流失和污染土地。

(相关资料: 裁判文书 1 篇 修订沿革 条文释义 相关论文 2 篇)

Article 36 Land shall be used sparingly for non-agricultural construction purposes. Whereas wasteland can be used, no cultivated land should be occupied; whereas poor land can be used, no good land should be occupied.

It is forbidden to build kilns, graves or houses on cultivated land or to dig sand, collect stones, do mining and carry soil away from cultivated land.

It is forbidden to occupy basic farmland to develop horticulture or dig ponds to breed fish.

第三十六条 非农业建设必须节约使用土地,可以利用荒地的,不得占用耕地;可以利用劣地的,不得占用好地。

禁止占用耕地建窑、建坟或者擅自在耕地上建房、挖砂、采石、采矿、取土等。

禁止占用基本农田发展林果业和挖塘养鱼。

(相关资料: 地方法规 4 篇 裁判文书 14 篇 修订沿革 条文释义)

Article 37 No unit or individual is allowed to let the land to lie idle or go wasted. Whereas a cultivated land which has been occupied for non-agricultural construction upon approval and can start construction within one year is found cultivable and yieldable, it should be cultivated by the unit or individual that originally cultivates the land or cultivated by units occupying the land. Whereas construction work fails to start for over one year, land idling fees shall be paid according to the provisions by various provinces, autonomous region and municipalities. Whereas construction work fails to start for two successive years, the people's governments at and above the county level shall revoke the use right of the land with the approval of the original organ of approval. Whereas the land used to be owned by peasant collectives, it should be turned over to original rural collective economic organizations for recultivation.

Idle land that is lying within the urban plan areas and whose use right has been leased for real estate development shall be handled according to the "Urban Property Administration Law of the People's Republic of China".

Whereas a unit or individual that has contracted for land operation has given up cultivation and allowed the land to go wasted for two successive years, the original contracting-out party shall terminate the contract and recover the land contracted out for cultivation.

第三十七条 禁止任何单位和个人闲置、荒芜耕地。已经办理审批手续的非农业建

设占用耕地，一年内不用而又可以耕种并收获的，应当由原耕种该幅耕地的集体或者个人恢复耕种，也可以由用地单位组织耕种；一年以上未动工建设的，应当按照省、自治区、直辖市的规定缴纳闲置费；连续二年未使用的，经原批准机关批准，由县级以上人民政府无偿收回用地单位的土地使用权；该幅土地原为农民集体所有的，应当交由原农村集体经济组织恢复耕种。

在城市规划区范围内，以出让方式取得土地使用权进行房地产开发的闲置土地，依照《中华人民共和国城市房地产管理法》的有关规定办理。

承包经营耕地的单位或者个人连续二年弃耕抛荒的，原发包单位应当终止承包合同，收回发包的耕地。

（相关资料：地方法规 8 篇 裁判文书 19 篇 修订沿革 条文释义 相关论文 3 篇 实务指南）

Article 38 The State encourages development of unused land by units or individuals according to the general plans for the utilization of land and under the precondition of protecting and improving the ecological environment, preventing water loss, soil erosion and desertification. Land suitable for agricultural use should have the priority of developing into land for agricultural use. The State protects the legitimate rights and interests of developers.

第三十八条 国家鼓励单位和个人按照土地利用总体规划，在保护和改善生态环境、防止水土流失和土地荒漠化的前提下，开发未利用的土地；适宜开发为农用地的，应当优先开发成农用地。

国家依法保护开发者的合法权益。

（相关资料：裁判文书 10 篇 修订沿革 条文释义 相关论文 3 篇 实务指南）

Article 39 Reclaiming unused land shall go through scientific argumentation and evaluation and can proceed according to law after approval within the reclaimable areas demarcated in the general plans for the utilization of land. It is forbidden to destroy forests and grassland in the process of land reclamation. It is forbidden to carry out landfill of lakes and occupy beach land of rivers.

Whereas reclamation of a land or rounding up of a land for reclamation would give harm to ecological environment the land concerned should be restored as forests, pasture fields or lakes step by step and in a planned manner according to the general plans for the utilization of land.

第三十九条 开垦未利用的土地，必须经过科学论证和评估，在土地利用总体规划划定的可开垦的区域内，经依法批准后进行。禁止毁坏森林、草原开垦耕地，禁止围湖造田和侵占江河滩地。

根据土地利用总体规划，对破坏生态环境开垦、围垦的土地，有计划有步骤地退耕还林、还牧、还湖。

（相关资料：地方法规 2 篇 裁判文书 1 篇 修订沿革 条文释义 相关论文 1 篇）

Article 40 For developing waste hills, land or beach land whose use rights have not been ascertained for crop cultivation, forestry, animal husbandry or fisheries, the use rights may be given to developers or individuals for long-term use with the approval of the people's government at and above the county level according to law.

第四十条 开发未确定使用权的国有荒山、荒地、荒滩从事种植业、林业、畜牧业、渔业生产的，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。

（相关资料：地方法规 4 篇 裁判文书 3 篇 修订沿革 条文释义）

Article 41 The State encourages land consolidation. People's governments of counties and townships (towns) shall organize rural collective economic organizations to carry out comprehensive consolidation of fields, water surface, roads, woods and villages according to the general plans for the utilization of land to raise the quality of cultivated land and increase areas for effective cultivation and improve the agricultural production conditions and ecological environment. Local people's governments at all levels shall adopt measures to ameliorate medium-and low-yielding land and consolidate idle and scattered and abandoned land.

第四十一条 国家鼓励土地整理。县、乡（镇）人民政府应当组织农村集体经济组织，按照土地利用总体规划，对田、水、路、林、村综合整治，提高耕地质量，增加有效耕地面积，改善农业生产条件和生态环境。

地方各级人民政府应当采取措施，改造中、低产田，整治闲散地和废弃地。

（相关资料：地方法规 1 篇 裁判文书 3 篇 修订沿革 条文释义 相关论文 4 篇 实务指南）

Article 42 Whereas land is damaged due to digging, cave-in and occupation, the units or individuals occupying the land should be responsible for reclamation according to the relevant provisions of the State; for lack of ability of reclamation or for failure to meet the required reclamation, land reclamation fees shall be paid, for use in land reclamation. Land reclaimed shall be first used for agricultural purposes.

第四十二条 因挖损、塌陷、压占等造成土地破坏，用地单位和个人应当按照国家有关规定负责复垦；没有条件复垦或者复垦不符合要求的，应当缴纳土地复垦费，专项用于土地复垦。复垦的土地应当优先用于农业。

（相关资料：地方法规 3 篇 裁判文书 4 篇 修订沿革 条文释义 实务指南）

CHAPTER FIVE LAND FOR CONSTRUCTION PURPOSES

第五章 建设用地

Article 43 Any unit or individual that need land for construction purposes should apply for the use of land owned by the State according to law, except land owned by peasant collectives used by collective economic organizations for building township enterprises or building houses for villagers or land owned by peasant collectives approved according to law for use in building public facilities or public welfare facilities of townships (towns).

The term "apply for the use of land owned by the State according to law" used in the preceding paragraph refers to land owned by the State and also land originally owned by peasant collectives but having been expropriated by the State.

第四十三条 任何单位和个人进行建设，需要使用土地的，必须依法申请使用国有土地；但是，兴办乡镇企业和村民建设住宅经依法批准使用本集体经济组织农民集体所有的土地的，或者乡（镇）村公共设施和公益事业建设经依法批准使用农民集体所有的土地的除外。

前款所称依法申请使用的国有土地包括国家所有的土地和国家征收的原属于农民集体所有的土地。

（相关资料：部门规章 1 篇 地方法规 3 篇 案例 1 篇 裁判文书 41 篇 修订沿革 条文释义 相关论文 15 篇 实务指南）

Article 44 Whereas occupation of land for construction purposes involves the conversion of

agricultural land into land for construction purposes, the examination and approval procedures in this regard shall be required.

For projects of roads, pipelines and large infrastructure approved by the people's governments of provinces, autonomous regions and municipalities, land for construction has to be approved by the State Council whereas conversion of agricultural land is involved. Whereas agricultural land is converted into construction purposes as part of the efforts to implement the general plans for the utilization of land within the amount of land used for construction purposes as defined in the general plans for cities, villages and market towns, it shall be approved batch by batch according to the annual plan for the use of land by the organs that approved the original general plans for the utilization of land. The specific projects within the scope of land approved for conversion shall be approved by the people's governments of cities or counties. Land to be occupied for construction purposes other than those provided for in the second and third paragraphs of this article shall be approved by the people's governments of provinces, autonomous region and municipalities whereas conversion of agricultural land into construction land is involved.

第四十四条 建设占用土地，涉及农用地转为建设用地的，应当办理农用地转用审批手续。

省、自治区、直辖市人民政府批准的道路、管线工程和大型基础设施建设项目、国务院批准的建设项目占用土地，涉及农用地转为建设用地的，由国务院批准。

在土地利用总体规划确定的城市和村庄、集镇建设用地规模范围内，为实施该规划而将农用地转为建设用地的，按土地利用年度计划分批次由原批准土地利用总体规划的机关批准。在已批准的农用地转用范围内，具体建设项目用地可以由市、县人民政府批准。

本条第二款、第三款规定以外的建设项目占用土地，涉及农用地转为建设用地的，由省、自治区、直辖市人民政府批准。

（相关资料：部门规章 1 篇 地方法规 17 篇 案例 1 篇 裁判文书 48 篇 修订沿革 条文释义 相关论文 6 篇 实务指南）

Article 45 The expropriation of the following land shall be approved by the State Council:

1. Basic farmland;
2. Land exceeding 35 hectares outside the basic farmland;
3. Other land exceeding 70 hectares.

Expropriation of land other than prescribed in the preceding paragraph shall be approved by the people's governments of provinces, autonomous regions and municipalities and submitted to the State Council for the record.

Expropriation of agricultural land should first of all go through the examination and approval procedure for converting agricultural land into land for construction purposes according to the provisions of Article 44 of this law. Whereas conversion of land is approved by the State Council, the land expropriation examination and approval procedures should be completed concurrently with the procedures for converting agricultural land to construction uses and no separate procedures are required. Whereas the conversion of land is approved by people's governments of provinces, autonomous regions and municipalities within their terms of reference, land expropriation examination and approval procedures should be completed at the same time and no separate procedures are required. Whereas the terms of reference has been exceeded, separate land expropriation examination and approval procedures should be completed according to the provisions of the first paragraph of this article.

第四十五条 征收下列土地的，由国务院批准：

- (一) 基本农田；
- (二) 基本农田以外的耕地超过三十五公顷的；
- (三) 其他土地超过七十公顷的。

征收前款规定以外的土地的，由省、自治区、直辖市人民政府批准，并报国务院备案。

征收农用地的，应当依照本法第四十四条的规定先行办理农用地转用审批。其中，经国务院批准农用地转用的，同时办理征地审批手续，不再另行办理征地审批；经省、自治区、直辖市人民政府在征地批准权限内批准农用地转用的，同时办理征地审批手续，不再另行办理征地审批，超过征地批准权限的，应当依照本条第一款的规定另行办理征地审批。

(相关资料: 地方法规 6 篇 裁判文书 12 篇 修订沿革 条文释义 相关论文 4 篇 实务指南)

Article 46 For expropriation of land by the State the local people's governments at and above the county level shall make an announcement and organize the implementation after the approval according to the legal procedures.

Owners or users of the land expropriated should, within the time limit specified in the announcement, go through the compensation registration for expropriated land with the land administrative departments of the local people's governments on the strength of the land certificate.

第四十六条 国家征收土地的，依照法定程序批准后，由县级以上地方人民政府予以公告并组织实施。

被征收土地的所有权人、使用权人应当在公告规定期限内，持土地权属证书到当地人民政府土地行政主管部门办理征地补偿登记。

(相关资料: 地方法规 105 篇 裁判文书 78 篇 修订沿革 条文释义 相关论文 3 篇 实务指南)

Article 47 In expropriating land, compensation should be made according to the original purposes of the land expropriated. Compensation fees for land expropriated include land compensation fees, resettlement fees and compensation for attachments to or green crops on the land. The land compensation fees shall be 6-10 times the average output value of the three years preceding the expropriation of the cultivated land. The resettlement fee shall be calculated according to the number of agricultural population to be resettled. The number of agricultural population to be resettled shall be calculated by dividing the amount of cultivated land expropriated by the per capital land occupied of the unit whose land is expropriated. The resettlement fees for each agricultural person to be resettled shall be 4-6 times the average annual output value of the three years preceding the expropriation of the cultivated land. But the maximum resettlement fee per hectare of land expropriated shall not exceed 15 times of the average annual output value of the three years prior to the expropriation. The standards for land compensation and resettlement fees for land expropriated shall be determined by various provinces, autonomous regions and municipalities in reference to the land compensation fees and resettlement fees for cultivated land expropriated. The standards for compensating for ground attachments and green crops on the land expropriated shall be determined by various provinces, autonomous regions and municipalities. In expropriating vegetable fields in suburban areas, the units using the land should pay new vegetable field development and construction fund.

Whereas the land compensation fees and resettlement fees paid according to the provisions of

the second paragraph of this article are not enough to maintain the original level of living, the resettlement fees may be increased with the approval of the people's governments of provinces, autonomous regions and municipalities. But the combined total of land compensation fees and resettlement fees shall not exceed 30 times the average output value of the three years prior to the expropriation. In special circumstances, the State Council may raise the standards for land compensation and resettlement fees for land expropriated according to the social and economic development level.

第四十七条 征收土地的，按照被征收土地的原用途给予补偿。

征收耕地的补偿费用包括土地补偿费、安置补助费以及地上附着物和青苗的补偿费。征收耕地的土地补偿费，为该耕地被征收前三年平均年产值的六至十倍。征收耕地的安置补助费，按照需要安置的农业人口数计算。需要安置的农业人口数，按照被征收的耕地数量除以征地前被征收单位平均每人占有耕地的数量计算。每一个需要安置的农业人口的安置补助费标准，为该耕地被征收前三年平均年产值的四至六倍。但是，每公顷被征收耕地的安置补助费，最高不得超过被征收前三年平均年产值的十五倍。

征收其他土地的土地补偿费和安置补助费标准，由省、自治区、直辖市参照征收耕地的土地补偿费和安置补助费的标准规定。

被征收土地上的附着物和青苗的补偿标准，由省、自治区、直辖市规定。

征收城市郊区的菜地，用地单位应当按照国家有关规定缴纳新菜地开发建设基金。

依照本条第二款的规定支付土地补偿费和安置补助费，尚不能使需要安置的农民保持原有生活水平的，经省、自治区、直辖市人民政府批准，可以增加安置补助费。但是，土地补偿费和安置补助费的总和不得超过土地被征收前三年平均年产值的三十倍。

国务院根据社会、经济发展水平，在特殊情况下，可以提高征收耕地的土地补偿费和安置补助费的标准。

（相关资料：地方法规 17 篇 裁判文书 99 篇 修订沿革 条文释义 相关论文 23 篇 实务指南）

Article 48 After the plan for land compensation and resettlement fees is finalized, related local people's governments shall make an announcement and hear the opinions of the rural collective economic organizations and peasants whose land has been expropriated.

第四十八条 征地补偿安置方案确定后，有关地方人民政府应当公告，并听取被征地的农村集体经济组织和农民的意见。

（相关资料：裁判文书 6 篇 修订沿革 条文释义 相关论文 2 篇 实务指南）

Article 49 Rural collective economic organizations shall make public to its members the receipts and expenditures of the land compensation fees for land expropriated and accept their supervision. It is forbidden to embezzle or divert the land compensation fees and other related expenses.

第四十九条 被征地的农村集体经济组织应当将征收土地的补偿费用的收支状况向本集体经济组织的成员公布，接受监督。

禁止侵占、挪用被征收土地单位的征地补偿费用和其他有关费用。

（相关资料：裁判文书 7 篇 修订沿革 条文释义 相关论文 2 篇 实务指南）

Article 50 Local people's governments at all levels shall support rural collective economic organizations and peasants in their efforts toward development and operations or in starting up enterprises.

第五十条 地方各级人民政府应当支持被征地的农村集体经济组织和农民从事开发经营，兴办企业。

（相关资料：裁判文书 1 篇 修订沿革 条文释义）

Article 51 The standards for land compensation and method of resettlement for land expropriated for building large and medium-sized water conservancy projects and hydroelectric power projects shall be determined separately by the State Council.

第五十一条 大中型水利、水电工程建设征收土地的补偿费标准和移民安置办法，由国务院另行规定。

（相关资料：裁判文书 2 篇 修订沿革 条文释义）

Article 52 In the process of the feasibility study for construction projects, land administrative departments may examine the related matters concerning the land for construction purposes and put forward their proposals according to the general plans for the utilization of land, the annual plan for the use of land and standards for land used for construction purposes.

第五十二条 建设项目可行性研究论证时，土地行政主管部门可以根据土地利用总体规划、土地利用年度计划和建设用地标准，对建设用地有关事项进行审查，并提出意见。

（相关资料：地方法规 8 篇 修订沿革 条文释义 实务指南）

Article 53 Whereas a construction project approved needs land owned by the State for construction purposes, the construction unit should file an application with land administrative department of the people's government at and above the county level with the power of approval on the strength of related documents required by law and administrative decrees. The land administrative department shall examine the application and submit it to the people's government at the same level for approval.

第五十三条 经批准的建设项目需要使用国有建设用地的，建设单位应当持法律、行政法规规定的有关文件，向有批准权的县级以上人民政府土地行政主管部门提出建设用地申请，经土地行政主管部门审查，报本级人民政府批准。

（相关资料：地方法规 7 篇 裁判文书 1 篇 修订沿革 条文释义 实务指南）

Article 54 A paid leasing should be go through in use of land owned by the State by a construction unit. But the following land may be obtained through government allocation with the approval of the people's governments at and above the county level according to law:

1. Land for use by government organs and for military use;
2. Land for building urban infrastructure and for public welfare undertakings;
3. Land for building energy, communications and water conservancy and other infrastructure projects supported by the State.
4. Other land as provided for by the law and administrative decrees.

第五十四条 建设单位使用国有土地，应当以出让等有偿使用方式取得；但是，下列建设用地，经县级以上人民政府依法批准，可以以划拨方式取得：

- （一）国家机关用地和军事用地；
- （二）城市基础设施用地和公益事业用地；
- （三）国家重点扶持的能源、交通、水利等基础设施用地；
- （四）法律、行政法规规定的其他用地。

（相关资料：地方法规 8 篇 案例 1 篇 裁判文书 5 篇 修订沿革 条文释义 相关论文 2 篇 实务指南）

Article 55 Construction units that have obtained State-owned land by paid leasing can use the land only after paying the land use right leasing fees and other fees and expenses according to the standards and ways prescribed by the State Council. Starting from the date when this law comes into effect, 30% of the land compensation fees for new construction land shall be handed over to the central finance, with the rest 70% to be retained by related local people's governments, for the development of land for cultivation.

第五十五条 以出让等有偿使用方式取得国有土地使用权的建设单位，按照国务院规定的标准和办法，缴纳土地使用权出让金等土地有偿使用费和其他费用后，方可使用土地。

自本法施行之日起，新增建设用地的土地有偿使用费，百分之三十上缴中央财政，百分之七十留给有关地方人民政府，都专项用于耕地开发。

（相关资料：地方法规 6 篇 裁判文书 7 篇 修订沿革 条文释义 实务指南）

Article 56 In using State-owned land, construction units should use the land according to the provisions of the contract for compensated use of leased land use right or according to the provisions of the documents of approval concerning the allocation of land use right. The change of the land to construction purposes should get the consent from the land administrative departments of the related people's governments and be submitted to the people's governments that originally give the approval for the use of land. In changing the purpose of land within the urban planned areas, the consent should be obtained from the related urban planning administrative departments before submission for approval.

第五十六条 建设单位使用国有土地的，应当按照土地使用权出让等有偿使用合同的约定或者土地使用权划拨批准文件的规定使用土地；确需改变该幅土地建设用途的，应当经有关人民政府土地行政主管部门同意，报原批准用地的人民政府批准。其中，在城市规划区内改变土地用途的，在报批前，应当先经有关城市规划行政主管部门同意。

（相关资料：地方法规 13 篇 案例 1 篇 裁判文书 15 篇 修订沿革 条文释义 相关论文 3 篇 实务指南）

Article 57 In the case of temporary using State-owned land or land owned by peasant collectives by construction projects or geological survey teams, approval should be obtained from the land administrative departments of local people's governments at and above the county level. Whereas the land to be temporarily used is within the urban planned areas, the consent of the urban planning departments should be obtained before being submitted for approval. Land users should sign contracts for temporary use of land with related land administrative departments or rural collective organizations or villagers committees depending on the ownership of the land and pay land compensation fees for the temporary use of the land according to the standard specified in the contracts.

Users who use the land temporarily should use the land according to the purposes agreed upon in the contract for the temporary use of land and should not build permanent structures. The term for the temporary use of land shall not usually exceed two years.

第五十七条 建设项目施工和地质勘查需要临时使用国有土地或者农民集体所有的土地的，由县级以上人民政府土地行政主管部门批准。其中，在城市规划区内的临时用地，

在报批前，应当先经有关城市规划行政主管部门同意。土地使用者应当根据土地权属，与有关土地行政主管部门或者农村集体经济组织、村民委员会签订临时使用土地合同，并按照合同的约定支付临时使用土地补偿费。

临时使用土地的使用者应当按照临时使用土地合同约定的用途使用土地，并不得修建永久性建筑物。

临时使用土地期限一般不超过二年。

（相关资料：地方法规 13 篇 裁判文书 10 篇 修订沿革 条文释义 相关论文 2 篇 实务指南）

Article 58 In one of the following cases, the land administrative departments of related people's governments shall recover the land use right of State-owned land with the approval of the people's governments that originally gives the approval or the people's governments with the power of approval:

1. Use land for the sake of public interests;
2. Use land for adjustment in re-building old city districts in order to implement urban construction plans;
3. When the term for the land use right expires according to what is agreed upon in the contract for compensated use of land, the land user has failed to apply for extension or failed to get approval for extension;
4. The use of land originally allocated has been stopped due to cancellation or removal of units;
5. Roads, railways, airports and mining sites that have been approved to be abandoned.

Proper compensation should be given to land use right users whereas the use right of State-owned land is recovered according to the provisions of 1 and 2 of the preceding paragraph.

第五十八条 有下列情形之一的，由有关人民政府土地行政主管部门报经原批准用地的人民政府或者有批准权的人民政府批准，可以收回国有土地使用权：

- （一）为公共利益需要使用土地的；
- （二）为实施城市规划进行旧城区改建，需要调整使用土地的；
- （三）土地出让等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申请续期未获批准的；
- （四）因单位撤销、迁移等原因，停止使用原划拨的国有土地的；
- （五）公路、铁路、机场、矿场等经核准报废的。

依照前款第（一）项、第（二）项的规定收回国有土地使用权的，对土地使用权人应当给予适当补偿。

（相关资料：部门规章 1 篇 地方法规 97 篇 裁判文书 22 篇 修订沿革 条文释义 相关论文 15 篇 实务指南）

Article 59 Construction of township enterprises, public facilities and public welfare undertakings of townships (towns) and rural villagers' houses should be rationally laid out according to the village or market town plans according to a comprehensive development plan, with good supporting facilities. Land used for construction purposes shall conform to the general plans for the utilization of land of townships (towns) and their annual plan for the use of land and the examination and approval procedures should be completed according to the provisions of Article 44, Article 60, Article 61 and Article 62 of this law.

第五十九条 乡镇企业、乡（镇）村公共设施、公益事业、农村村民住宅等乡（镇）村建设，应当按照村庄和集镇规划，合理布局，综合开发，配套建设；建设用地，应当符合

乡（镇）土地利用总体规划和土地利用年度计划，并依照本法第四十四条、第六十条、第六十一条、第六十二条的规定办理审批手续。

（相关资料：地方法规 1 篇 裁判文书 6 篇 修订沿革 条文释义 实务指南）

Article 60 In using the land for construction purposes defined in the general plan for the utilization of land of townships (towns) to start up enterprises or joint ventures together with other units or individuals by way of using land use right as shares, the rural collective economic organization shall file an application with land administrative departments of the local people's governments at and above the county level on the strength of documents of approval. The applications shall be approved by the local people's governments at and above the country according to the terms of reference provided for by various provinces, autonomous regions and municipalities whereas the use of land involving the occupation of agricultural land, the examination and approval procedures provided for in Article 44 of this law shall be followed.

Land for construction purposes in starting enterprises provided for in the preceding paragraph shall be put under strict control. Provinces, autonomous regions and municipalities shall determine the standards for land use according to different trades and scale of operation of township enterprises.

第六十条 农村集体经济组织使用乡（镇）土地利用总体规划确定的建设用地兴办企业或者与其他单位、个人以土地使用权入股、联营等形式共同举办企业的，应当持有关批准文件，向县级以上地方人民政府土地行政主管部门提出申请，按照省、自治区、直辖市规定的批准权限，由县级以上地方人民政府批准；其中，涉及占用农用地的，依照本法第四十四条的规定办理审批手续。

按照前款规定兴办企业的建设用地，必须严格控制。省、自治区、直辖市可以按照乡镇企业的不同行业和经营规模，分别规定用地标准。

（相关资料：地方法规 7 篇 裁判文书 2 篇 修订沿革 条文释义 相关论文 2 篇 实务指南）

Article 61 In using land for building public facilities and public welfare facilities, townships (towns) shall file an application with land administrative departments of local people's governments at and above the county level after being examined by the township (town) people's governments at and the application shall be approved by the local people's governments at and above the county level according to the term of reference provided for by provinces, autonomous regions and municipalities. Where occupation of agricultural land is involved, the examination and approval procedures provided for in Article 44 of this law are required.

第六十一条 乡（镇）村公共设施、公益事业建设，需要使用土地的，经乡（镇）人民政府审核，向县级以上地方人民政府土地行政主管部门提出申请，按照省、自治区、直辖市规定的批准权限，由县级以上地方人民政府批准；其中，涉及占用农用地的，依照本法第四十四条的规定办理审批手续。

（相关资料：地方法规 6 篇 裁判文书 1 篇 修订沿革 条文释义 实务指南）

Article 62 One rural household can own one piece of land for building house, with the area not exceeding the standards provided for by provinces, autonomous regions and municipalities. Construction of rural houses should conform to the general plans for the utilization of land of townships (towns) and the original land occupied by houses and open spaces of villages should be used as much as possible for building houses.

The use of land for building houses should be examined by the township (town) people's governments and approved by the county people's governments. Whereas occupation of agricultural land is involved the examination and approval procedure provided for in Article 44 of this law is required.

The application for housing land after selling or leasing houses shall not be approved.

第六十二条 农村村民一户只能拥有一处宅基地，其宅基地的面积不得超过省、自治区、直辖市规定的标准。

农村村民建住宅，应当符合乡（镇）土地利用总体规划，并尽量使用原有的宅基地和村内空闲地。

农村村民住宅用地，经乡（镇）人民政府审核，由县级人民政府批准；其中，涉及占用农用地的，依照本法第四十四条的规定办理审批手续。

农村村民出卖、出租住房后，再申请宅基地的，不予批准。

（相关资料：地方法规7篇 裁判文书75篇 修订沿革 条文释义 相关论文19篇 实务指南）

Article 63 The land use right of peasant collectives shall not be leased, transferred or rented for non-agricultural construction, except in the case of legal transfer of the land that conforms to the general plan for the utilization of land and legally obtained by enterprises due to bankruptcy or acquisition.

第六十三条 农民集体所有的土地的使用权不得出让、转让或者出租用于非农业建设；但是，符合土地利用总体规划并依法取得建设用地的企业，因破产、兼并等情形致使土地使用权依法发生转移的除外。

（相关资料：地方法规3篇 裁判文书98篇 修订沿革 条文释义 相关论文10篇 实务指南）

Article 64 Buildings or structures put up before the general plan for the utilization of land and unconformable to the general plans are not allowed to be rebuilt or expanded.

第六十四条 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，不得重建、扩建。

（相关资料：修订沿革 条文释义 实务指南）

Article 65 In one of the following cases, the rural collective economic organizations may recover the land use right with the approval of the people's government that gives the approval for the use of land:

1. Land needed for building public facilities and public welfare undertakings of townships (towns) and villages;
2. Land not used according to the purposes approved;
3. Land not used any more due to cancellation or removal of the original units.

Proper compensation shall be given to land users in the case of recovering the land owned by peasant collectives provided for in item 1 of the preceding paragraph.

第六十五条 有下列情形之一的，农村集体经济组织报经原批准用地的人民政府批准，可以收回土地使用权：

- （一）为乡（镇）村公共设施和公益事业建设，需要使用土地的；
- （二）不按照批准的用途使用土地的；
- （三）因撤销、迁移等原因而停止使用土地的。

依照前款第（一）项规定收回农民集体所有的土地的，对土地使用权人应当给予适当补

偿。

（相关资料：地方法规 3 篇 裁判文书 4 篇 修订沿革 条文释义 相关论文 2 篇 实务指南）

CHAPTER SIX SUPERVISION AND EXAMINATION

第六章 监督检查

Article 66 Land administrative departments of the people's governments at and above the county level shall exercise supervision and examination on violations to the land administrative law and administrative decrees. Supervising personnel in such a regard should be well acknowledged with the land administrative law and decrees, loyal to their duties and justice in enforcement of the law.

第六十六条 县级以上人民政府土地行政主管部门对违反土地管理法律、法规的行为进行监督检查。

土地管理监督检查人员应当熟悉土地管理法律、法规，忠于职守、秉公执法。

（相关资料：地方法规 1 篇 裁判文书 10 篇 修订沿革 条文释义 相关论文 1 篇 实务指南）

Article 67 In performing their supervising and examination duties, the land administrative departments of the people's governments at and above the county level have the right to adopt the following measures:

1. Demand for documents and materials concerning land-use rights from units or individuals for examination, review or copying.
2. Demand explanations from units or individuals concerned in regard to land-use rights;
3. Enter into land illegally occupied by units or individuals under examination to carry out on-the-spot surveys, and
4. Command units or individuals that have occupied land illegally to stop their acts of violating the land administrative law and decrees.

第六十七条 县级以上人民政府土地行政主管部门履行监督检查职责时，有权采取下列措施：

（一）要求被检查的单位或者个人提供有关土地权利的文件和资料，进行查阅或者予以复制；

（二）要求被检查的单位或者个人就有关土地权利的问题作出说明；

（三）进入被检查单位或者个人非法占用的土地现场进行勘测；

（四）责令非法占用土地的单位或者个人停止违反土地管理法律、法规的行为。

（相关资料：地方法规 2 篇 裁判文书 2 篇 修订沿革 条文释义 实务指南）

Article 68 In performing their duties, whereas there is the need to carry out on-the-spot survey or demand units or individuals concerned to present documents and materials or explanations, supervising personnel should present certificates of land supervision and examination.

第六十八条 土地管理监督检查人员履行职责，需要进入现场进行勘测、要求有关单位或者个人提供文件、资料和作出说明的，应当出示土地管理监督检查证件。

（相关资料：修订沿革 条文释义 实务指南）

Article 69 Units or individuals concerned should provide active support and cooperation to land administrative departments of the people's governments at and above the county level in their supervision and examination of violations to land administration and provide all the

conveniences to facilitate but not in any way refuse or obstruct their work in such a regard.

第六十九条 有关单位和个人对县级以上人民政府土地行政主管部门就土地违法行为进行的监督检查应当支持与配合，并提供工作方便，不得拒绝与阻碍土地管理监督检查人员依法执行职务。

（相关资料：修订沿革 条文释义）

Article 70 Whereas land administrative departments of the people's governments at and above the county level have found government functionaries to have committed violations during their supervision and examination, they shall give them administrative punishments whereas the punishments are due. Whereas they do not have the right to handle the cases, they should put forward proposals for administrative punishments to the administrative supervision organs at the same level or at a higher level. The related administrative supervision departments shall mete out punishments according to law.

第七十条 县级以上人民政府土地行政主管部门在监督检查工作中发现国家工作人员的违法行为，依法应当给予行政处分的，应当依法予以处理；自己无权处理的，应当向同级或者上级人民政府的行政监察机关提出行政处分建议书，有关行政监察机关应当依法予以处理。

（相关资料：修订沿革 条文释义 实务指南）

Article 71 Whereas the land administrative departments of the people's governments at and above the county level have found violations to have constitute a crime in their supervision and examination, they shall hand over the case to related government organs to affix criminal responsibilities. Whereas the case cannot constitute a crime, administrative punishments shall be meted out.

第七十一条 县级以上人民政府土地行政主管部门在监督检查工作中发现土地违法行为构成犯罪的，应当将案件移送有关机关，依法追究刑事责任；尚不构成犯罪的，应当依法给予行政处罚。

（相关资料：修订沿革 条文释义 实务指南）

Article 72 Whereas related land administrative departments have failed to give administrative punishments due, the land administrative departments of the people's governments at a higher level have the right to command the land administrative departments to take punishment decisions or give administrative punishments directly and give administrative punishments to the person responsible of the related land administrative departments.

第七十二条 依照本法规定应当给予行政处罚，而有关土地行政主管部门不给予行政处罚的，上级人民政府土地行政主管部门有权责令有关土地行政主管部门作出行政处罚决定或者直接给予行政处罚，并给予有关土地行政主管部门的负责人行政处分。

（相关资料：部门规章 2 篇 地方法规 4 篇 修订沿革 条文释义 实务指南）

CHAPTER SEVEN LEGAL RESPONSIBILITIES

第七章 法律责任

Article 73 For illegal transfer of land through trade or other forms, land administrative departments of the people's governments at and above the county level shall confiscate the proceeds from the transfer. For converting agricultural land into land for construction uses in

violations to the provisions of the general plans for the utilization of land, an order shall be given to dismantle the new buildings or other facilities illegally built on the land illegally transferred for restoration of the land to the original state, and whereas in such cases no violation to the general plan for the utilization of land, the new building and other facilities on the land illegally transferred shall be confiscated and a fine may be imposed. Administrative punishments shall be given to persons in charge and persons directly responsible and whereas the case constitutes a crime, criminal responsibilities shall be affixed.

第七十三条 买卖或者以其他形式非法转让土地的，由县级以上人民政府土地行政主管部门没收违法所得；对违反土地利用总体规划擅自将农用地改为建设用地的，限期拆除在非法转让的土地上新建的建筑物和其他设施，恢复土地原状，对符合土地利用总体规划的，没收在非法转让的土地上新建的建筑物和其他设施；可以并处罚款；对直接负责的主管人员和其他直接责任人员，依法给予行政处分；构成犯罪的，依法追究刑事责任。

（相关资料：地方法规 15 篇 裁判文书 14 篇 修订沿革 条文释义 相关论文 1 篇 实务指南）

Article 74 Occupying cultivated land to build kilns or graves or build houses, dig sand, collect stones, do mining or collect soil from the cultivated land without authorization, thus damaging the conditions for growing crops or causing desertification and salinization due to land development in violation of this law, the land administrative departments of the people's governments at and above the county level shall order correction or improvement within a prescribed time limit and concurrently impose a fine. Whereas the case constitute a crime, criminal responsibility shall be affixed.

第七十四条 违反本法规定，占用耕地建窑、建坟或者擅自在耕地上建房、挖砂、采石、采矿、取土等，破坏种植条件的，或者因开发土地造成土地荒漠化、盐渍化的，由县级以上人民政府土地行政主管部门责令限期改正或者治理，可以并处罚款；构成犯罪的，依法追究刑事责任。

（相关资料：地方法规 11 篇 裁判文书 4 篇 修订沿革 条文释义 实务指南）

Article 75 Refusing to perform land reclamation obligations in violation of this law, the land administrative departments of the people's governments at and above the county level shall order correction within a prescribed time limit. Whereas no correction is made within the time limit, a payment of land reclamation fees specially used for land reclamation by the violator shall be ordered and a fine may be imposed concurrently.

第七十五条 违反本法规定，拒不履行土地复垦义务的，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，责令缴纳复垦费，专项用于土地复垦，可以处以罚款。

（相关资料：部门规章 1 篇 地方法规 11 篇 修订沿革 条文释义 实务指南）

Article 76 Occupying land without approval or by deception, the land administrative departments of the people's governments at and above the county level shall order to return the land illegally occupied; turning to agricultural land into land for construction uses without authorization in violation of the general plans for the utilization of land, dismantling of the new buildings and other structures on the land illegally occupied within a prescribed time limit shall be ordered and whereas the act has not violated the general plans for the utilization of land, the new buildings and structure concerned shall be confiscated and a fine may be imposed concurrently. Persons in

charge of the unit that occupies land illegally and the people directly responsible shall be given administrative punishments and whereas the case constitutes a crime, criminal responsibility shall be affixed. For an occupation of land in excess of the approved amount, part in excess shall be regarded as land illegally occupied.

第七十六条 未经批准或者采取欺骗手段骗取批准，非法占用土地的，由县级以上人民政府土地行政主管部门责令退还非法占用的土地，对违反土地利用总体规划擅自将农用地改为建设用地的，限期拆除在非法占用的土地上新建的建筑物和其他设施，恢复土地原状，对符合土地利用总体规划的，没收在非法占用的土地上新建的建筑物和其他设施，可以并处罚款；对非法占用土地单位的直接负责的主管人员和其他直接责任人员，依法给予行政处分；构成犯罪的，依法追究刑事责任。

超过批准的数量占用土地，多占的土地以非法占用土地论处。

（相关资料：部门规章 1 篇 地方法规 20 篇 裁判文书 21 篇 修订沿革 条文释义 相关论文 1 篇 实务指南）

Article 77 Occupying land by rural villagers for building houses without approval or by deception shall be ordered a return of the land illegally occupied and dismantle the new houses built on the land illegally occupied by land administrative departments of the people's governments at and above the county level. For occupation of land in excess of the standards prescribed by the provinces, autonomous regions and municipalities, the land in excess of the standards shall be regarded as having been illegally occupied.

第七十七条 农村村民未经批准或者采取欺骗手段骗取批准，非法占用土地建住宅的，由县级以上人民政府土地行政主管部门责令退还非法占用的土地，限期拆除在非法占用的土地上新建的房屋。

超过省、自治区、直辖市规定的标准，多占的土地以非法占用土地论处。

（相关资料：地方法规 10 篇 裁判文书 12 篇 修订沿革 条文释义 相关论文 3 篇 实务指南）

Article 78 Approving the occupation of land without the power of approval, beyond the term of reference, or not according to the purposes defined in the general plans for the utilization of land or approving the occupation or expropriating of land in violation of the legal procedures, the documents of approval shall be invalid and the persons in charge and personnel directly responsible for illegal expropriation or use of land shall be given administrative punishments. Whereas the case constitutes a crime, criminal responsibilities shall be affixed. The land illegally approved and used shall be recovered. Whereas parties concerned refuse to return, the case shall be regarded as illegal occupation of land.

Whereas illegal expropriation and use of land have caused damages to parties concerned, the party responsible shall bear the responsibilities of compensation according to law.

第七十八条 无权批准征收、使用土地的单位或者个人非法批准占用土地的，超越批准权限非法批准占用土地的，不按照土地利用总体规划确定的用途批准用地的，或者违反法律规定的程序批准占用、征收土地的，其批准文件无效，对非法批准征收、使用土地的直接负责的主管人员和其他直接责任人员，依法给予行政处分；构成犯罪的，依法追究刑事责任。非法批准、使用的土地应当收回，有关当事人拒不归还的，以非法占用土地论处。

非法批准征收、使用土地，对当事人造成损失的，依法应当承担赔偿责任。

（相关资料：地方法规 5 篇 裁判文书 12 篇 修订沿革 条文释义 相关论文 5 篇 实务指南）

Article 79 Embezzling or diverting the use of land compensation fees and other related expenses of the units whose land is expropriated, criminal responsibilities shall be affixed whereas the case constitutes the crime and administrative punishments shall be meted out whereas the case is not serious enough to constitute a crime.

第七十九条 侵占、挪用被征收土地单位的征地补偿费用和其他有关费用，构成犯罪的，依法追究刑事责任；尚不构成犯罪的，依法给予行政处分。

（相关资料：地方法规 1 篇 修订沿革 条文释义 实务指南）

Article 80 A refusal to return of land use right upon a legal recovering of the land or an expiration of temporary land use term or State-owned land is used not according to the purposes approved, the land administrative departments of the people's governments at and above the county level shall order the return of the land and impose a fine.

第八十条 依法收回国有土地使用权当事人拒不交出土地的，临时使用土地期满拒不归还的，或者不按照批准的用途使用国有土地的，由县级以上人民政府土地行政主管部门责令交还土地，处以罚款。

（相关资料：地方法规 10 篇 裁判文书 1 篇 修订沿革 条文释义 相关论文 2 篇 实务指南）

Article 81 Leasing, transferring or renting the use right of land owned by peasant collectives for non-agricultural construction uses, the land administrative departments of the people's governments at and above the county level shall order correction within a prescribed time limit, confiscate the proceeds concerned and impose a fine.

第八十一条 擅自将农民集体所有的土地的使用权出让、转让或者出租用于非农业建设的，由县级以上人民政府土地行政主管部门责令限期改正，没收违法所得，并处罚款。

（相关资料：地方法规 9 篇 裁判文书 3 篇 修订沿革 条文释义 实务指南）

Article 82 Refusing to go through the land alteration registration according to the provisions of this law, the land administrative departments of the people's governments at and above the county level shall order the parties concerned to go through the procedure within a prescribed time limit.

第八十二条 不依照本法规定办理土地变更登记的，由县级以上人民政府土地行政主管部门责令其限期办理。

（相关资料：地方法规 1 篇 裁判文书 1 篇 修订沿革 条文释义 相关论文 2 篇 实务指南）

Article 83 Whereas orders have been issued to dismantle the new buildings and other facilities on the land illegally occupied within a prescribed time limit according to the provisions of this law, the construction unit or individual shall stop operation immediately and dismantle them by themselves. Whereas the operation continues, the organ which decided for the punishment decisions has the right to stop it. Whereas a construction unit or individual refuse to accept the administrative punishment decisions on dismantling the buildings and other facilities, it may bring the case before the people's court within 15 days starting from the day when the decision is received. Whereas a unit or individual fails to put the case in proceeding when the time limit expires and yet refuses to do the dismantling, the organ making the punishment decision shall apply for compulsory exercise with the people's court and the cost arising therefrom shall be borne by the law violator.

第八十三条 依照本法规定，责令限期拆除在非法占用的土地上新建的建筑物和其他设施的，建设单位或者个人必须立即停止施工，自行拆除；对继续施工的，作出处罚决定的机关有权制止。建设单位或者个人对责令限期拆除的行政处罚决定不服的，可以在接到责令限期拆除决定之日起十五日内，向人民法院起诉；期满不起诉又不自行拆除的，由作出处罚决定的机关依法申请人民法院强制执行，费用由违法者承担。

（相关资料：地方法规 3 篇 裁判文书 2 篇 修订沿革 条文释义 实务指南）

Article 84 Dereliction of duty, abuse of power for personal gains and practise favouritism by personnel of the land administrative departments shall be affixed of criminal punishments according to criminal law whereas the case is serious enough to constitute a crime or imposed of administrative punishments whereas the case is not serious enough to constitute a crime.

第八十四条 土地行政主管部门的工作人员玩忽职守、滥用职权、徇私舞弊，构成犯罪的，依法追究刑事责任；尚不构成犯罪的，依法给予行政处分。

（相关资料：地方法规 2 篇 修订沿革 条文释义 相关论文 1 篇 实务指南）

CHAPTER EIGHT SUPPLEMENTARY PROVISIONS

第八章 附则

Article 85 This law applies to the use of land by Sino-foreign joint equity and cooperative ventures, and wholly foreign-owned enterprises. Whereas there are separate provisions by law, those provisions shall prevail.

第八十五条 中外合资经营企业、中外合作经营企业、外资企业使用土地的，适用本法；法律另有规定的，从其规定。

（相关资料：修订沿革 条文释义）

Article 86 The law shall come into force starting from January 1, 1999.

Appendix: Related articles in the Criminal Law:

Article 228 Illegal transfer or trade of land use right for personal gains in violation of the land administrative law and regulations shall be sentenced to a prison term of less than three years or to forced labor, with a concurrent fine amounting to more than 5% and less than 20% of the proceeds from the illegal transfer or trading whereas the case is serious enough, and whereas the case is very serious, it shall be sentenced to a prison term ranging from more than three years to less than seven years, with a fine ranging from more than 5% to less than 20% of the proceeds from the illegal transfer or trading of the land use right.

Article 342 Illegal turning of cultivated land occupied into other uses in a big amount to cause damages to large tracts of cultivated land in violation of the land administrative law and regulations, a punishment of from less than five years' in prison or forced labor shall be given, together with a fine concurrently or separately.

Article 410 Whereas government functionaries are found to have committed deception or forgery for personal gains in violation of the land administrative law and regulations or have abused their power to illegally approve the requisition of land or under-sell the use right of State-owned land and the cases are serious, a punishment of less than three years in prison or forced labor shall be given; whereas the cases have caused very big losses to the State or

collectives, a prison term ranging from more than three years to less than seven years shall be meted out.

第八十六条 本法自 1999 年 1 月 1 日起施行。

chl_54997

（相关资料：裁判文书 1 篇 修订沿革 条文释义