

# 中华人民共和国土地管理法

来源： 中国人大网    2019年09月05日 15:23:35

浏览字号： 大 中 小

( 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 根据2019年8月26日第十三届全国人民代表大会常务委员会第十二次会议《关于修改〈中华人民共和国土地管理法〉、〈中华人民共和国城市房地产管理法〉的决定》第三次修正 )

## 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

## 第一章 总 则

**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。

**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。

图片报道

更多>>



### 立法

生态立法汇民意聚合力  
我国生态文明制度体系不断完善  
青海首个“国字号”基层立法联系...  
大山深沟里的立法建议这样传送到...  
全国人大环资委：迎接首个全国生...

### 监督

全国人大常委会预算工委调研组到...  
探索可复制可推广的“海南试点经...  
更好统筹特种设备发展与安全  
大兴调查研究 夯实人大履职基础  
全国人大常委会科学技术进步法执...

### 代表

郑培坤：共建共富，不负信任和期...  
张尧：向绿履职 护美前行  
全国人大代表刘铭杰：自觉走高质...  
全国人大代表马一德：加强创新创...  
全国人大代表蒋亚军：优化服务 提...

### 专题集锦

中国共产党第二十次全国代表大会  
十四届全国人大一次会议  
全过程人民民主  
学习贯彻习近平新时代中国特色社...  
第十四届全国人民代表大会常务委...

**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。

**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。

**第五条** 国务院自然资源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自然资源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。

**第六条** 国务院授权的机构对省、自治区、直辖市人民政府以及国务院确定的城市人民政府土地利用和土地管理情况进行督察。

**第七条** 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。

**第八条** 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。

## 第二章 土地的所有权和使用权

**第九条** 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。

**第十条** 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。

**第十一条** 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。

**第十二条** 土地的所有权和使用权的登记，依照有关不动产登记的法律、行政法规执行。

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。

**第十三条** 农民集体所有和国家所有依法由农民集体使用的耕地、林地、草地，以及其他依法用于农业的土地，采取农村集体经济组织内部的家庭承包方式承包，不宜采取家庭承包方式的荒山、荒沟、荒丘、荒滩等，可以采取招标、拍卖、公开协商等方式承包，从事种植业、林业、畜牧业、渔业生产。家庭承包的耕地的承包期为三十年，草地的承包期为三十年至五十年，林地的承包期为三十年至七十年；耕地承包期届满后再延长三十年，草地、林地承包期届满后依法相应延长。

国家所有依法用于农业的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。

发包方和承包方应当依法订立承包合同，约定双方的权利和义务。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。

**第十四条** 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。

### 第三章 土地利用总体规划

**第十五条** 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。

**第十六条** 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。

**第十七条** 土地利用总体规划按照下列原则编制：

- （一）落实国土空间开发保护要求，严格土地用途管制；
- （二）严格保护永久基本农田，严格控制非农业建设占用农用地；
- （三）提高土地节约集约利用水平；
- （四）统筹安排城乡生产、生活、生态用地，满足乡村产业和基础设施用地合理需求，促进城乡融合发展；
- （五）保护和改善生态环境，保障土地的可持续利用；
- （六）占用耕地与开发复垦耕地数量平衡、质量相当。

**第十八条** 国家建立国土空间规划体系。编制国土空间规划应当坚持生态优先，绿色、可持续发展，科学有序统筹安排生态、农业、城镇等功能空间，优化国土空间结构和布局，提升国土空间开发、保护的质量和效率。

经依法批准的国土空间规划是各类开发、保护、建设活动的基本依据。已经编制国土空间规划的，不再编制土地利用总体规划和城乡规划。

**第十九条** 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。

**第二十条** 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。

**第二十一条** 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。

**第二十二条** 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。

**第二十三条** 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。土地利用年度计划应当对本法第六十三条规定的集体经营性建设用地作出合理安排。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。

**第二十四条** 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。

**第二十五条** 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。

**第二十六条** 国家建立土地调查制度。

县级以上人民政府自然资源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。

**第二十七条** 县级以上人民政府自然资源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。

**第二十八条** 国家建立土地统计制度。

县级以上人民政府统计机构和自然资源主管部门依法进行土地统计调查，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，不得拒报、迟报，不得提供不真实、不完整的资料。

统计机构和自然资源主管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。

**第二十九条** 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。

#### 第四章 耕地保护

**第三十条** 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。

**第三十一条** 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。

**第三十二条** 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、质量不降低。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；耕地质量降低的，由国务院责令在规定期限内组织整治。新开垦和整治的耕地由国务院自然资源主管部门会同农业农村主管部门验收。

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，易地开垦数量和质量相当的耕地。

**第三十三条** 国家实行永久基本农田保护制度。下列耕地应当根据土地利用总体规划划为永久基本农田，实行严格保护：

（一）经国务院农业农村主管部门或者县级以上地方人民政府批准确定的粮、棉、油、糖等重要农产品生产基地内的耕地；

（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、低产田和已建成的高标准农田；

（三）蔬菜生产基地；

（四）农业科研、教学试验田；

（五）国务院规定应当划为永久基本农田的其他耕地。

各省、自治区、直辖市划定的永久基本农田一般应当占本行政区域内耕地的百分之八十以上，具体比例由国务院根据各省、自治区、直辖市耕地实际情况规定。

**第三十四条** 永久基本农田划定以乡（镇）为单位进行，由县级人民政府自然资源主管部门会同同级农业农村主管部门组织实施。永久基本农田应当落实到地块，纳入国家永久基本农田数据库严格管理。

乡（镇）人民政府应当将永久基本农田的位置、范围向社会公告，并设立保护标志。

**第三十五条** 永久基本农田经依法划定后，任何单位和个人不得擅自占用或者改变其用途。国家能源、交通、水利、军事设施等重点建设项目选址确实难以避让永久基本农田，涉及农用地转用或者土地征收的，必须经国务院批准。

禁止通过擅自调整县级土地利用总体规划、乡（镇）土地利用总体规划等方式规避永久基本农田农用地转用或者土地征收的审批。

**第三十六条** 各级人民政府应当采取措施，引导因地制宜轮作休耕，改良土壤，提高地力，维护排灌工程设施，防止土地荒漠化、盐渍化、水土流失和土壤污染。

**第三十七条** 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。

禁止占用永久基本农田发展林果业和挖塘养鱼。

**第三十八条** 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。

**第三十九条** 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。

**第四十条** 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。

**第四十一条** 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。

**第四十二条** 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。

**第四十三条** 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。

## 第五章 建设用地

**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。

永久基本农田转为建设用地的，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，为实施该规划而将永久基本农田以外的农用地转为建设用地的，按土地利用年度计划分批次按照国务院规定由原批准土地利用总体规划的机关或者其授权的机关批准。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。

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外，将永久基本农田以外的农用地转为建设用地的，由国务院或者国务院授权的省、自治区、直辖市人民政府批准。

**第四十五条** 为了公共利益的需要，有下列情形之一，确需征收农民集体所有的土地的，可以依法实施征收：

（一）军事和外交需要用地的；

（二）由政府组织实施的能源、交通、水利、通信、邮政等基础设施建设需要用的；

（三）由政府组织实施的科技、教育、文化、卫生、体育、生态环境和资源保护、防灾减灾、文物保护、社区综合服务、社会福利、市政公用、优抚安置、英烈保护等公共事业需要用的；

（四）由政府组织实施的扶贫搬迁、保障性安居工程建设需要用的；

（五）在土地利用总体规划确定的城镇建设用地范围内，经省级以上人民政府批准由县级以上地方人民政府组织实施的成片开发建设需要用的；

（六）法律规定为公共利益需要可以征收农民集体所有的土地的其他情形。

前款规定的建设活动，应当符合国民经济和社会发展规划、土地利用总体规划、城乡规划和专项规划；第（四）项、第（五）项规定的建设活动，还应当纳入国民经济和社会发展年度计划；第（五）项规定的成片开发并应当符合国务院自然资源主管部门规定的标准。

**第四十六条** 征收下列土地的，由国务院批准：

（一）永久基本农田；

（二）永久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。

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。

**第四十七条** 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。

县级以上地方人民政府拟申请征收土地的，应当开展拟征收土地现状调查和社会稳定风险评估，并将征收范围、土地现状、征收目的、补偿标准、安置方式和社会保障等在拟征收土地所在的乡（镇）和村、村民小组范围内公告至少三十日，听取被征地的农村集体经济组织及其成员、村民委员会和其他利害关系人的意见。

多数被征地的农村集体经济组织成员认为征地补偿安置方案不符合法律、法规规定的，县级以上地方人民政府应当组织召开听证会，并根据法律、法规的规定和听证会情况修改方案。

拟征收土地的所有权人、使用权人应当在公告规定期限内，持不动产权属证明材料办理补偿登记。县级以上地方人民政府应当组织有关部门测算并落实有关费用，保证足额到位，与拟征收土地的所有权人、使用权人就补偿、安置等签订协议；个别确实难以达成协议的，应当在申请征收土地时如实说明。

相关前期工作完成后，县级以上地方人民政府方可申请征收土地。

**第四十八条** 征收土地应当给予公平、合理的补偿，保障被征地农民原有生活水平不降低、长远生计有保障。

征收土地应当依法及时足额支付土地补偿费、安置补助费以及农村村民住宅、其他地上附着物和青苗等的补偿费用，并安排被征地农民的社会保障费用。

征收农用地的土地补偿费、安置补助费标准由省、自治区、直辖市通过制定公布区片综合地价确定。制定区片综合地价应当综合考虑土地原用途、土地资源条件、土地产值、土地区位、土地供求关系、人口以及经济社会发展水平等因素，并至少每三年调整或者重新公布一次。

征收农用地以外的其他土地、地上附着物和青苗等的补偿标准，由省、自治区、直辖市制定。对其中的农村村民住宅，应当按照先补偿后搬迁、居住条件有改善的原则，尊重农村村民意愿，采取重新安排宅基地建房、提供安置房或者货币补偿等方式给予公平、合理的补偿，并对因征收造成的搬迁、临时安置等费用予以补偿，保障农村村民居住的权利和合法的住房财产权益。

县级以上地方人民政府应当将被征地农民纳入相应的养老等社会保障体系。被征地农民的社会保障费用主要用于符合条件的被征地农民的养老保险等社会保险缴费补贴。被征地农民社会保障费用的筹集、管理和使用办法，由省、自治区、直辖市制定。

**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。

**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。

**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。

**第五十二条** 建设项目可行性研究论证时，自然资源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。



**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自然资源主管部门提出建设用地申请，经自然资源主管部门审查，报本级人民政府批准。

**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。

**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。具体使用管理办法由国务院财政部门会同有关部门制定，并报国务院批准。

**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自然资源主管部门同意，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。

**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自然资源主管部门批准。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，与有关自然资源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。

**第五十八条** 有下列情形之一的，由有关人民政府自然资源主管部门报经原批准用地的人民政府或者有关批准权的人民政府批准，可以收回国有土地使用权：

- （一）为实施城市规划进行旧城区改建以及其他公共利益需要，确需使用土地的；
- （二）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；
- （三）因单位撤销、迁移等原因，停止使用原划拨的国有土地的；
- （四）公路、铁路、机场、矿场等经核准报废的。

依照前款第（一）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。

**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。

**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，应当持有有关批准文件，向县级以上地方人民政府自然资源主管部门提出申请，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。

**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自然资源主管部门提出申请，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。

**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。

人均土地少、不能保障一户拥有一处宅基地的地区，县级人民政府在充分尊重农村村民意愿的基础上，可以采取措施，按照省、自治区、直辖市规定的标准保障农村村民实现户有所居。

农村村民建住宅，应当符合乡（镇）土地利用总体规划、村庄规划，不得占用永久基本农田，并尽量使用原有的宅基地和村内空闲地。编制乡（镇）土地利用总体规划、村庄规划应当统筹并合理安排宅基地用地，改善农村村民居住环境和条件。

农村村民住宅用地，由乡（镇）人民政府审核批准；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、赠与住宅后，再申请宅基地的，不予批准。

国家允许进城落户的农村村民依法自愿有偿退出宅基地，鼓励农村集体经济组织及其成员盘活利用闲置宅基地和闲置住宅。

国务院农业农村主管部门负责全国农村宅基地改革和管理有关工作。

**第六十三条** 土地利用总体规划、城乡规划确定为工业、商业等经营性用途，并经依法登记的集体经营性建设用地，土地所有权人可以通过出让、出租等方式交由单位或者个人使用，并应当签订书面合同，载明土地界址、面积、动工期限、使用期限、土地用途、规划条件和双方其他权利义务。

前款规定的集体经营性建设用地出让、出租等，应当经本集体经济组织成员的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。

通过出让等方式取得的集体经营性建设用地使用权可以转让、互换、出资、赠与或者抵押，但法律、行政法规另有规定或者土地所有权人、土地使用权人签订的书面合同另有约定的除外。

集体经营性建设用地的出租，集体建设用地使用权的出让及其最高年限、转让、互换、出资、赠与、抵押等，参照同类用途的国有建设用地执行。具体办法由国务院制定。

**第六十四条** 集体建设用地的使用者应当严格按照土地利用总体规划、城乡规划确定的用途使用土地。

**第六十五条** 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。

**第六十六条** 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。

收回集体经营性建设用地使用权，依照双方签订的书面合同办理，法律、行政法规另有规定的除外。

## 第六章 监督检查

**第六十七条** 县级以上人民政府自然资源主管部门对违反土地管理法律、法规的行为进行监督检查。

县级以上人民政府农业农村主管部门对违反农村宅基地管理法律、法规的行为进行监督检查的，适用本法关于自然资源主管部门监督检查的规定。

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。

**第六十八条** 县级以上人民政府自然资源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。

**第六十九条** 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。

**第七十条** 有关单位和个人对县级以上人民政府自然资源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。

**第七十一条** 县级以上人民政府自然资源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，依法应当给予处分的，应当依法予以处理；自己无权处理的，应当依法移送监察机关或者有关机关处理。

**第七十二条** 县级以上人民政府自然资源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。

**第七十三条** 依照本法规定应当给予行政处罚，而有关自然资源主管部门不给予行政处罚的，上级人民政府自然资源主管部门有权责令有关自然资源主管部门作出行政处罚决定或者直接给予行政处罚，并给予有关自然资源主管部门的负责人处分。

## 第七章 法律责任

**第七十四条** 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自然资源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，依法给予处分；构成犯罪的，依法追究刑事责任。

**第七十五条** 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自然资源主管部门、农业农村主管部门等按照职责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。

**第七十六条** 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自然资源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。

**第七十七条** 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自然资源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。

**第七十八条** 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农业农村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。

**第七十九条** 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。

**第八十条** 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，依法给予处分。

**第八十一条** 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自然资源主管部门责令交还土地，处以罚款。

**第八十二条** 擅自将农民集体所有的土地通过出让、转让使用权或者出租等方式用于非农业建设，或者违反本法规定，将集体经营性建设用地通过出让、出租等方式交由单位或者个人使用的，由县级以上人民政府自然资源主管部门责令限期改正，没收违法所得，并处罚款。

**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。

**第八十四条** 自然资源主管部门、农业农村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，依法给予处分。

第八章 附 则

**第八十五条** 外商投资企业使用土地的，适用本法；法律另有规定的，从其规定。

**第八十六条** 在根据本法第十八条的规定编制国土空间规划前，经依法批准的土地利用总体规划和城乡规划继续执行。

**第八十七条** 本法自1999年1月1日起施行。

责任编辑： 刘冬

[<< 返回首页](#)

打印本页

关闭窗口

返回顶部

[关于我们](#) | [网站地图](#)

版权所有：《中国人大》杂志社

京ICP备06005931号

## **Westlaw China Delivery Summary**

Request made by:	Maria Czarina Lopez
Request made on:	Friday, 17 September, 2021 at 13:35 Beijing Time
Content type:	Laws & Regulations
Title:	Land Administration Law of the People's Republic of China
Delivery selection:	Current Document
Number of documents delivered:	1

© 2007– 2021, Thomson Reuters, all rights reserved.

## Land Administration Law of the People's Republic of China

Promulgating Institution: Standing Committee of the National People's Congress  
 Document Number: Order No. 32 of the President of the People's Republic of China  
 Promulgating Date: 08/26/2019  
 Effective Date: 01/01/2020  
 Validity Status: Valid

### Order No. 32 of the President of the People's Republic of China

The Decision of the Standing Committee of the National People's Congress on Revising the "Law of the People's Republic of China on Administration of Land" and the "Law of the People's Republic of China on Administration of Urban Real Estate", adopted at the 12th Session of the Standing Committee of the 13th National People's Congress of the People's Republic of China on August 26, 2019, is hereby promulgated and shall come into effect on January 1, 2020.

President of the People's Republic of China Xi Jinping

August 26, 2019

### Land Administration Law of the People's Republic of China

(Adopted at the 16th Meeting of the Standing Committee of the Sixth National People's Congress on June 25, 1986, amended for the first time at the 5th Meeting of the Standing Committee of the Seventh National People's Congress on December 29, 1988 in accordance with the Decision on Amending the Land Administration Law of the People's Republic of China, revised at the 4th Meeting of the Standing Committee of the Ninth National People's Congress on August 29, 1998, amended for the second time in accordance with the Decision on Amending the Land Administration Law of the People's Republic of China, adopted at the 11th Meeting of the Standing Committee of the Tenth National People's Congress on August 28, 2004 and amended for the third time in accordance with the Decision of the Standing Committee of the National People's Congress on Revising the "Land Administration Law of the People's Republic of China" and the "Law of the People's Republic of China on Administration of Urban Real Estate" adopted at the 12th Session of the Standing Committee of the 13th National People's Congress of the People's Republic of China on August 26, 2019)

#### Contents

#### Chapter I General Provisions

#### Chapter II Ownership of Land and Right to the Use of Land

#### Chapter III Overall Plans for Land Utilization

#### Chapter IV Protection of Cultivated Land

#### Chapter V Land to Be Used for Construction

#### Chapter VI Supervision and Inspection

#### Chapter VII Legal Responsibility

#### Chapter VIII Supplementary Provisions

#### Chapter I General Provisions

**Article 1** This Law is enacted in accordance with the Constitution for the purpose of strengthening land administration, maintaining the socialist public ownership of land, protecting and developing land resources, making rational use of land, effectively protecting cultivated land and promoting sustainable development of the society and the economy.

**Article 2** The People's Republic of China practises socialist public ownership of land, namely, ownership by the whole people and collective ownership by the working people.

Ownership by the whole people means that the right of ownership in State-owned land is exercised by the State Council on behalf of the State.

No units or individuals may encroach on land or illegally transfer it through buying, selling or other means. However, the right to the use of land may be transferred in accordance with law.

The State may, in the interest of the public, lawfully expropriate or requisition land and give compensation accordingly.

The State applies, in accordance with law, a system of compensated use of State-owned land, with the exception of land the right to the use of which is allocated by the State within the provisions of laws.

**Article 3** To value land highly, use land rationally and protect cultivated land effectively is China's basic policy. People's governments at all levels shall take measures, draw up overall plans, tighten control, protect and develop land resources, and prevent unlawful occupation and use of land.

**Article 4** The State applies a system of control over the purposes of use of land.

The State formulates overall plans for land utilization in which to define the purposes of use of land and classify land into land for agriculture, land for construction and unused land. It shall rigidly restrict conversion of land for agriculture to land for construction, keep the total area of the land for construction under control and give special protection to cultivated land.

Land for agriculture as referred to in the preceding paragraph means land that is directly used for agricultural production, including cultivated land, forest land, grassland, land for irrigation and water conservancy, and water surfaces for agriculture; land for construction means land for constructing buildings and other structures, including land for housing in urban and rural areas, for public utilities, for factories and mines, for communications and water conservancy, for tourism and for military installations; and unused land means land other than land for agriculture and construction.

All units and individuals shall use land in strict compliance with the purposes of use defined in the overall plans for land utilization.

**Article 5** The competent departments of natural resources under the State Council shall be in charge of unified administration of and supervision over the land throughout the country.

The establishment and duties of the competent departments of natural resources of local people's governments at or above the county level shall be decided by people's governments of provinces, autonomous regions and municipalities directly under the Central Government in accordance with the relevant regulations of the State Council.

**Article 6** The agencies authorized by the State Council shall supervise the land utilization and land management by the people's governments of provinces, autonomous regions and municipalities directly under the Central Government and the people's governments of the cities determined by the State Council.

**Article 7** All units and individuals shall have the obligation to observe the laws and regulations governing land administration and shall have the right to report against or accuse any violations of such laws or regulations.

**Article 8** The people's governments shall reward the units or individuals that achieve outstanding successes in protecting and developing land resources, using land rationally and carrying out relevant scientific research.

## Chapter II Ownership of Land and Right to the Use of Land

**Article 9** Land in the urban areas of cities is owned by the State.

Land in rural and suburban areas is owned by peasant collectives, except for those portions of land which belong to the State as provided for by law; house sites and private plots of cropland and hilly land are owned by peasant collectives.

**Article 10** State-owned land and land owned by peasant collectives may be lawfully determined to be used by units or individuals. Units and individuals that use land shall have the obligation to protect and manage the land and make rational use of it.

**Article 11** Land owned by peasant collectives that belongs lawfully to peasant collectives of a village shall be operated and managed by collective economic organizations of the village or by villagers' committees; land already owned by different peasant collectives that belong to two or more different collective economic organizations in the village shall be operated and managed by the rural



collective economic organizations in the village or by villagers' groups; land already owned by a peasant collective of a township (town) shall be operated and managed by the rural collective economic organization of the township (town).

**Article 12** Registration of the ownership and the right to the use of land shall be governed by the laws and administrative regulations relating to real estate registration.

The legally registered ownership and right to the use of land shall be protected by law and may not be infringed upon by any entities or individuals.

**Article 13** Contract of the cultivated land, forestlands and grasslands owned collectively by the farmers and owned by the State and used collectively by the farmers according to law, as well as other lands used for agriculture according to law shall take the form of household contract within the rural collective economic organizations, while such land as barren mountains, gullies, hills and beaches, which are not suited to the form of household contract, may be contracted in such forms as bid invitation, auction and public consultation for crop cultivation, forestry, animal husbandry or fishery. The term of household contract is 30 years for cultivated land and ranges from 30 to 50 years for grasslands and from 30 to 70 years for forestlands; the term of contract for farmland shall be extended by 30 years upon expiration and the term of contract for grasslands or forestlands shall be extended upon expiration correspondingly in accordance with the law.

The land owned by the State and legally used for agriculture may be operated under a contract by entities or individuals for crop cultivation, forestry, animal husbandry or fishery.

The party that gives out a contract and the party that undertakes it shall legally enter into a contract specifying the rights and obligations of both parties. The entities and individuals undertake to operate land under contract shall have the obligation to protect the land and rationally use it in conformity with the purposes of use provided for in the contract.

**Article 14** Disputes over ownership of land or the right to the use of land shall be solved through consultation between the parties. If such consultation fails, the disputes shall be handled by the people's government.

Disputes between units shall be handled by people's governments at or above the county level. Disputes between individuals or between individuals and units shall be handled by people's governments at the township level or at or above the county level.

If a party refuses to accept the decision made by the relevant people's government, it may file a suit in a People's Court within 30 days from the date of receiving notification of the decision.

Before a dispute over ownership of land or the right to the use of land is solved, no party may alter the condition in which the land is being used.

### Chapter III Overall Plans for Land Utilization

**Article 15** People's governments at all levels shall draw up overall plans for land utilization on the basis of the requirements of the plans for national economic and social development, the need for improvement of national land and for protection of the natural resources and the environment, the capacity of land supply, and the demand for land by various construction projects.

The duration of an overall plan for land utilization shall be prescribed by the State Council.

**Article 16** The overall plan for land utilization at a lower level shall be drawn up on the basis of such a plan drawn up at the next higher level.

The total area of land for construction in the overall plan for land utilization drawn up by local people's governments at different levels shall not exceed the control norm set in such a plan by the people's government at the next higher level and the area of cultivated land reserved shall not be smaller than the control norm set in the overall plan for land utilization of the people's government at the next higher level.

In drawing up their overall plans for land utilization, the people's governments of provinces, autonomous regions and municipalities directly under the Central Government shall see that the total area of the cultivated land within their own administrative regions is not reduced.

**Article 17** The overall plan for land utilization shall be drawn up in accordance with the following

principles:"

- (1) Fulfilling the land space development and protection requirements and tightening the control over uses of land;
- (2) Strictly protecting the permanent prime farmland and strictly controlling the occupation of agricultural land for non-agricultural construction;
- (3) Improving the economical and intensive use of land;
- (4) Making overall plan for land use in production, life and ecology in rural and urban areas, meeting the reasonable demand of land use in industries and infrastructures in rural areas and promoting the urban-rural integrated development;
- (5) Protecting and improving ecological environment and guaranteeing the sustainable use of land; and
- (6) Maintaining balance between the area of cultivated land used for other purposes and the area of land developed and reclaimed in quantity and quality.

**Article 18** The State shall set up the land space planning system. Formulation of the land space planning shall stick to the ecological priority and green and sustainable development, make scientific, orderly and coordinated arrangement of the ecological, agricultural, urban and other functional spaces, optimize the land space structure and layout and improve the quality and efficiency of the development and protection of the land space.

The legally approved land space planning shall be the fundamental basis for various development, protection and construction activities. If the land space planning has been formulated, the overall plan for land utilization and urban and rural planning shall not be formulated.

**Article 19** In the overall plans for land utilization at the county level, land shall be zoned and the purposes of its use defined.

In the overall plans for land utilization at the township (town) level, land shall be zoned and the purposes of use of each plot defined in light of the condition of the land to be used, both of which shall be made known to the general public.

**Article 20** The overall plans for land utilization shall be examined for approval at different levels.

The overall plans for land utilization drawn up by provinces, autonomous regions and municipalities directly under the Central Government shall be submitted to the State Council for approval.

The overall plans for land utilization drawn up by cities, where people's governments of provinces or autonomous regions are located or where the population is over one million, and cities earmarked by the State Council shall be examined for consent by people's governments of the provinces or autonomous regions, before they are submitted to the State Council for approval.

The overall plans for land utilization other than the ones mentioned in the second and third paragraph of this Article shall be submitted for approval level by level up to the people's governments of provinces, autonomous regions or municipalities directly under the Central Government. Among these, the ones drawn up by townships (towns) may be submitted for approval to the people's governments of cities, that are divided into districts, or the autonomous prefectures, as are authorized by people's governments at the provincial level.

Once an overall plan for land utilization is approved, it shall be strictly carried out.

**Article 21** The area of land to be used for urban construction shall conform to the norm set by State regulations. Attention shall be paid to making full use of the existing land earmarked for construction and using little or no land earmarked for agriculture.

The overall plans of cities and the plans of villages and towns shall be dovetailed with the overall plan for land utilization, and the area of land to be used for construction fixed in the former shall not exceed the area fixed in the latter for the cities, villages and towns.

In areas covered by the plans of cities, villages and towns, the area of land to be used for construction shall conform to the area as is fixed in such plans.

**Article 22** Plans for all-round harnessing of rivers and lakes and for their development and

utilization shall be dovetailed with the overall plan for land utilization. Within areas of the rivers, lakes and reservoirs under control and protection and areas for flood storage or detention, land shall be used in conformity with the plan for all-round harnessing of rivers and lakes and for their development and utilization and with the requirements of flood diversion and storage and water transmission from the rivers and lakes.

**Article 23** People's governments at all levels shall exercise close supervision over the plans for land utilization and keep control over the total area of land to be used for construction.

Annual plan for land utilization shall be formulated according to the national economic and social development plan, the national industrial policy, the overall plan for land utilization and actual situation of construction land and land utilization. The annual plan for land utilization shall make reasonable arrangement of the collective land for for-profit construction prescribed in Article 63 hereof. The annual plan for land utilization shall be the same as the overall plan for land utilization in the procedures for formulation and approval and shall be strictly implemented once it is approved and distributed.

**Article 24** People's governments of provinces, autonomous regions and municipalities directly under the Central Government shall include the implementation of the annual plans for land utilization in their report on the implementation of the plan for national economic and social development to be delivered to the people's congresses at the corresponding level.

**Article 25** Any revision of an approved overall plan for land utilization shall be subject to approval by the organ that originally approved the plan; without such approval, no change may be made in the purposes of land use as defined in the overall plan for land utilization.

Where a change needs to be made in an overall plan for land utilization to meet the demand for land for the construction of such large infrastructure projects as energy, communications or water conservancy projects that have been approved by the State Council, it shall be made in accordance with the document of approval issued by the State Council.

Where a change needs to be made in an overall plan for land utilization to meet the demand for land for the construction of such infrastructure projects as energy, communications or water conservancy projects that have been approved by people's governments of provinces, autonomous regions or municipalities directly under the Central Government and the plan is within the limits of the approval authority of a people's government at the provincial level, the change shall be made in accordance with the document of approval issued by such government.

**Article 26** The State shall establish a land survey system.

Competent departments of natural resources of people's governments at or above the county level shall, in conjunction with the departments concerned at the same level, conduct land survey. Land owners and users shall cooperate in the work and provide relevant materials.

**Article 27** Competent departments of natural resources of people's governments at or above the county level shall, in conjunction with the departments concerned at the same level, grade land on the basis of the result of land survey, the planned purposes for the use of land and the uniform standards formulated by the State.

**Article 28** The State shall establish a land statistics system.

The departments of statistics and the competent departments of natural resources of the people's governments at or above the county level shall conduct land statistics and survey in accordance with law and release the data on land statistics on regular basis. Land owners or users shall provide relevant data and shall neither refuse to submit or delay the submission of the data nor provide unauthentic or incomplete data.

Statistics of the area of land published jointly by the departments of statistics and the competent departments of natural resources shall be the basis for the people's governments at all levels to formulate the overall plan for land utilization.

**Article 29** The State shall establish a national land administration information network to monitor developments in land utilization.

#### Chapter IV Protection of Cultivated Land

**Article 30** The State protects cultivated land and strictly restricts conversion of cultivated land to non-cultivated land.

The State applies the system of compensation for use of cultivated land for other purposes. The principle of "reclaiming the same area of land as is used" shall be applied to any unit that, with approval, uses cultivated land for construction of non-agricultural projects, that is, the unit shall be responsible for reclaiming the same area and quality of the cultivated land it uses. If conditions for such reclamation do not exist or if the reclaimed land fails to meet the requirements, the unit shall pay expenses for reclamation in accordance with the regulations set by people's governments of provinces, autonomous regions and municipalities directly under the Central Government, and the money shall exclusively be used for reclamation.

People's governments of provinces, autonomous regions and municipalities directly under the Central Government shall formulate plans for land reclamation, see that the unit that uses cultivated land reclaims land according to plan or arranges reclamation according to plan, and conduct inspection before acceptance.

**Article 31** Local people's governments at or above the county level may require the units that wish to use cultivated land to move the arable layer of cultivated land to the reclaimed land or to land of inferior quality, or to other cultivated land for improving soil.

**Article 32** The people's governments of provinces, autonomous regions and municipalities directly under the Central Government shall strictly implement the overall plans for land utilization and annual plans for land utilization and take measures to ensure that the cultivated land within their respective administrative regions remains unreduced in total area and quality. Where the total area of cultivated land is reduced, the State Council shall order the government concerned to organize reclaiming of land, within a prescribed time limit, of the equivalent quality and area as is reduced; where the quality of cultivated land is reduced, the State Council shall order the government concerned to organize rectification within a prescribed time limit. The land as reclaimed shall be subject to the inspection and acceptance by the competent department of natural resources, in conjunction with the competent department of agriculture and rural affairs, under the State Council.

Where, in some provinces or municipalities directly under the Central Government, for lack of land reserves, the reclaimed land is not enough to make up for the cultivated land they have used for additional construction projects, application shall be submitted to the State Council for approval of reduction of the quantity of the reclaimed land within their respective administrative regions and of reclaiming land of equivalent quantity and quality in other regions.

**Article 33** The State shall implement the system for protection of permanent prime farmland. Cultivated land of the following categories shall be included in the permanent prime farmland in accordance with the overall plan for land utilization and be placed under strict protection:

- (1) Cultivated land within production bases of grain, cotton, oil and other important agricultural products production, which are designated as such with the approval of the competent departments of agriculture and rural affairs under the State Council or of the people's governments at or above the county level;
- (2) Cultivated land with good irrigation and water and soil conservation facilities as well as medium- and low-yield fields that are under improvement according to plan or that can be improved and the high-standard farmland of which the construction has been completed;
- (3) Vegetable production bases;
- (4) Pilot fields for scientific research or teaching on agriculture; and
- (5) Other cultivated land that should be designated as permanent prime farmland according to provisions of the State Council.

The permanent prime farmland designated as such by provinces, autonomous regions and municipalities directly under the Central Government shall in general account for at least 80 percent of the total cultivated land in their administrative regions respectively and specific percentage shall be provided for by the State Council based on the actual situation of provinces, autonomous regions and municipalities directly under the Central Government respectively.

**Article 34** The area of permanent prime farmland shall be demarcated with the township (town) as

a unit and such demarcation shall be implemented under organization by the competent department of natural resources of the people's government at the county level in conjunction with the competent department of agriculture and rural affairs at the same level. Permanent prime farmland shall be demarcated by block and included in the national database of permanent prime farmland for strict management.

People's governments of townships (towns) shall announce to the public the locations and scope of permanent prime farmland and maintain protection sign.

**Article 35** No entity or individual may, without approval, occupy or change the purpose of the legally demarcated permanent prime farmland. Where it is truly difficult to avoid the permanent prime farmland in site selection of the national major construction projects in energy, transport, water conservancy and military facilities, etc., the change of purpose of agricultural land or land expropriation as involved shall be subject to approval by the State Council"

It is prohibited to evade the examination and approval required for the change of purpose of agricultural land or land expropriation of permanent prime farmland through the methods such as arbitrary adjustment to the county-level overall plan for land utilization or township (town) overall plan for land utilization.

**Article 36** People's governments at all levels shall take measures to guide crop rotation protect in light of local conditions, improve soil, increase soil fertility, maintain irrigation and drainage facilities and prevent land desertification, salinization, and soil erosion and contamination.

**Article 37** In non-agricultural construction, attention shall be paid to economizing on the use of land. Where wasteland can be used, no cultivated land may be used; where land of inferior quality can be used, no land of superior quality may be used.

It is forbidden to use cultivated land for building kilns and graves and to build houses, dig sand, quarry, mine or collect earth on or from cultivated land without authorization.

It is forbidden to use for planting forest or fruit trees or to turn such land into ponds for raising fish.

**Article 38** All units and individuals are forbidden to leave cultivated land unused or let it lie waste. Where a stretch of cultivated land, for which the formalities of examination and approval have been gone through for its use for non-agricultural construction projects but which can still be cultivated and yield crops, is not used for one year, its cultivation shall be resumed by the original collectives or individuals or may be arranged by the land user. If construction is not started for over one year, the land user shall, in accordance with the regulations of provinces, autonomous regions and municipalities directly under the Central Government, pay charges for leaving the land unused. If the land is not used for two years running, the people's government at or above the county level shall, with the approval of the original approving organ, take back the user's right to the use of the land without compensation. If the said land is originally owned by peasant collectives, it shall be returned to the original collective economic organization of the village for resumption of cultivation.

Land in an area covered by city planning, the right to use which is assigned for development of real estate and that is left unused, shall be dealt with in accordance with the relevant provisions in the Law of the People's Republic of China on the Administration of the Urban Estate.

**Article 39** The State encourages units and individuals to develop unused land in accordance with the overall plans for land utilization, on condition that the ecological environment is protected and improved and soil erosion and desertification are prevented. Priority shall be given to the development of such land for agricultural purposes where conditions permit.

The State protects the lawful rights and interests of such developers in accordance with law.

**Article 40** Unused land shall be reclaimed on the basis of scientific confirmation and evaluation, within the reclaimable area designated as such in an overall plan for land utilization and with lawful approval. It is forbidden to reclaim cultivated land by destroying forests or grasslands, to reclaim land from lakes and to encroach on tidal-flat areas of rivers.

Where land is reclaimed from forests, grasslands or lakes at the expense of the ecological environment, it shall gradually be returned to the forests, grasslands and lakes according to plan.

**Article 41** Units or individuals that wish to develop State-owned barren hills, wastelands or waste



tidal flats, the land-use right of which is not yet established, for crop cultivation, forestry, animal husbandry or fishery shall be subject to lawful approval by people's governments at or above the county level, which may decide that such land be used by the said units or individuals for a long time.

**Article 42** The State encourages land revitalization. County and township (town) people's governments shall make arrangements for rural collective economic organizations to conduct, in accordance with overall plans for land utilization, all-round improvement of the fields, water conservancy, roads and forests and development of the villages in order to improve the quality of the cultivated land, increase the efficient area of cultivated land and better the conditions of agricultural production and the ecological environment.

Local people's governments at all levels shall take measures to transform the medium- and low-yield fields and improve idle and waste land.

**Article 43** Land users that cause damage to land as a result of digging, subsiding or crumbling under heavy weight shall be responsible for recultivating the land in accordance with the relevant regulations of the State. Where conditions do not permit such recultivation or the land recultivated does not meet the requirements, the user shall pay charges for recultivation, which shall exclusively be used for the purpose. The land recultivated shall first be used for agriculture.

#### Chapter V Land to Be Used for Construction

**Article 44** Where land for agriculture is to be used for construction purposes, the formalities of examination and approval shall be gone through for the conversion of use.

Conversion of permanent prime farmland into land for construction shall be subject to approval by the State Council.

Where land for agriculture other than permanent prime farmland is to be converted to land for construction of projects in order to carry out the overall plan for land utilization within the limits of the area of land fixed in the plan for construction projects of cities, villages or towns, the conversion of use of land shall, in accordance with the annual plan for land utilization, be subject to approval in batches by the organ that originally approved the overall plan for land utilization or the organ authorized thereby. Land to be used for construction of specific projects within the limits of the area of land for agriculture as approved, conversion of the use of which has been approved, may be subject to approval by people's governments of cities or counties.

Where land for agriculture other than permanent prime farmland is to be converted to land for construction of projects beyond the limits of the area of land fixed in the overall plan for land utilization for construction of projects of cities, villages or towns, the conversion shall be subject to approval by the State Council or the people's governments of provinces, autonomous regions and municipalities directly under the Central Government as authorized by the State Council.

**Article 45** Under any of the following circumstances, the land collectively owned by farmers may be legally expropriated if such expropriation is truly necessary for the purpose of the need of public interests:

- (1) Where the land is to be used for military or diplomatic need;
- (2) Where the land to be used for the need of energy, transport, water conservancy, telecommunication, postal service and other infrastructures implemented under organization by government;
- (3) Where the land is to be used for the need of public undertakings implemented under organization by the government such as science and technology, education, culture, public health, sports, ecological environment and resources protection, disaster prevention and alleviation, preservation of cultural relics, community comprehensive services, municipal utilities, veteran benefit and placement and martyr protection;
- (4) Where the land is to be used for the need of relocation for poverty alleviation and the construction of government-subsidized houses implemented under organization by government;
- (5) Where the land is to be used for the need of the large-scale development and construction as approved by the people's government at or above the provincial level and implemented under organization by the local people's governments at or above the county level within the limits of the

use of land for urban construction fixed in the overall plan for land utilization; and

(6) Other circumstances where the land collectively owned by farmers can be expropriated for the need of public interests as prescribed by the law.

The construction activities stated in the preceding paragraph shall conform to the national economic and social development plan, the overall plan for land utilization, urban and rural planning and special plan; the construction activities stated in Item (4) and Item (5) shall also be included in the annual plan for national economic and social development; the large-scale development stated in Item (5) shall comply with the standards prescribed by the competent department of natural resources under the State Council.

**Article 46** Expropriation of the following land shall be subject to approval by the State Council:

(1) permanent prime farmland;

(2) cultivated land, not included in permanent prime farmland, that exceeds 35 hectares; and

(3) other land that exceeds 70 hectares.

Expropriation of land other than that provided for in the preceding paragraph shall be subject to approval by the people's governments of provinces, autonomous regions and municipalities directly under the Central Government.

Land for agriculture shall be expropriated after conversion of use of the land is examined and approved in accordance with the provisions in Article 44 of this Law. Where conversion of use of such land is subject to approval by the State Council, requisition of the land shall be examined and approved at the same time, and there is no need to go through the formalities of examination and approval for the requisition separately. Where conversion of use of land is subject to approval by people's governments of provinces, autonomous regions and municipalities directly under the Central Government within the limits of their approval authority over the expropriation of land, expropriation of the land shall be examined and approved at the same time, and there is no need to go through the formalities of examination and approval for the expropriation separately; if the land to be expropriated is beyond the limits of their approval authority, it shall be examined and approved separately in accordance with the provisions of the first paragraph in this Article.

**Article 47** Where land is to be expropriated by the State, the expropriation shall, after approval is obtained through statutory procedure, be announced and implemented under organization by people's governments at or above the county level.

Where a local people's government at or above the county level intends to apply for expropriation of land, it shall conduct survey of the current status of the land proposed for expropriation and evaluation of social stability risk, make announcement of the scope of expropriation, current status of the land, purpose of expropriation, compensation standards, resettlement method and social security, etc. for at least 30 days within the scope of the township (town) and village where the land proposed for expropriation is located and villagers' group and listen to the opinions of the rural collective economic organization and members thereof, villagers' committee and other stakeholders.

If majority of the members of the rural collective economic organization of which the land is to be expropriated believes that the land expropriation compensation and resettlement plan does not conform to the provisions of laws and regulations, the local people's government at or above the county level shall organize the holding of hearing and modify the plan in accordance with laws and regulations and based on the hearing.

The owner or the user of the land proposed for expropriation shall complete the compensation registration by presenting the certificate of property ownership within the time limit prescribed in the announcement. The local people's government at or above the county level shall organize relevant departments to calculate and arrange relevant expenses to ensure that the expenses are available in full amount and enter into agreement on compensation and resettlement, etc. with the owner or user of the land proposed to be expropriated; truthful statement of the failure to enter into agreement with certain owner or user, if any, shall be provided in the land expropriation application..

The local people's government at or above the county level may not apply for land expropriation until relevant preliminary work is completed.

**Article 48** Land expropriated shall be compensated for on fair and reasonable basis to ensure that the original living standard of the farmers of which the land is appropriated is not reduced and their long-term livelihood is guaranteed.

For land expropriation, compensation for land, resettlement subsidies as well as compensation for rural residential houses for the villagers, other attachments and young crops on the expropriated land, etc. shall be paid in full amount in a timely manner in accordance with the law and social security expenses shall be arranged for the farmers of which land is appropriated.

The standards for land compensation and resettlement subsidies for expropriation of agricultural land shall be determined through formulating and publishing the integrated land section price. The integrated land section price shall be formulated by taking into comprehensive consideration the factors such as the original use of the land, condition of the land resources, land production value, location of the land, supply-demand relation of the land, population as well as economic and social development level and be adjusted and republished at least once every three years.

The compensation standards for the expropriation of the land other than agricultural land, attachments and young crops on the expropriated land, etc. shall be formulated by the provinces, autonomous regions and municipalities directly under the Central Government. Specifically, for the rural residential houses for the villagers, the methods such as rearrangement of house sites for construction of houses, supply of resettlement houses or monetary compensation shall be adopted for fair and reasonable compensation with respect to the desire of the rural villagers and pursuant to the principle of compensation before relocation and improving residential conditions, compensation shall be paid for the expenses on relocation and temporary settlement, etc. caused by expropriation and the right of rural villagers to dwell and their legitimate rights and interests in housing property shall be guaranteed.

Local people's governments at or above the county level shall incorporate the farmers whose land is expropriated in corresponding pension and other social security system. The social security fee for the farmers whose land is expropriated shall mainly be used for subsidizing the contributions of eligible land-expropriated farmers to pension insurance and other social insurances. The method for raising, management and use of the social security fee for land-expropriated farmers shall be formulated by provinces, autonomous regions and municipalities directly under the Central Government.

**Article 49** The rural collective economic organization, the land of which is expropriated, shall accept supervision by making known to its members the income and expenses of the compensation received for land expropriation.

The compensation and other charges paid to the unit for its land expropriated is forbidden to be embezzled or misappropriated.

**Article 50** Local people's governments at all levels shall support the rural collective economic organizations, the land of which is requisitioned, and the peasants in their efforts to engage in development or business operation or to start enterprises.

**Article 51** The rate of compensation for expropriation of land to build large or medium-sized water conservancy or hydroelectric projects and the measures for resettling relocated people shall be prescribed separately by the State Council.

**Article 52** During the feasibility study of a construction project, competent departments of natural resources may, in accordance with the overall plan for land utilization, the annual plan for land utilization and the standard area of land for the use of construction, examine the matters related to land for construction and offer its comments and suggestions.

**Article 53** Where a construction unit needs to use State-owned land for construction of an approved project, it shall apply to the competent department of natural resources of the people's government at or above the county level that has the approval authority by presenting the relevant documents as required by laws and regulations. The said department shall examine the application before submitting it to the said people's government for approval.

**Article 54** A construction unit that wishes to use State-owned land shall get it by such means of compensation as assignment. However, land to be used for the following purposes may be allocated with the lawful approval of a people's government at or above the county level:



- (1) for State organs or military purposes;
- (2) for urban infrastructure projects or public welfare undertakings;
- (3) for major energy, communications, water conservancy and other infrastructure projects supported by the State; and
- (4) other purposes as provided for by laws or administrative regulations.

**Article 55** A construction unit that obtains right to the use of State-owned land by such means of compensation as assignment shall, in accordance with the rates and measures prescribed by the State Council, pay, among other charges, compensation for use of land such as charges for the assignment of land-use right, before it can use the land.

Beginning from the date of implementation of this Law, 30 percent of the compensation paid for the use of additional land for construction shall go to the Central Government and 70 percent to the local people's governments concerned. Specific measures for use and management shall be formulated by the department of finance under the State Council in conjunction with relevant departments and reported to the State Council for approval.

**Article 56** A construction unit that uses State-owned land shall do so in agreement with the stipulations of the contract governing compensation for the use of land such as the assignment of the land-use right or with the provisions in the documents of approval for allocation of the land-use right. Where it is definitely necessary to change the purposes of construction on this land, the matter shall be subject to agreement by the competent department of natural resources of the people's government concerned and be submitted for approval to the people's government that originally approved the use of land. Where the land the purposes of use of which need to be changed is located in the area under city planning, the matter shall be subject to agreement by the city planning administration department concerned before it is submitted for approval.

**Article 57** Where land owned by the State or by peasant collectives needs to be used temporarily for construction of projects or for geologic prospecting, the matter shall be subject to approval by the competent department of natural resources of a people's government at or above the county level. However, if the land to be temporarily used is located in the area covered by city planning, the matter shall be subject to agreement by the city planning administration department concerned before it is submitted for approval. The land user shall, depending on who owns the land and who has the land-use right, enter into a contract for the temporary use of the land with the competent department of natural resources concerned, or the rural collective economic organization, or the villagers committee, and pay compensation for it in accordance with the provisions of the contract.

The temporary land user shall use the land for purposes stipulated in the contract for temporary use of the land and may not build permanent structures on it.

Generally, the period for temporary use of land shall not exceed two years.

**Article 58** Under any of the following circumstances, the competent department of natural resources of the people's government concerned may, with the approval of the people's government that has originally approved the use of land or that possesses the approval authority, take back the right to the use of the State-owned land:

- (1) The use of the land is truly necessary for renovating the old urban area according to city planning and other public benefits;
- (2) At the expiration of the period stipulated in the contract for use of the land by such means of compensation as grant of land, the land user has not applied for renewing the period or, if he has, the application is not approved;
- (3) The use of the originally allocated State-owned land is terminated because, among other things, the entity that uses the land is dissolved or relocated; or
- (4) The highways, railways, airports or ore fields, etc. are abandoned with approval.

The user granted with the land use right shall be compensated appropriately when its right to the use of State-owned land is taken back according to the provisions of Item (1) of the preceding paragraph.

**Article 59** Township and town enterprises, public utilities and public welfare undertakings of

townships (towns) and villages, villagers' residences, etc. shall be built in accordance with the planning of the villages and towns and the principles of rational geographical distribution, comprehensive development and completeness. Land to be used for such construction shall be in keeping with the overall plan and annual plan for land utilization of the townships (towns) and shall be subject to examination and approval in accordance with the provisions in Articles 44, 60, 61 and 62 of this Law.

**Article 60** A rural collective economic organization that wishes to set up enterprises by using land for construction, designated as such in the township (town) overall plan for land utilization, or does so with other units or individuals by investing its land-use right as shares or through joint operation shall, by presenting the relevant documents of approval, submit an application to the competent department of natural resources of the local people's government at or above the county level, and the matter shall be subject to approval by the said people's government within the limits of its approval authority as defined by the province, autonomous region or municipality directly under the Central Government. However, if land for agriculture is to be used for the purpose, the matter shall be subject to examination and approval in accordance with the provisions in Article 44 of this Law.

Land for construction to be used for setting up enterprises in accordance with the provisions in the preceding paragraph shall be kept under strict control. Provinces, autonomous regions and municipalities directly under the Central Government may, in light of the different industries pursued by township or town enterprises and their scale of operation, fix different limits for the area of land to be used.

**Article 61** Where land is to be used for the construction of township (town) or village public utilities or public welfare undertakings, the matter shall be subject to examination and verification by the township (town) people's government, which shall submit an application to the competent department of natural resources of the local people's government at or above the county level for approval by the said people's government within the limits of its approval authority as defined by the province, autonomous region or municipality directly under the Central Government. However, if land for agriculture is to be used for the purpose, the matter shall be subject to examination and approval in accordance with the provisions in Article 44 of this Law.

**Article 62** For villagers, one household shall only have one house site, the area of which may not exceed the limits fixed by provinces, autonomous regions and municipalities directly under the Central Government.

In a region where the land per capita is in small amount and one housing site cannot be guaranteed for one household, the people's government at the county level may, on the basis of full respect to the desire of rural villagers, adopt measures for guaranteeing that each household of rural villagers has a house according to the standards prescribed by the province, autonomous region or municipality directly under the Central Government.

Rural villagers shall build residences in conformity with the township (town) overall plan for land utilization, shall not occupy permanent prime farmland and shall use their original house sites or idle lots in the village as much as possible. Township (town) overall plan for land utilization and village plan shall be formulated with overall coordination and reasonable arrangement of land used for house sites to improve the living environment and condition of rural villagers,

Land to be used by villagers to build residences shall be subject to review and approval by the township (town) people's government; specifically, the occupation of land for agriculture, if involved, shall be subject to examination and approval procedure in accordance with the provisions in Article 44 of this Law.

Applications for other house sites made by villagers who have sold or leased their houses shall not be approved.

The State allows the rural villagers who have moved into cities to surrender house sites on voluntary and compensation basis in accordance with the law and encourages rural collective economic organizations and members thereof to activate and utilize idle house sites and idle houses.

The competent department of agriculture and rural affairs under the State Council shall be in charge of work relating to reform and management of house sites in rural areas nationwide.

**Article 63** The collective land for for-profit construction that is determined in the overall plan for

land utilization or urban and rural planning to be for industrial, commercial and other for-profit uses may be transferred, leased or otherwise delivered by land owners to entities or individual for use and a written contract shall be executed therefor, specifying the boundaries and area of the land, time limit of construction commencement, term of use, purpose of the land, planning conditions and other rights and obligations of both parties concerned.

The transfer and lease, etc. of the collective land for for-profit construction shall be subject to the consent of at least two-thirds of the members of the villagers assembly or of the villagers' representatives of the members of the collective economic organization concerned.

The use right to the collective land for for-profit construction obtained by such methods as granting may be transferred, exchanged, used for capital contribution, given as gift or mortgaged, unless it is otherwise prescribed in laws and administrative regulations or otherwise stipulated in the written contract signed by the land owner or the land use right holder.

For the lease of collective land for for-profit construction, granting and maximum term of granting of use right as well as transfer, exchange, use for capital contribution, donation and mortgage, etc. of the collective land for construction, the State-owned construction land for similar uses shall be taken as reference. Specific measure shall be formulated by the State Council.

**Article 64** Users of collective land for construction shall use the land strictly according to the purposes of use determined in the overall plan for land utilization or urban and rural planning.

**Article 65** No buildings or structures built before the overall plan for land utilization is drawn up and at variance with the purposes defined in such a plan may be rebuilt or expanded.

**Article 66** Under any of the following circumstances, a rural collective economic organization may, with the approval of the people's government that originally approved the use of land, take back the land-use right:

- (1) The land is needed for constructing township (town) or village public utilities or public welfare undertakings;
- (2) The land is used at variance with the approved purposes; or
- (3) The use of land is terminated because, among other things, the unit concerned is dissolved or moved away.

The user granted with the land-use right shall be compensated appropriately when the land owned by the peasant collective is taken back according to the provisions of sub-paragraph (1) of the preceding paragraph in this Article.

For the use right to the collective land for for-profit construction to be taken back, the written contract executed between both parties concerned shall apply, unless it is otherwise provided for by laws and administrative regulations.

## Chapter VI Supervision and Inspection

**Article 67** Competent department of natural resources of the people's government at or above the county level shall supervise and inspect violations of the laws and regulations governing land administration.

Supervisors and inspectors for land administration shall be familiar with the laws and regulations governing land administration and they shall be devoted to their duties and impartial in enforcing laws.

Where competent departments of agriculture and rural affairs of the people's government at or above the county level shall supervise and inspect violations of the laws and regulations governing house sites administration, the provisions on supervision and administration by competent departments of natural resources hereunder shall apply.

**Article 68** In performing their duties of supervision and inspection, members of the competent departments of natural resources of the people's governments at or above the county level shall have the right to take the following measures:

- (1) to require the unit or individual under inspection to provide documents and materials related to land ownership or land-use right in order to examine them or have them duplicated;

(2) to require the unit or individual under inspection to make explanations on questions concerning land ownership or land-use right;

(3) to enter the very plot of land illegally used by the unit or individual under inspection to conduct survey; and

(4) to order the unit or individual that illegally uses land to stop violating the laws and regulations governing land administration.

**Article 69** Where supervisors and inspectors for land administration, in order to perform their duties, need to enter the very plot of land to conduct survey, or to require the unit or individual concerned to provide documents and materials or make explanations, they shall produce their papers for supervision and inspection for land administration.

**Article 70** The units and individuals concerned shall assist in, cooperate with and provide convenience to the work of the competent departments of natural resources of the people's governments at or above the county level when the latter conduct supervision over and inspection of violations of the laws and regulations governing land administration; they may not refuse to accept or obstruct supervision and inspection for land administration when the supervisors and inspectors perform their duties in accordance with law.

**Article 71** Where, in the course of supervision and inspection, competent departments of natural resources of the people's government at or above the county level find any violations of laws by State functionaries, which are punishable by sanctions under the law, they shall deal with such violations in accordance with law; if they have no right to do so, they shall transfer such cases in accordance with the law to the administrative supervision departments or relevant organs for handling.

**Article 72** Where competent departments of natural resources of the people's governments at or above the county level, in the course of supervision and inspection, find that violations of the laws and regulations governing land administration constitute crimes, they shall transfer the cases to the departments concerned, which shall conduct investigation for criminal responsibility in accordance with law; if the violations are not serious enough to constitute crimes, the said departments shall impose administrative penalties in accordance with law.

**Article 73** Where a competent department of natural resources fails to impose administrative penalties on violators as is required by the provisions of this Law, the competent department of natural resources of the people's government at a higher level shall have the right to order the former to decide on imposition of administrative penalties or directly impose the penalties itself and give sanctions to the persons in charge of the former.

## Chapter VII Legal Responsibility

**Article 74** If units or individuals illegally transfer land through buying, selling or other means, their unlawful gains shall be confiscated by the competent departments of natural resources of the people's governments at or above the county level, or if afterwards they, in violation of the overall plan for land utilization, convert land for agriculture to land for construction, they shall demolish, within a time limit, the structures and installations built on the illegally transferred land and put the land back to its original state, if the conversion happens to conform to the overall plan for land utilization, the structures and installations built on the land shall be confiscated, and the units or individuals in each case may also be fined; the persons directly in charge and the other persons directly responsible shall be given sanctions in accordance with law. If the violations constitute crimes, criminal responsibility shall be investigated in accordance with law.

**Article 75** Units or individuals that, in violation of the provisions of this Law, build kilns or graves on cultivated land or, without authorization, build houses, dig sand, quarry, mine or collect earth on or from the cultivated land, thus damaging the conditions for crop cultivation, or develop land, thus causing desertification or salinization, shall be ordered to make collection or bring desertification or salinization under control within a time limit by the competent departments of natural resources and competent departments of agriculture and rural affairs, etc. of the people's governments at or above the county level according to their duties, and they may also be fined. If the violations constitute crimes, criminal responsibility shall be investigated in accordance with law.

**Article 76** Units or individuals that, in violation of the provisions of this Law, refuse to fulfill their obligation of land recultivation shall be ordered by the competent departments of natural resources of

the people's governments at or above the county level to do it within a time limit. If they fail to do so, they shall be ordered to pay charges for recultivation, which shall exclusively be used for the purpose, and they may be fined.

**Article 77** Units or individuals that illegally occupy and use land without approval or with approval obtained by fraudulent means shall be ordered by the competent departments of natural resources of the people's governments at or above the county level to return such land; the ones that, in violation of the overall plan for land utilization, convert land for agriculture to land for construction shall be ordered to demolish the structures and installations built on the illegally occupied land within a time limit and put the land back to its original state; with regard to the ones that convert land for agriculture to land for construction, which happens to conform to the overall plan for land utilization, the structures and installations built on such land shall be confiscated, and they may also be fined; and the persons directly in charge of the said units and other persons directly responsible for the violations shall be given sanctions in accordance with law; if the violations constitute crimes, criminal responsibility shall be investigated in accordance with law.

Where the land used exceeds the area approved, the excessive portion shall be treated as land illegally used and punishment shall be meted out accordingly.

**Article 78** Villagers who illegally occupy and use land to build residences thereon without approval or with approval obtained by fraudulent means shall be ordered by the competent departments of agriculture and rural affairs of the people's governments at or above the county level to return such land and demolish, within a time limit, the houses built on the land.

Where the land used exceeds the limits fixed by provinces, autonomous regions and municipalities directly under the Central Government, it shall be treated as land illegally used and punishment shall be meted out accordingly.

**Article 79** Where units or individuals that have no authority to approve expropriation or use of land unlawfully approve the use of land, or they do so by overstepping their authority of approval, or they approve the use of land at variance with the purposes defined in the overall plan for land utilization, or they approve the expropriation or use of land in violation of the procedure prescribed by law, the documents of such approval shall be void and the persons directly in charge of such units and the other persons directly responsible for illegally approving such expropriation and use of land shall be given sanctions in accordance with law. If the violations constitute crimes, criminal responsibility shall be investigated in accordance with law. The land illegally approved for use shall be taken back. If the parties concerned refuse to return the land, they shall be regarded as illegal land users and punished as such.

Units or individuals that cause losses to the parties by illegally approving expropriation or use of land shall bear the liability to pay compensation in accordance with law.

**Article 80** Whoever embezzles or misappropriates the compensation or other relevant charges paid to a unit whose land is expropriated, if the violation constitutes a crime, shall be investigated for criminal responsibility in accordance with law; if the violation is not serious enough to constitute a crime, he shall be given sanctions in accordance with law.

**Article 81** If the parties that have the right to the use of State-owned land refuse to surrender the land when it is to be taken back in accordance with law, or refuse to return the land at the expiration of the period for its temporary use, or fail to use the land in keeping with the purposes approved, the competent departments of natural resources of the people's governments at or above the county level shall order them to return the land and impose a fine on them.

**Article 82** Where the land collectively owned by farmers is used for non-agricultural construction without authorization through the methods such as grant, transfer of use right or lease, or where collective land for for-profit construction is delivered to any entity or individual in violation of this Law through the methods such as grant or lease, the competent departments of natural resources of the people's governments at or above the county level shall order such acts to be corrected within a specified time limit and confiscate illegal gains with a fine imposed concurrently.

**Article 83** Construction units or individuals that are ordered, in accordance with the provisions of this Law, to demolish within a time limit the structures or installations built on illegally used land shall stop construction immediately and do the demolishing themselves. With regard to the ones that



continue to construct, the organ that decides to impose the penalty on them shall have the right to stop them. Where construction units or individuals refuse to accept the administrative penalty decision of demolishing the structures or installations within a time limit, they may file a suit in a People's Court within 15 days from the date of receiving the decision. If they neither file a suit nor do the demolishing at the expiration of the time limit, the organ that makes the penalty decision shall, in accordance with law, apply to the People's Court for compulsory enforcement, and the expenses entailed shall be borne by the violators.

**Article 84** Members of competent departments of natural resources and competent departments of agriculture and rural affairs who neglect their duty, abuse their power or conduct malpractice for personal gain, if the violations constitute crimes, shall be investigated for criminal responsibility in accordance with law; if the violations are not serious enough to constitute crimes, they shall be given sanctions in accordance with law.

#### Chapter VIII Supplementary Provisions

**Article 85** This Law shall be applicable to land use by foreign-invested enterprises; where it is otherwise provided for in laws, such provisions shall prevail.

**Article 86** Prior to the formulation of land space plan in accordance with Article 18 hereof, legally approved overall plan for land utilization and urban and rural planning shall continue to be implemented.

**Article 87** This Law shall go into effect as of January 1, 1999. ENGLISH TRANSLATION BY THE GENERAL OFFICE OF THE LEGISLATIVE AFFAIRS COMMISSION, THE STANDING COMMITTEE OF THE NATIONAL PEOPLE'S CONGRESS.

LICENSED FOR USE AS OF MARCH 2009.

发文日期: 1990-05-19	Promulgation date: 1990-05-19
地域: 全国	Effective region: NATIONAL
颁布机关: 国务院	Promulgator: State Council
文号: 国务院令1990年第55号	Document no: Order of the State Council [1990] No. 55
时效性: 已被修订	Effectiveness: Revised
生效日期: 1990-05-19	Effective date: 1990-05-19
所属产品分类: 用益物权 (民法->物权->用益物权)	Category: Usufructuary Right (Civil Law->Right In Rem->Usufructuary Right)
中华人民共和国城镇国有土地使用权出 让和转让暂行条例	Interim Regulations of the People's Republic of China on the Assignment and Transfer of the Rights to the Use of State-owned Urban Land
国务院令1990年第55号	Order of the State Council [1990] No. 55
1990年5月19日	May 19, 1990
第一章 总则	Chapter I General Provisions
第一条 为了改革城镇国有土地使用 制度,合理开发、利用、经营土地,加 强土地管理,促进城市建设和经济发 展,制定本条例。	Article 1 These Regulations are formulated in order to reform the system of using the State-owned land in the urban areas, rationally develop, utilize and manage the land, strengthen land administration and promote urban construction and economic development.
第二条 国家按照所有权与使用权分 离的原则,实行城镇国有土地使用权出 让、转让制度,但地下资源、埋藏物和 市政公用设施除外。前款所称城镇国有 土地是指市、县城、建制镇、工矿区范 围内属于全民所有的土地(以下简称土 地)。	Article 2 The State, in accordance with the principle of the ownership being separated from the right to the use of the land, implements the system whereby the right to the use of the State-owned land in the urban areas may be assigned and transferred, with the exclusion of the underground resources, the objects buried underground, and the public works. The term "State-owned land in the urban areas" as used in the preceding paragraph refers to the land owned by the whole people (hereinafter referred to as the "land") within the limits of cities, county sites, administrative towns and industrial and mining areas.
第三条 中华人民共和国境内外的公 司、企业、其他组织和个人,除法律另 有规定者外,均可依照本条例的规定取 得土地使用权,进行土地开发、利用、 经营。	Article 3 Any company, enterprise, other organization and individual within or outside the people's Republic of China may, unless otherwise provided by law, may obtain the right to the use of the land and engage in land development, utilization and management in accordance with the provisions of these Regulations.
第四条 依照本条例的规定取得土地 使用权的土地使用者,其使用权在使用 年限内可以转让、出租、抵押或者用于 其他经济活动。合法权益受国家法律保 护。	Article 4 Users of the land who have obtained the right to the use of the land in accordance with these Regulations may, within the term of land use, transfer, lease, or mortgage the right to the use of the land or use it for other economic activities, and their lawful rights and interests shall be protected by the laws of the State.
第五条 土地使用者开发、利用、经 营土地的活动,应当遵守国家法律、法 规的规定,并不得损害社会公共利益。	Article 5 Users of the land shall, in their activities to develop, utilize and manage the land, abide by the laws and regulations of the state and may not jeopardize the interests of the society and the public.
第六条 县级以上人民政府土地管理 部门依法对土地使用权的出让、转让、 出租、抵押、终止进行监督检查。	Article 6 The land administrative departments under the people's governments at or above the county level shall conduct supervision and inspection, according to law, over the assignment, transfer, lease, mortgage and termination of the right to the use of the land.
第七条 土地使用权出让、转让、出 租、抵押、终止及有关的地上建筑物、 其他附着物的登记,由政府土地管理部 门、房产管理部门依照法律和国务院的 有关规定办理。登记文件可以公开查 阅。	Article 7 The registration of the assignment, transfer, lease, mortgage and termination of the right to the use of the land and the registration of the above- ground buildings and other attached objects shall be handled by the land administration department and housing administration departments of the government in accordance with the law and the pertinent regulations of the State Council. The registration documents shall be made available for public reference.
第二章 土地使用权出让	Chapter II The Assignment of the Right to the Use of the Land
第八条 土地使用权出让是指国家以 土地所有者的身份将土地使用权在一定 年限内让与土地使用者,并由土地使用 者向国家支付土地使用权出让金的行 为。土地使用权出让应当签订出让合	Article 8 The assignment of the right to the use of the land refers to the act of the State as the owner of the land who, within the term of a certain number of years, assigns the right to the use of the land to land users, who shall in turn pay fees for the assignment thereof to the State. An assignment contract shall be signed for assigning the right to the use of the

同。	land.
第九条 土地使用权的出让，由市、县人民政府负责，有计划、有步骤地进行。	Article 9 people's governments at the municipal and county levels shall be in charge of assigning the right to the use of land, which shall be effected in a planned and systematic way.
第十条 土地使用权出让的地块、用途、年限和其他条件，由市、县人民政府土地管理部门会同城市规划和建设管理部门、房产管理部门共同拟定方案，按照国务院规定的批准权限报经批准后，由土地管理部门实施。	Article 10 The land administration departments under the people's governments at the municipal and county levels shall, in conjunction with the administrative departments for urban planning and construction and the housing administration departments, draw up a plan concerning the size and location, the purposes, the term, and other conditions with respect to the assigning of the right to the use of the land. The plan shall be submitted for approval in accordance with the limits of authority for approval as stipulated by the State Council and shall then be implemented by the land administration departments.
第十一条 土地使用权出让合同应当按照平等、自愿、有偿的原则，由市、县人民政府土地管理部门（以下简称出让方）与土地使用者签订。	Article 11 The contract for assigning the right to the use of the land shall be signed by and between the land administration departments under the people's governments at the municipal and county levels (hereinafter referred to as the "assigning party") and the land users in accordance with the principle of equality, voluntariness and compensation for use.
第十二条 土地使用权出让最高年限按下列用途确定： （一）居住用地七十年； （二）工业用地五十年； （三）教育、科技、文化、卫生、体育用地五十年； （四）商业、旅游、娱乐用地四十年； （五）综合或者其他用地五十年。	Article 12 The maximum term with respect to the assigned right to the use of the land shall be determined respectively in the light of the purposes listed below: 1. 70 years for residential purposes; 2. 50 years for industrial purposes; 3. 50 years for the purposes of education, science, culture, public health and physical education; 4. 40 years for commercial, tourist and recreational purposes; and 5. 50 years for comprehensive utilization or other purposes.
第十三条 土地使用权出让可以采取下列方式： （一）协议； （二）招标； （三）拍卖。 依照前款规定方式出让土地使用权的具体程序和步骤，由省、自治区、直辖市人民政府规定。	Article 13 The assignment of the right to the use of the land may be carried out by the following means: 1. by reaching an agreement through consultations; 2. by invitation to bid; or 3. by auction. The specific procedures and steps for assigning the right to the use of the land by the means stipulated in the preceding paragraphs shall be formulated by the people's government of the relevant province, autonomous region, or municipality directly under the Central Government
第十四条 土地使用者应当在签订土地使用权出让合同后六十日内，支付全部土地使用权出让金。逾期未全部支付的，出让方有权解除合同，并可请求违约赔偿。	Article 14 The land user shall, within 60 days of the signing of the contract for the assignment of the right to the use of the land, pay the total amount of the assignment fee thereof, failing which, the assigning party shall have the right to terminate the contract and may claim compensation for breach of contract.
第十五条 出让方应当按照合同规定，提供出让的土地使用权。未按合同规定提供土地使用权的，土地使用者有权解除合同，并可请求违约赔偿。	Article 15 The assigning party shall, in compliance with the stipulations of the contract, provide the right to the use of the land thus assigned, failing which, the land user shall have the right to terminate the contract and may claim compensation for breach of contract.
第十六条 土地使用者在支付全部土地使用权出让金后，应当依照规定办理登记，领取土地使用证，取得土地使用权。	Article 16 After paying the total amount of the fee for the assignment of the right to the use of the land, the land user shall, in accordance with the relevant provisions, go through the registration thereof, obtain the certificate for land use and accordingly the right to the use of the land.
第十七条 土地使用者应当按照土地使用权出让合同的规定和城市规划的要求，开发、利用、经营土地。未按合同规定的期限和条件开发、利用土地的，市、县人民政府土地管理部门应当予以纠正，并根据情节可以给予警告、罚款直至无偿收回土地使用权的处罚。	Article 17 The land user shall, in conformity with the stipulations of the contract for the assignment of the right to the use of land and the requirements of city planning, develop, utilize and manage the land. Should any land user fail to develop and utilize the land in accordance with the period of time specified in the contract and the conditions therein, the land administration departments under the people's governments at the municipal and county levels shall make corrections and, in light of the seriousness of the case, give such penalties as a warning, a fine or, in an extreme case, withdrawing the right to the use of the land without compensation.
第十八条 土地使用者需要改变土地使用权出让合同规定的土地用途的，应当征得出让方同意并经土地管理部门和城市规划部门批准，依照本章的有关规定重新签订土地使用权出让合同，调整土地使用权出让金，并办理登记。	Article 18 If the land user needs to alter the purposes of land use as stipulated in the contract for assigning the right to the use of land, he shall obtain the consent of the assigning party and the approval of the land administration department and the urban planning department and shall, in accordance with the relevant provisions in this Chapter, sign a new contract for assigning the right to the use of the land, readjust the amount of the assignment fee thereof, and undertake registration anew.



第十九条 土地使用权转让是指土地使用者将土地使用权再转移的行为，包括出售、交换和赠与。未按土地使用权出让合同规定的期限和条件投资开发、利用土地的，土地使用权不得转让。

Article 19 The transfer of the right to the use of the land refers to the land user's act of re-assigning the right to the use of the land, including the sale, exchange, and donation thereof. If the land has not been developed and utilized in accordance with the period of time specified in the contract and the conditions therein, the right to the use thereof may not be transferred.

第二十条 土地使用权转让应当签订转让合同。

Article 20 A transfer contract shall be signed for the transfer of the right to the use of the land.

第二十一条 土地使用权转让时，土地使用权出让合同和登记文件中所载明的权利、义务随之转移。

Article 21 With the transfer of the right to the use of the land, the rights and obligations specified in the contract for assigning the right to the use of the land and in the registration documents shall be transferred accordingly.

第二十二条 土地使用者通过转让方式取得的土地使用权，其使用年限为土地使用权出让合同规定的使用年限减去原土地使用者已使用年限后的剩余年限。

Article 22 The land user who has acquired the right to the use of the land by means of the transfer thereof shall have a term of use which is the remainder of the term specified in the contract for assigning the right to the use of the land minus the number of the years in which the original land user has used the land.

第二十三条 土地使用权转让时，其地上建筑物、其他附着物所有权随之转让。

Article 23 With the transfer of the right to the use of the land, the ownership of the above-ground buildings and other attached objects shall be transferred accordingly.

第二十四条 地上建筑物、其他附着物的所有人或者共有人，享有该建筑物、附着物使用范围内的土地使用权。土地使用者转让地上建筑物、其他附着物所有权时，其使用范围内的土地使用权随之转让，但地上建筑物、其他附着物作为动产转让的除外。

Article 24 The owners or joint owners of the above-ground buildings and other attached objects shall have the right to the use of the land within the limits of use of the said buildings and objects. With the transfer of the ownership of the above-ground buildings and other attached objects by the land users, the right to the use of the land within the limits of use of the said buildings and objects shall be transferred accordingly, with the exception of the movables.

第二十五条 土地使用权和地上建筑物、其他附着物所有权转让，应当依照规定办理过户登记。土地使用权和地上建筑物、其他附着物所有权分割转让的，应当经市、县人民政府土地管理部门和房产管理部门批准，并依照规定办理过户登记。

Article 25 With respect to the transfer of the right to the use of the land and of the ownership of the above-ground buildings and other attached objects, registration for the transfer shall be undertaken in accordance with the relevant provisions. Divided transfer of the right to the use of the land and of the ownership of the above-ground buildings and other attached objects shall be subject to the approval of the land administration department and the housing administration departments under the people's governments at the municipal and county levels, and registration for the divided transfer shall be undertaken in accordance with the relevant provisions.

第二十六条 土地使用权转让价格明显低于市场价格的，市、县人民政府有优先购买权。土地使用权转让的市场价格不合理上涨时，市、县人民政府可以采取必要的措施。

Article 26 When the transfer of the right to the use of the land is priced at a level obviously lower than the prevailing market price, the people's governments at the municipal and county levels shall have the priority of the purchase thereof. When the market price for the transfer of the right to the use of the land rises to an unreasonable extent, the people's governments at the municipal and county levels may take necessary measures to cope with it.

第二十七条 土地使用权转让后，需要改变土地使用权出让合同规定的土地用途的，依照本条例第十八条的规定办理。

Article 27 If, after the transfer of the right to the use of the land, necessity arises for altering the purposes of land use as stipulated in the contract for assigning the right to the use of the land, it shall be handled in accordance with the provisions in Article 18 of these Regulations.

#### 第四章 土地使用权出租

#### Chapter IV The Lease of the Right to the Use of the Land

第二十八条 土地使用权出租是指土地使用者作为出租人将土地使用权随同地上建筑物、其他附着物租赁给承租人使用，由承租人向出租人支付租金的行为。未按土地使用权出让合同规定的期限和条件投资开发、利用土地的，土地使用权不得出租。

Article 28 The lease of the right to the use of the land refers to the act of the land user as the lessor to lease the right to the use of the land together with the above-ground buildings and other attached objects to the lessee for use who shall in turn pay lease rentals to the lessor. If the land has not been developed and utilized in accordance with the period of time specified in the contract and the conditions therein, the right to the use thereof may not be leased.

第二十九条 土地使用权出租，出租人与承租人应当签订租赁合同。租赁合同不得违背国家法律、法规和土地使用权出让合同的规定。

Article 29 A lease contract shall be signed for leasing the right to the use of the land by and between the lessor and the lessee. The lease contract shall not run counter to the laws and regulations of the State or the stipulations of the contract for assigning the right to the use of the land.

第三十条 土地使用权出租后，出租人必须继续履行土地使用权出让合同。

Article 30 After leasing the right to the use of the land, the lessee must continue to perform the contract for assigning the right to the use of the land.

第三十一条 土地使用权和地上建筑

Article 31 With respect to the lease of the right to the use of the land together with

物、其他附着物出租，出租人应当依照规定办理登记。

the above-ground buildings and other attached objects, the lessee shall undertake registration in accordance with the relevant provisions.

## 第五章 土地使用权抵押

## Chapter V The Mortgage of the Right to the Use of the Land

### 第三十二条 土地使用权可以抵押。

Article 32 The right to the use of the land may be mortgaged.

第三十三条 土地使用权抵押时，其地上建筑物、其他附着物随之抵押。地上建筑物、其他附着物抵押时，其使用范围内的土地使用权随之抵押。

Article 33 With the mortgage of the right to the use of the land, the above-ground buildings and other attached objects thereon shall be mortgaged accordingly. With the above-ground buildings and other attached objects, the right to the use of the land within the limits of use of the said buildings and objects shall be mortgaged accordingly.

第三十四条 土地使用权抵押，抵押人与抵押权人应当签订抵押合同。抵押合同不得违背国家法律、法规和土地使用权出让合同的规定。

Article 34 A mortgage contract shall be signed for mortgaging the right to the use of the land by and between the mortgagor and the mortgagee. The mortgage contract shall not run counter to the laws and regulations of the State or the stipulations of the contract for assigning the right to the use of the land.

第三十五条 土地使用权和地上建筑物、其他附着物抵押，应当按照规定办理抵押登记。

Article 35 With respect to the mortgage of the right to the use of the land together with the above-ground buildings and other attached objects, registration for the mortgage shall be undertaken in accordance with the relevant provisions.

第三十六条 抵押人到期未能履行债务或者在抵押合同期间宣告解散、破产的，抵押权人有权依照国家法律、法规和抵押合同的规定处分抵押财产。因处分抵押财产而取得土地使用权和地上建筑物、其他附着物所有权的，应当依照规定办理过户登记。

Article 36 If the mortgagor fails to fulfill liabilities within the prescribed period of time or declares dissolution or bankruptcy within the term of the mortgage contract, the mortgagee shall have the right to dispose of the mortgaged property in accordance with the laws and regulations of the State and the stipulations of the mortgage contract. With respect to the right to the use of the land and the ownership of the above-ground buildings and other attached objects acquired as a result of the disposal of the mortgaged property, transfer registration shall be undertaken in accordance with the relevant provisions.

第三十七条 处分抵押财产所得，抵押人有优先受偿权。

Article 37 The mortgagee shall have the priority of compensation with respect to the receipts resulting from the disposal of the mortgaged property.

第三十八条 抵押权因债务清偿或者其他原因而消灭的，应当依照规定办理注销抵押登记。

Article 38 If the mortgage is eliminated as a result of the liquidation of liabilities or for other reasons, procedures shall be undertaken to nullify the mortgage registration.

## 第六章 土地使用权终止

## Chapter VI The Termination of the Right to the Use of the Land

第三十九条 土地使用权因土地使用权出让合同规定的使用年限届满、提前收回及土地灭失等原因而终止。

Article 39 The right to the use of the land terminate for such reasons as the expiration of the term of use as stipulated in the contract for assigning the right to the use of the land, the withdrawal of the right before the expiration, or the loss of the land.

第四十条 土地使用权期满，土地使用权及其地上建筑物、其他附着物所有权由国家无偿取得。土地使用者应当交还土地使用证，并依照规定办理注销登记。

Article 40 Upon expiration of the term of use, the right to the use of the land and the ownership of the above-ground buildings and other attached objects thereon shall be acquired by the State without compensation. The land user shall surrender the certificate for land use and undertake procedures to nullify the registration.

第四十一条 土地使用权期满，土地使用者可以申请续期。需要续期的，应当依照本条例第二章的规定重新签订合同，支付土地使用权出让金，并办理登记。

Article 41 Upon expiration of the term of use, the land user may apply for its renewal. Where such a renewal is necessary, a new contract shall be signed in accordance with the provisions in Chapter II of these Regulations and the land user shall pay the fee for the assignment of the right to the use of the land and undertake registration.

第四十二条 国家对土地使用者依法取得的土地使用权不提前收回。在特殊情况下，根据社会公共利益的需要，国家可以依照法律程序提前收回，并根据土地使用者已使用的年限和开发、利用土地的实际情况给予相应的补偿。

Article 42 The State shall not withdraw before the expiration of the term of use the right to the use of the land which the land user acquired in accordance with the law. Under special circumstances, the State may, based on the requirements of social public interests, withdraw the right before the expiration of the term of use in line with the relevant legal procedures and shall, based on the number of years in which the land user has used the land and actual state of affairs with respect to the development and utilization of the land, offer corresponding compensation.

## 第七章 划拨土地使用权

## Chapter VII The Allocated Right to the Use of the Land

第四十三条 划拨土地使用权是指土地使用者通过各种方式依法无偿取得的土地使用权。前款土地使用者应当依照《中华人民共和国城镇土地使用税暂行条例》的规定缴纳土地使用税。

Article 43 The allocated right to the use of the land refers to the right to the use of the land which the land user acquires in accordance with the law, by various means, and without compensation. The land user referred to in the preceding paragraph shall pay tax for the use of the land in accordance with the provisions of the Interim Regulations of the people's Republic of China Concerning the Tax for the Use of the Land in the Urban Areas.

第四十四条 划拨土地使用权，除本条例第四十五条规定的情况外，不得转让、出租、抵押。

第四十五条 符合下列条件的，经市、县人民政府土地管理部门和房产管理部门批准，其划拨土地使用权和地上建筑物、其他附着物所有权可以转让、出租、抵押：

(一) 土地使用者为公司、企业、其他经济组织和个人；

(二) 领有国有土地使用证；

(三) 具有地上建筑物、其他附着物合法的产权证明；

(四) 依照本条例第二章的规定签订土地使用权出让合同，向当地市、县人民政府补交土地使用权出让金或者以转让、出租、抵押所获收益抵交土地使用权出让金。转让、出租、抵押前款划拨土地使用权的，分别依照本条例第三章、第四章和第五章的规定办理。

第四十六条 对未经批准擅自转让、出租、抵押划拨土地使用权的单位和个人，市、县人民政府土地管理部门应当没收其非法收入，并根据情节处以罚款。

第四十七条 无偿取得划拨土地使用权的土地使用者，因迁移、解散、撤销、破产或者其他原因而停止使用土地的，市、县人民政府应当无偿收回其划拨土地使用权，并可依照本条例的规定予以出让。对划拨土地使用权，市、县人民政府根据城市建设发展需要和城市规划的要求，可以无偿收回，并可依照本条例的规定予以出让。无偿收回划拨土地使用权时，对其地上建筑物、其他附着物，市、县人民政府应当根据实际情况给予适当补偿。

## 第八章 附则

第四十八条 依照本条例的规定取得土地使用权的个人，其土地使用权可以继承。

第四十九条 土地使用者应当依照国家税收法规的规定纳税。

第五十条 依照本条例收取的土地使用权出让金列入财政预算，作为专项基金管理，主要用于城市建设和土地开发。具体使用管理办法，由财政部另行制定。

第五十一条 各省、自治区、直辖市人民政府应当根据本条例的规定和当地实际情况选择部分条件比较成熟的城镇先行试点。

第五十二条 外商投资从事开发经营成片土地的，其土地使用权的管理依照国务院的有关规定执行。

第五十三条 本条例由国家土地管理局负责解释；实施办法由省、自治区、直辖市人民政府制定。

Article 44 The allocated right to the use of the land may not be transferred, leased, or mortgaged, with the exception of cases as specified in Article 45 of these Regulations.

Article 45 On condition that the following requirements are satisfied, the allocated right to the use of the land and the ownership of the above-ground buildings and other attached objects may, subject to the approval of the land administration departments and the housing administration departments under the people's governments at the municipal and county levels, be transferred, leased or mortgaged:

1. the land users are companies, enterprises, or other economic organizations, or individuals;

2. a certificate for the use of state-owned land has been obtained;

3. possessing legitimate certificates of property rights to the above-ground buildings and other attached objects; and

4. a contract for assigning the right to the use of land is signed in accordance with the provisions in Chapter II of these Regulations and the land user makes up for the payment of the assignment fee to the local municipal or county people's government or uses the profits resulting from the transfer, lease or mortgage to pay the assignment fee.

The transfer, lease or mortgage of the allocated right to the use of the land referred to in the preceding paragraphs shall be handled respectively in accordance with the provisions in Chapters III, IV and V of these Regulations.

Article 46 Any units or individuals that transfers, lease or mortgage the allocated right to the use of the land without authorization shall have their illegal incomes thus secured confiscated by the land administration departments under the people's governments at the municipal and county levels and shall be fined in accordance with the seriousness of the case.

Article 47 If the land user who has acquired the allocated right to the use of the land without compensation stops the use thereof as a result of moving to another site, dissolution, disbandment, or bankruptcy or for other reasons, the municipal or county people's government shall withdraw the allocated right to the use of the land without compensation and may assign it in accordance with the relevant provisions of these Regulations.

The municipal or county people's government may, based on the needs of urban construction and development and the requirements of urban planning, withdraw the allocated right to the use of the land without compensation and may assign it in accordance with the relevant provisions of these Regulations.

When the allocated right to the use of the land is withdrawn without compensation, the municipal or county people's government shall, in the light of the actual state of affairs, give due compensation for the above-ground buildings and other attached objects thereon.

## Chapter VIII Supplementary Provisions

Article 48 The right to the use of the land may be inherited if it is acquired by individuals in accordance with the provisions of these Regulations.

Article 49 The land user shall pay tax in accordance with the provisions of the tax laws and regulations of the State.

Article 50 Fees collected by assigning the right to the use of the land in accordance with these Regulations shall be included in the fiscal budget and managed as a special fund, which shall be used mainly for urban construction and land development. The specific measures for the use and management of the fund shall be separately prescribed by the Ministry of Finance.

Article 51 The people's governments of various provinces, autonomous regions and municipalities directly under the Central Government shall, in accordance with the provisions of these Regulations and with the actual state of affairs in their respective localities, select as their pilot testing grounds some of the cities or towns where conditions are relatively ripe.

Article 52 With respect to foreign investors engaging in developing and managing tracts of land, the administration of the right to the use of the land shall be effected in accordance with the relevant provisions of the State Council.

Article 53 The State Administration for Land Uses shall be responsible for the interpretation of these Regulations; the measures for the implementation thereof shall be formulated by the people's government of the provinces, autonomous

regions and municipalities directly under the Central Government.

第五十四条 本条例自发布之日起施行。 Article 54 These Regulations shall go into effect as of the date of promulgation.