索 引 号：000014349/2021-00064　主题分类：国土资源、能源\土地
发文机关：国务院　成文日期：2021年07月02日
标　　题：中华人民共和国土地管理法实施条例
发文字号：国令第743号　发布日期：2021年07月30日
主 题 词：

中华人民共和国国务院令

第743号

《中华人民共和国土地管理法实施条例》已经2021年4月21日国务院第132次常务会议修订通过，现予公布，自2021年9月1日起施行。

总理　李克强

2021年7月2日

中华人民共和国土地管理法实施条例

（1998年12月27日中华人民共和国国务院令第256号发布　根据2011年1月8日《国务院关于废止和修改部分行政法规的决定》第一次修订　根据2014年7月29日《国务院关于修改部分行政法规的决定》第二次修订　2021年7月2日中华人民共和国国务院令第743号第三次修订）

第一章　总　　则

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

第二章　国土空间规划

第二条　国家建立国土空间规划体系。

土地开发、保护、建设活动应当坚持规划先行。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。在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。

第三条　国土空间规划应当细化落实国家发展规划提出的国土空间开发保护要求，统筹布局农业、生态、城镇等功能空间，划定落实永久基本农田、生态保护红线和城镇开发边界。

国土空间规划应当包括国土空间开发保护格局和规划用地布局、结构、用途管制要求等内容，明确耕地保有量、建设用地规模、禁止开垦的范围等要求，统筹基础设施和公共设施用地布局，综合利用地上地下空间，合理确定并严格控制新增建设用地规模，提高土地节约集约利用水平，保障土地的可持续利用。

第四条　土地调查应当包括下列内容：

（一）土地权属以及变化情况；

（二）土地利用现状以及变化情况；

（三）土地条件。

全国土地调查成果，报国务院批准后向社会公布。地方土地调查成果，经本级人民政府审核，报上一级人民政府批准后向社会公布。全国土地调查成果公布后，县级以上地方人民政府方可自上而下逐级依次公布本行政区域的土地调查成果。

土地调查成果是编制国土空间规划以及自然资源管理、保护和利用的重要依据。

土地调查技术规程由国务院自然资源主管部门会同有关部门制定。

第五条　国务院自然资源主管部门会同有关部门制定土地等级评定标准。

县级以上人民政府自然资源主管部门应当会同有关部门根据土地等级评定标准，对土地等级进行评定。地方土地等级评定结果经本级人民政府审核，报上一级人民政府自然资源主管部门批准后向社会公布。

根据国民经济和社会发展状况，土地等级每五年重新评定一次。

第六条　县级以上人民政府自然资源主管部门应当加强信息化建设，建立统一的国土空间基础信息平台，实行土地管理全流程信息化管理，对土地利用状况进行动态监测，与发展改革、住房和城乡建设等有关部门建立土地管理信息共享机制，依法公开土地管理信息。

第七条　县级以上人民政府自然资源主管部门应当加强地籍管理，建立健全地籍数据库。

第三章　耕地保护

第八条　国家实行占用耕地补偿制度。在国土空间规划确定的城市和村庄、集镇建设用地范围内经依法批准占用耕地，以及在国土空间规划确定的城市和村庄、集镇建设用地范围外的能源、交通、水利、矿山、军事设施等建设项目经依法批准占用耕地的，分别由县级人民政府、农村集体经济组织和建设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组织自然资源主管部门、农业农村主管部门对开垦的耕地进行验收，确保开垦的耕地落实到地块。划入永久基本农田的还应当纳入国家永久基本农田数据库严格管理。占用耕地补充情况应当按照国家有关规定向社会公布。

个别省、直辖市需要易地开垦耕地的，依照《土地管理法》第三十二条的规定执行。

第九条　禁止任何单位和个人在国土空间规划确定的禁止开垦的范围内从事土地开发活动。

按照国土空间规划，开发未确定土地使用权的国有荒山、荒地、荒滩从事种植业、林业、畜牧业、渔业生产的，应当向土地所在地的县级以上地方人民政府自然资源主管部门提出申请，按照省、自治区、直辖市规定的权限，由县级以上地方人民政府批准。

第十条　县级人民政府应当按照国土空间规划关于统筹布局农业、生态、城镇等功能空间的要求，制定土地整理方案，促进耕地保护和土地节约集约利用。

县、乡（镇）人民政府应当组织农村集体经济组织，实施土地整理方案，对闲散地和废弃地有计划地整治、改造。土地整理新增耕地，可以用作建设所占用耕地的补充。

鼓励社会主体依法参与土地整理。

第十一条　县级以上地方人民政府应当采取措施，预防和治理耕地土壤流失、污染，有计划地改造中低产田，建设高标准农田，提高耕地质量，保护黑土地等优质耕地，并依法对建设所占用耕地耕作层的土壤利用作出合理安排。

非农业建设依法占用永久基本农田的，建设单位应当按照省、自治区、直辖市的规定，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。

县级以上地方人民政府应当加强对农业结构调整的引导和管理，防止破坏耕地耕作层；设施农业用地不再使用的，应当及时组织恢复种植条件。

第十二条　国家对耕地实行特殊保护，严守耕地保护红线，严格控制耕地转为林地、草地、园地等其他农用地，并建立耕地保护补偿制度，具体办法和耕地保护补偿实施步骤由国务院自然资源主管部门会同有关部门规定。

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。

耕地应当优先用于粮食和棉、油、糖、蔬菜等农产品生产。按照国家有关规定需要将耕地转为林地、草地、园地等其他农用地的，应当优先使用难以长期稳定利用的耕地。

第十三条　省、自治区、直辖市人民政府对本行政区域耕地保护负总责，其主要负责人是本行政区域耕地保护的第一责任人。

省、自治区、直辖市人民政府应当将国务院确定的耕地保有量和永久基本农田保护任务分解下达，落实到具体地块。

国务院对省、自治区、直辖市人民政府耕地保护责任目标落实情况进行考核。

第四章　建设用地

第一节　一般规定

第十四条　建设项目需要使用土地的，应当符合国土空间规划、土地利用年度计划和用途管制以及节约资源、保护生态环境的要求，并严格执行建设用地标准，优先使用存量建设用地，提高建设用地使用效率。

从事土地开发利用活动，应当采取有效措施，防止、减少土壤污染，并确保建设用地符合土壤环境质量要求。

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及年度计划、国土空间规划、国家产业政策以及城乡建设、土地利用的实际状况等，加强土地利用计划管理，实行建设用地总量控制，推动城乡存量建设用地开发利用，引导城镇低效用地再开发，落实建设用地标准控制制度，开展节约集约用地评价，推广应用节地技术和节地模式。

第十六条　县级以上地方人民政府自然资源主管部门应当将本级人民政府确定的年度建设用地供应总量、结构、时序、地块、用途等在政府网站上向社会公布，供社会公众查阅。

第十七条　建设单位使用国有土地，应当以有偿使用方式取得；但是，法律、行政法规规定可以以划拨方式取得的除外。

国有土地有偿使用的方式包括：

（一）国有土地使用权出让；

（二）国有土地租赁；

（三）国有土地使用权作价出资或者入股。

第十八条　国有土地使用权出让、国有土地租赁等应当依照国家有关规定通过公开的交易平台进行交易，并纳入统一的公共资源交易平台体系。除依法可以采取协议方式外，应当采取招标、拍卖、挂牌等竞争性方式确定土地使用者。

第十九条　《土地管理法》第五十五条规定的新增建设用地的土地有偿使用费，是指国家在新增建设用地中应取得的平均土地纯收益。

第二十条　建设项目施工、地质勘查需要临时使用土地的，应当尽量不占或者少占耕地。

临时用地由县级以上人民政府自然资源主管部门批准，期限一般不超过二年；建设周期较长的能源、交通、水利等基础设施建设使用的临时用地，期限不超过四年；法律、行政法规另有规定的除外。

土地使用者应当自临时用地期满之日起一年内完成土地复垦，使其达到可供利用状态，其中占用耕地的应当恢复种植条件。

第二十一条　抢险救灾、疫情防控等急需使用土地的，可以先行使用土地。其中，属于临时用地的，用后应当恢复原状并交还原土地使用者使用，不再办理用地审批手续；属于永久性建设用地的，建设单位应当在不晚于应急处置工作结束六个月内申请补办建设用地审批手续。

第二十二条　具有重要生态功能的未利用地应当依法划入生态保护红线，实施严格保护。

建设项目占用国土空间规划确定的未利用地的，按照省、自治区、直辖市的规定办理。

第二节　农用地转用

第二十三条　在国土空间规划确定的城市和村庄、集镇建设用地范围内，为实施该规划而将农用地转为建设用地的，由市、县人民政府组织自然资源等部门拟订农用地转用方案，分批次报有批准权的人民政府批准。

农用地转用方案应当重点对建设项目安排、是否符合国土空间规划和土地利用年度计划以及补充耕地情况作出说明。

农用地转用方案经批准后，由市、县人民政府组织实施。

第二十四条　建设项目确需占用国土空间规划确定的城市和村庄、集镇建设用地范围外的农用地，涉及占用永久基本农田的，由国务院批准；不涉及占用永久基本农田的，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。具体按照下列规定办理：

（一）建设项目批准、核准前或者备案前后，由自然资源主管部门对建设项目用地事项进行审查，提出建设项目用地预审意见。建设项目需要申请核发选址意见书的，应当合并办理建设项目用地预审与选址意见书，核发建设项目用地预审与选址意见书。

（二）建设单位持建设项目的批准、核准或者备案文件，向市、县人民政府提出建设用地申请。市、县人民政府组织自然资源等部门拟订农用地转用方案，报有批准权的人民政府批准；依法应当由国务院批准的，由省、自治区、直辖市人民政府审核后上报。农用地转用方案应当重点对是否符合国土空间规划和土地利用年度计划以及补充耕地情况作出说明，涉及占用永久基本农田的，还应当对占用永久基本农田的必要性、合理性和补划可行性作出说明。

（三）农用地转用方案经批准后，由市、县人民政府组织实施。

第二十五条　建设项目需要使用土地的，建设单位原则上应当一次申请，办理建设用地审批手续，确需分期建设的项目，可以根据可行性研究报告确定的方案，分期申请建设用地，分期办理建设用地审批手续。建设过程中用地范围确需调整的，应当依法办理建设用地审批手续。

农用地转用涉及征收土地的，还应当依法办理征收土地手续。

第三节　土地征收

第二十六条　需要征收土地，县级以上地方人民政府认为符合《土地管理法》第四十五条规定的，应当发布征收土地预公告，并开展拟征收土地现状调查和社会稳定风险评估。

征收土地预公告应当包括征收范围、征收目的、开展土地现状调查的安排等内容。征收土地预公告应当采用有利于社会公众知晓的方式，在拟征收土地所在的乡（镇）和村、村民小组范围内发布，预公告时间不少于十个工作日。自征收土地预公告发布之日起，任何单位和个人不得在拟征收范围内抢栽抢建；违反规定抢栽抢建的，对抢栽抢建部分不予补偿。

土地现状调查应当查明土地的位置、权属、地类、面积，以及农村村民住宅、其他地上附着物和青苗等的权属、种类、数量等情况。

社会稳定风险评估应当对征收土地的社会稳定风险状况进行综合研判，确定风险点，提出风险防范措施和处置预案。社会稳定风险评估应当有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参加，评估结果是申请征收土地的重要依据。

第二十七条　县级以上地方人民政府应当依据社会稳定风险评估结果，结合土地现状调查情况，组织自然资源、财政、农业农村、人力资源和社会保障等有关部门拟定征地补偿安置方案。

征地补偿安置方案应当包括征收范围、土地现状、征收目的、补偿方式和标准、安置对象、安置方式、社会保障等内容。

第二十八条　征地补偿安置方案拟定后，县级以上地方人民政府应当在拟征收土地所在的乡（镇）和村、村民小组范围内公告，公告时间不少于三十日。

征地补偿安置公告应当同时载明办理补偿登记的方式和期限、异议反馈渠道等内容。

多数被征地的农村集体经济组织成员认为拟定的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听证。

第二十九条　县级以上地方人民政府根据法律、法规规定和听证会等情况确定征地补偿安置方案后，应当组织有关部门与拟征收土地的所有权人、使用权人签订征地补偿安置协议。征地补偿安置协议示范文本由省、自治区、直辖市人民政府制定。

对个别确实难以达成征地补偿安置协议的，县级以上地方人民政府应当在申请征收土地时如实说明。

第三十条　县级以上地方人民政府完成本条例规定的征地前期工作后，方可提出征收土地申请，依照《土地管理法》第四十六条的规定报有批准权的人民政府批准。

有批准权的人民政府应当对征收土地的必要性、合理性、是否符合《土地管理法》第四十五条规定的为了公共利益确需征收土地的情形以及是否符合法定程序进行审查。

第三十一条　征收土地申请经依法批准后，县级以上地方人民政府应当自收到批准文件之日起十五个工作日内在拟征收土地所在的乡（镇）和村、村民小组范围内发布征收土地公告，公布征收范围、征收时间等具体工作安排，对个别未达成征地补偿安置协议的应当作出征地补偿安置决定，并依法组织实施。

第三十二条　省、自治区、直辖市应当制定公布区片综合地价，确定征收农用地的土地补偿费、安置补助费标准，并制定土地补偿费、安置补助费分配办法。

地上附着物和青苗等的补偿费用，归其所有权人所有。

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，按照省、自治区、直辖市的规定单独列支。

申请征收土地的县级以上地方人民政府应当及时落实土地补偿费、安置补助费、农村村民住宅以及其他地上附着物和青苗等的补偿费用、社会保障费用等，并保证足额到位，专款专用。有关费用未足额到位的，不得批准征收土地。

第四节　宅基地管理

第三十三条　农村居民点布局和建设用地规模应当遵循节约集约、因地制宜的原则合理规划。县级以上地方人民政府应当按照国家规定安排建设用地指标，合理保障本行政区域农村村民宅基地需求。

乡（镇）、县、市国土空间规划和村庄规划应当统筹考虑农村村民生产、生活需求，突出节约集约用地导向，科学划定宅基地范围。

第三十四条　农村村民申请宅基地的，应当以户为单位向农村集体经济组织提出申请；没有设立农村集体经济组织的，应当向所在的村民小组或者村民委员会提出申请。宅基地申请依法经农村村民集体讨论通过并在本集体范围内公示后，报乡（镇）人民政府审核批准。

涉及占用农用地的，应当依法办理农用地转用审批手续。

第三十五条　国家允许进城落户的农村村民依法自愿有偿退出宅基地。乡（镇）人民政府和农村集体经济组织、村民委员会等应当将退出的宅基地优先用于保障该农村集体经济组织成员的宅基地需求。

第三十六条　依法取得的宅基地和宅基地上的农村村民住宅及其附属设施受法律保护。

禁止违背农村村民意愿强制流转宅基地，禁止违法收回农村村民依法取得的宅基地，禁止以退出宅基地作为农村村民进城落户的条件，禁止强迫农村村民搬迁退出宅基地。

第五节　集体经营性建设用地管理

第三十七条　国土空间规划应当统筹并合理安排集体经营性建设用地布局和用途，依法控制集体经营性建设用地规模，促进集体经营性建设用地的节约集约利用。

鼓励乡村重点产业和项目使用集体经营性建设用地。

第三十八条　国土空间规划确定为工业、商业等经营性用途，且已依法办理土地所有权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在一定年限内有偿使用。

第三十九条　土地所有权人拟出让、出租集体经营性建设用地的，市、县人民政府自然资源主管部门应当依据国土空间规划提出拟出让、出租的集体经营性建设用地的规划条件，明确土地界址、面积、用途和开发建设强度等。

市、县人民政府自然资源主管部门应当会同有关部门提出产业准入和生态环境保护要求。

第四十条　土地所有权人应当依据规划条件、产业准入和生态环境保护要求等，编制集体经营性建设用地出让、出租等方案，并依照《土地管理法》第六十三条的规定，由本集体经济组织形成书面意见，在出让、出租前不少于十个工作日报市、县人民政府。市、县人民政府认为该方案不符合规划条件或者产业准入和生态环境保护要求等的，应当在收到方案后五个工作日内提出修改意见。土地所有权人应当按照市、县人民政府的意见进行修改。

集体经营性建设用地出让、出租等方案应当载明宗地的土地界址、面积、用途、规划条件、产业准入和生态环境保护要求、使用期限、交易方式、入市价格、集体收益分配安排等内容。

第四十一条　土地所有权人应当依据集体经营性建设用地出让、出租等方案，以招标、拍卖、挂牌或者协议等方式确定土地使用者，双方应当签订书面合同，载明土地界址、面积、用途、规划条件、使用期限、交易价款支付、交地时间和开工竣工期限、产业准入和生态环境保护要求，约定提前收回的条件、补偿方式、土地使用权届满续期和地上建筑物、构筑物等附着物处理方式，以及违约责任和解决争议的方法等，并报市、县人民政府自然资源主管部门备案。未依法将规划条件、产业准入和生态环境保护要求纳入合同的，合同无效；造成损失的，依法承担民事责任。合同示范文本由国务院自然资源主管部门制定。

第四十二条　集体经营性建设用地使用者应当按照约定及时支付集体经营性建设用地价款，并依法缴纳相关税费，对集体经营性建设用地使用权以及依法利用集体经营性建设用地建造的建筑物、构筑物及其附属设施的所有权，依法申请办理不动产登记。

第四十三条　通过出让等方式取得的集体经营性建设用地使用权依法转让、互换、出资、赠与或者抵押的，双方应当签订书面合同，并书面通知土地所有权人。

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，法律、行政法规另有规定的除外。

第五章　监督检查

第四十四条　国家自然资源督察机构根据授权对省、自治区、直辖市人民政府以及国务院确定的城市人民政府下列土地利用和土地管理情况进行督察：

（一）耕地保护情况；

（二）土地节约集约利用情况；

（三）国土空间规划编制和实施情况；

（四）国家有关土地管理重大决策落实情况；

（五）土地管理法律、行政法规执行情况；

（六）其他土地利用和土地管理情况。

第四十五条　国家自然资源督察机构进行督察时，有权向有关单位和个人了解督察事项有关情况，有关单位和个人应当支持、协助督察机构工作，如实反映情况，并提供有关材料。

第四十六条　被督察的地方人民政府违反土地管理法律、行政法规，或者落实国家有关土地管理重大决策不力的，国家自然资源督察机构可以向被督察的地方人民政府下达督察意见书，地方人民政府应当认真组织整改，并及时报告整改情况；国家自然资源督察机构可以约谈被督察的地方人民政府有关负责人，并可以依法向监察机关、任免机关等有关机关提出追究相关责任人责任的建议。

第四十七条　土地管理监督检查人员应当经过培训，经考核合格，取得行政执法证件后，方可从事土地管理监督检查工作。

第四十八条　自然资源主管部门、农业农村主管部门按照职责分工进行监督检查时，可以采取下列措施：

（一）询问违法案件涉及的单位或者个人；

（二）进入被检查单位或者个人涉嫌土地违法的现场进行拍照、摄像；

（三）责令当事人停止正在进行的土地违法行为；

（四）对涉嫌土地违法的单位或者个人，在调查期间暂停办理与该违法案件相关的土地审批、登记等手续；

（五）对可能被转移、销毁、隐匿或者篡改的文件、资料予以封存，责令涉嫌土地违法的单位或者个人在调查期间不得变卖、转移与案件有关的财物；

（六）《土地管理法》第六十八条规定的其他监督检查措施。

第四十九条　依照《土地管理法》第七十三条的规定给予处分的，应当按照管理权限由责令作出行政处罚决定或者直接给予行政处罚的上级人民政府自然资源主管部门或者其他任免机关、单位作出。

第五十条　县级以上人民政府自然资源主管部门应当会同有关部门建立信用监管、动态巡查等机制，加强对建设用地供应交易和供后开发利用的监管，对建设用地市场重大失信行为依法实施惩戒，并依法公开相关信息。

第六章　法律责任

第五十一条　违反《土地管理法》第三十七条的规定，非法占用永久基本农田发展林果业或者挖塘养鱼的，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，按占用面积处耕地开垦费2倍以上5倍以下的罚款；破坏种植条件的，依照《土地管理法》第七十五条的规定处罚。

第五十二条　违反《土地管理法》第五十七条的规定，在临时使用的土地上修建永久性建筑物的，由县级以上人民政府自然资源主管部门责令限期拆除，按占用面积处土地复垦费5倍以上10倍以下的罚款；逾期不拆除的，由作出行政决定的机关依法申请人民法院强制执行。

第五十三条　违反《土地管理法》第六十五条的规定，对建筑物、构筑物进行重建、扩建的，由县级以上人民政府自然资源主管部门责令限期拆除；逾期不拆除的，由作出行政决定的机关依法申请人民法院强制执行。

第五十四条　依照《土地管理法》第七十四条的规定处以罚款的，罚款额为违法所得的10%以上50%以下。

第五十五条　依照《土地管理法》第七十五条的规定处以罚款的，罚款额为耕地开垦费的5倍以上10倍以下；破坏黑土地等优质耕地的，从重处罚。

第五十六条　依照《土地管理法》第七十六条的规定处以罚款的，罚款额为土地复垦费的2倍以上5倍以下。

违反本条例规定，临时用地期满之日起一年内未完成复垦或者未恢复种植条件的，由县级以上人民政府自然资源主管部门责令限期改正，依照《土地管理法》第七十六条的规定处罚，并由县级以上人民政府自然资源主管部门会同农业农村主管部门代为完成复垦或者恢复种植条件。

第五十七条　依照《土地管理法》第七十七条的规定处以罚款的，罚款额为非法占用土地每平方米100元以上1000元以下。

违反本条例规定，在国土空间规划确定的禁止开垦的范围内从事土地开发活动的，由县级以上人民政府自然资源主管部门责令限期改正，并依照《土地管理法》第七十七条的规定处罚。

第五十八条　依照《土地管理法》第七十四条、第七十七条的规定，县级以上人民政府自然资源主管部门没收在非法转让或者非法占用的土地上新建的建筑物和其他设施的，应当于九十日内交由本级人民政府或者其指定的部门依法管理和处置。

第五十九条　依照《土地管理法》第八十一条的规定处以罚款的，罚款额为非法占用土地每平方米100元以上500元以下。

第六十条　依照《土地管理法》第八十二条的规定处以罚款的，罚款额为违法所得的10%以上30%以下。

第六十一条　阻碍自然资源主管部门、农业农村主管部门的工作人员依法执行职务，构成违反治安管理行为的，依法给予治安管理处罚。

第六十二条　违反土地管理法律、法规规定，阻挠国家建设征收土地的，由县级以上地方人民政府责令交出土地；拒不交出土地的，依法申请人民法院强制执行。

第六十三条　违反本条例规定，侵犯农村村民依法取得的宅基地权益的，责令限期改正，对有关责任单位通报批评、给予警告；造成损失的，依法承担赔偿责任；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。

第六十四条　贪污、侵占、挪用、私分、截留、拖欠征地补偿安置费用和其他有关费用的，责令改正，追回有关款项，限期退还违法所得，对有关责任单位通报批评、给予警告；造成损失的，依法承担赔偿责任；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。

第六十五条　各级人民政府及自然资源主管部门、农业农村主管部门工作人员玩忽职守、滥用职权、徇私舞弊的，依法给予处分。

第六十六条　违反本条例规定，构成犯罪的，依法追究刑事责任。

第七章　附　　则

第六十七条　本条例自2021年9月1日起施行。

扫一扫在手机打开当前页
保存本页　打印本页　关闭窗口
我向总理说句话　微博

北大 法寶 愛法律有未來 PKULAW.COM

[FBM]CLI.2.5054652(EN)

Regulation on the Implementation of the Land Administration Law of the People's Republic of China (2021 Revision)

中华人民共和国土地管理法实施条例(2021 修订)

Order of the State Council of the People's Republic of China
(No. 743)
The Regulation on the Implementation of the Land Administration Law of the People's Republic of China, as revised and adopted at the 132nd executive meeting of the State Council on April 4, 2021, is hereby issued and shall come into force on September 1, 2021.
Premier: Li Keqiang
July 2, 2021
Regulation on the Implementation of the Land Administration Law of the Peoples Republic of China
(Issued by Order No. 256 of the State Council of the People's Republic of China on December 27, 1998, revised for the first time according to the Decision of the State Council on Repealing and Amending Some Administrative Regulations issued on January 8, 2011, revised for the second time according to the Decision of the State Council on Amending Some Administrative Regulations issued on July 29, 2014, and revised for the third time by Order No. 743 of the State Council of the People's Republic of China on July 2, 2021)

Chapter I General Provisions

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

Chapter II Territorial Spatial Planning

Article 2 The state shall establish a territorial spatial planning system.
Land development, protection, and construction activities shall insist on the principle of planning coming first. Territorial spatial plans approved in accordance with the law shall be the primary basis for various activities of development, protection, and construction.
Where a territorial spatial plan has been prepared, the comprehensive plan for land utilization and the urban-rural plan shall no longer be prepared. Before a territorial spatial plan is prepared, the overall plan for land utilization and urban-rural plan legally approved shall continue to be implemented.

Article 3 A territorial spatial plan shall implement the requirements for territorial spatial development and protection proposed in the national development plan in a detailed manner, coordinate the layout of agricultural, ecological, urban and other functional spaces, and delimit and implement permanent basic farmland, ecological protection red lines and urban development boundaries.
A territorial spatial plan shall include the territorial spatial development and protection pattern, and the requirements for the layout, structure, and use control of the planned land, specify the requirements for the total amount of cultivated land, the scale of construction land, and the scope for prohibited reclamation, coordinate the layout of land for infrastructure and public facilities, comprehensively utilize the overground and underground space, reasonably determine and strictly control the scale of new construction land, improve the level of land conservation and intensive use, and ensure the sustainable use of land.

Article 4 Land survey shall contain the following contents:
(1) Land ownership and changes therein.
(2) Status quo of land utilization and changes therein.
(3) Conditions of land.
The results of the national land survey shall be announced to the public after being approved by the State Council. The local land survey results shall be announced to the public upon review by the people's government at the corresponding level and after being reported to the people's government at a next higher level for approval. After the results of national land survey are announced, the local people's governments at or above the county level may announce the results of land surveys in their respective administrative regions successively in a top-down manner.
The results of land surveys are an important basis for the preparation of territorial spatial plans, as well as the management, protection and utilization of natural resources.
The technical procedures for land surveys shall be developed by the competent department of natural resources of the State Council in conjunction with relevant departments.

Article 5 The competent department of natural resources of the State Council shall, in conjunction with the relevant departments, develop the standards for land grade evaluation.
The competent departments of natural resources of the people's governments at or above the county level shall, in conjunction with the relevant departments, evaluate land grades in accordance with the standards for land grade evaluation. Results of local land grade evaluation shall, upon review by the people's government at the same level, be announced to the public after being reported to the competent department of natural resources of the people's government at a higher level for approval.
Land grades shall be re-evaluated every five years in accordance with the national economic and social development status.

Article 6 The competent department of natural resources of the people's government at or above the county level shall strengthen information construction, establish a unified basic information platform for territorial space, implement information management throughout the entire process of land management, conduct dynamic monitoring of land use conditions, establish a land management information sharing

mechanism with the development and reform, housing and urban-rural development, and other relevant departments, and disclose land management information in accordance with the law.

Article 7 The competent departments of natural resources of the people's government at or above the county level shall strengthen the cadastral management, and establish and improve the cadastral database.

Chapter IV Protection of Cultivated Land

Article 8 The state shall implement the cultivated land compensation system. Where cultivated land is occupied with lawful approval within the scope of land for construction of cities, villages and market towns as determined in the territorial spatial plan, and cultivated land is occupied for construction projects of energy, transportation, water conservancy, mines, and military facilities, among others, with lawful approval beyond the scope of land for construction of cities, villages and market towns as determined in the territorial spatial plan, the county-level people's government, rural collective economic organization, and construction entity shall be responsible for reclaiming cultivated land of the quantity and quality equivalent to the cultivated land occupied; and where the conditions for reclamation are not met or the cultivated land reclaimed fails to satisfy the requirements, reclamation fees for cultivated land shall be paid according to the rules of the provinces, autonomous regions, and municipalities directly under the Central Government, exclusively for the reclamation of new cultivated land.
The people's governments of provinces, autonomous regions, and municipalities directly under the Central Government shall organize the departments in charge of natural resources and competent departments of agriculture and rural areas to conduct acceptance check of the cultivated land to ensure that the cultivated land is precise to land parcel. Land defined as permanent basic farmland shall be included in the national permanent basic farmland database for strict management. The supplementary situation of the cultivated land occupied shall be announced to the public in accordance with the relevant rules of the state.
Where individual provinces and municipalities directly under the Central Government need to relocate cultivated land, the provisions of Article 32 of the Land Administration Law shall apply.

Article 9 Entities or individuals are prohibited from carrying out land development activities in the scope prohibited for reclamation as determined in the territorial spatial plan.
Whoever develops any state-owned barren hill, barren land or barren shoal whose land use right has not been determined for planting, forestry, animal husbandry or fishery production according to the territorial spatial plan shall file an application with the competent department of natural resources of the local people's government at or above the county level at the place where the land is located, which shall be subject to the approval of the local people's government at or above the county level according to the limits of powers as prescribed by the province, autonomous region or municipality directly under the Central Government.

Article 10 The people's governments at the county level shall, in accordance with the requirements of the territorial spatial plan for the overall planning of agricultural,

ecological, urban and other functional spaces, develop land consolidation plans to promote the protection of cultivated land and the economical and intensive use of land. The people's governments of counties and townships (towns) shall organize rural collective economic organizations to implement land consolidation plans, and renovate and transform idle and abandoned land in a planned manner. Newly-added cultivated land through land consolidation may be used as supplement to the cultivated land occupied for construction.
Social entities shall be encouraged to participate in land consolidation in accordance with the law.

Article 11 The local people's governments at or above the county level shall adopt measures to prevent and control soil erosion and pollution of cultivated land, transform low- and medium-yield land in a planned way, build high-standard farmland, improve the quality of cultivated land, and protect high-quality cultivated land such as black soil, and make reasonable arrangements for soil utilization of the cultivated layer of cultivated land occupied by construction in accordance with the law.
Where non-agricultural construction occupies permanent basic farmland in accordance with the law, the construction entity shall, in accordance with the rules of the province, autonomous region, and municipality directly under the Central Government, use the soil of the cultivated layer of the cultivated land occupied for soil improvement of newly reclaimed cultivated land, poor land or other cultivated land.
The local people's government at or above the county level shall strengthen the guidance and management of the adjustment to the agricultural structure, to prevent damage to the cultivated layer of cultivated land; if the land for facility agriculture is no longer in use, it shall organize restoration of the planting conditions in a timely manner.

Article 12 The state shall implement special protection of cultivated land, strictly guard the red line of protection of cultivated land, strictly control the transformation of cultivated land to forest land, grassland, garden land and other agricultural land, and establish a cultivated land protection and compensation system. The specific measures and implementation steps for protection and compensation of cultivated land shall be determined by the competent department of natural resources of the State Council, in conjunction with the relevant departments.
Land for non-agricultural construction must be used sparingly. Where barren land may be used, cultivated land shall not be occupied; and where poor land may be utilized, good land shall not be occupied. It is prohibited to occupy cultivated land for building kilns and graves, or to build houses, dig sand, quarry, mine, or take soil on cultivated land without authorization. It is prohibited to occupy permanent basic farmland to develop forestry and fruit growing industry and dig ponds to raise fish. Cultivated land shall be used for the production of grain and agricultural products such as cotton, oil, sugar, and vegetables in priority. Where cultivated land needs to be turned into forest land, grassland, garden land and other agricultural land in accordance with the relevant provisions of the state, priority shall be given to the use of cultivated land that is difficult to be used stably for a long time.

Article 13 The people's government of a province, autonomous region, or municipality directly under the Central Government shall assume overall

responsibility for the protection of cultivated land in their administrative region, and its primary person in charge shall be the first person responsible for the protection of cultivated land in the administrative region.
The people's government of a province, autonomous region, or municipality directly under the Central Government shall decompose and assign the total amount of cultivated land and tasks of protecting permanent basic farmland determined by the State Council to lower levels, and be precise to land parcel.
The State Council shall assess the implementation of the responsibility targets of protecting people's governments by provinces, autonomous regions, and municipalities directly under the Central Government.

Chapter IV Land for Construction

Section 1 General Rules

Article 14 Where land needs to be used for a construction project, the requirements for territorial spatial plan, annual land use plan and use control, resource conservation, and protection of the ecological environment shall be satisfied, the standards for construction land shall be strictly implemented, priority shall be given to the use of existing construction land, and the use efficiency of construction land shall be improved.
To carry out land development and utilization activities, effective measures shall be adopted to prevent and reduce soil pollution, and to ensure that the construction land satisfies the requirements for the quality of soil environment.

Article 15 The people's governments at all levels shall, according to the national economic and social development plans and annual plans, territorial spatial plans, national industrial policies, and the actual conditions of urban and rural construction and land use, strengthen the management of land use plans, control the total amount of construction land, promote the development and utilization of the existing urban and rural construction land, guide the re-development of low-efficiency land in cities and towns, implement the construction land standard control system, carry out evaluation of economical and intensive land use, and promote the application of land-saving technologies and land-saving models.

Article 16 The competent department of natural resources of the local people's government at or above the county level shall announce the total amount, structure, timing, plot, and use, among others, of construction land annually supplied as determined by the people's government at the same level to the public on the government website for consulting by the public.

Article 17 To use state-owned land, a construction entity shall obtain it through paid use, except when it may be obtained by allocation as prescribed by the laws and administrative regulations.
The methods of paid use of state-owned land shall include:
(1) transfer of state-owned land use right;
(2) leasing of state-owned land; and
(3) contribution at a fixed value or equity participation for state-owned land use right.

Article 18 Transfer of the right to use state-owned land, and leasing of state-owned

land, among others, shall be traded on a public trading platform in accordance with the relevant rules of the state and be included in a unified public resource trading platform system. In addition to the agreement method that may be adopted in accordance with the law, competitive methods such as bidding, auction, and listing shall be adopted for determining land users.

Article 19 The paid land use fee for newly-added construction land specified in Article 55 of the Land Administration Law means the average net land income that the state shall obtain from newly-added construction land.

Article 20 Where land needs to be used temporarily for construction projects and geological surveys, the cultivated land shall be occupied as little or as less as possible. Temporary land use shall be approved by the competent department of natural resources of the people's government at or above the county level, and the term shall not exceed two years generally; temporary land used for the construction of energy, transportation, water conservancy and other infrastructure with a relatively long construction period shall not exceed four years, unless as otherwise prescribed by laws and administrative regulations.
Land users shall complete land reclamation within one year from the expiry of the temporary land use period to make land available for use, and the cultivation conditions shall be restored, where cultivated land is occupied.

Article 21 For disaster relief, epidemic prevention and control, and other circumstances in urgent need of land use, land may be used first. For temporary land use, the land shall be restored to the original state after use and be handed over to the restored land user for use, and formalities for land use approval shall no longer be undergone; and for permanent construction land, the construction entity shall apply for making up the approval formalities for construction land no later than six months after the end of the emergency response work.

Article 22 Unused land with important ecological functions shall be classified into the ecological protection red line according to the law, and be subject to strict protection. Where a construction project occupies the unused land determined in a territorial spatial plan, it shall be handled in accordance with the rules of the provinces, autonomous regions, and municipalities directly under the Central Government.

Section 2 Transformation of Agricultural Land into Construction Land

Article 23 Within the scope of the construction land of cities, villages, and market towns as determined in a territorial spatial plan, where agricultural land is transformed into construction land for the implementation of the plan, the municipal and county people's governments shall organize natural resources and other departments to develop plans for transformation of agricultural land into construction land, and submit them to the people's governments with the approval power for approval in batches.
A plan for transformation of agricultural land into construction land shall focus on explaining the arrangement for construction projects, whether it complies with the territorial spatial plan and the annual land use plan, and the situation of the supplementary cultivated land.
After a plan for transformation of agricultural land into construction land is approved,

the municipal and county people's governments shall organize the implementation thereof.

Article 24 Where a construction project does need to occupy the agricultural land beyond the scope of the construction land of cities, villages, and market towns as determined in the territorial spatial plan and it involves the occupation of permanent basic farmland, approval shall be granted by the State Council; and where it does not involve occupation of permanent basic farmland, approval shall be granted by the State Council or the people's government of the province, autonomous region, and municipality directly under the Central Government authorized by the State Council. It shall be handled specifically in accordance with the following provisions:
(1) Before approval and confirmation, or after recordation of a construction project, the competent department of natural resources shall review the land use matters of the construction project and put forward pre-examination opinions on land use of a construction project. Where the issuance of site selection opinions needs to be applied for a construction project, the pre-examination of the construction project land and the site selection opinions shall be handled in a combined manner, and the pre-examination and site selection opinions shall be issued for the construction project land use.
(2) The construction entity shall, upon strength of the approval, confirmation or recordation documents of the construction project, file an application for construction with the municipal and county people's governments. Municipal and county people's governments shall organize natural resources and other departments to develop plans for transformation of agricultural land into construction land and submit them to the people's governments with the approval power for approval; and where approval of the State Council shall be obtained in accordance with the law, they shall be submitted after examination by the people's governments of provinces, autonomous regions, and municipalities directly under the Central Government. A plan for transformation of agricultural land into construction land shall focus on explaining whether it complies with the territorial spatial plan, the annual land use plan, and the situation of the supplementary cultivated land. Where occupation of permanent basic farmland is involved, the necessity and rationality of occupying permanent basic farmland, and the feasibility of supplementing shall be explained.
(3) After a plan for transformation of agricultural land into construction land is approved, the municipal and county people's governments shall organize the implementation.

Article 25 Where land needs to be used for a construction project, the construction entity shall, in principle, apply for undergoing the formalities of approval for use of construction land. For a project that really needs to be constructed by stages, applications for use of construction land shall be filed and formalities for approval of the use of construction land shall be undergone by stages, according to the plan determined in the feasibility study report. Where the scope of land use really needs to be adjusted during the construction process, the formalities for examination and approval of construction land shall be undergone in accordance with the law.
Where transformation of agricultural land into construction land involves land acquisition, the formalities for land acquisition shall also be undergone in accordance with the law.

Section 3 Land acquisition

Article 26 Where land acquisition is required and the local people's government at or above the county level believe that it complies with the provisions of Article 45 of the Land Administration Law, a pre-announcement of land acquisition shall be issued, and an investigation into the current status of the land to be acquired and evaluation of social stability risks shall be conducted.
The pre-announcement of land acquisition shall include the scope of acquisition, purpose of acquisition, and arrangements for conducting land status surveys, among others. The pre-announcement of land acquisition shall be made in a way that is conducive to the public's knowledge and be published within the scope of the township (town), village and villagers' group where the land to be acquired is located, and the time for pre-announcement shall not be less than 10 working days. From the date of the pre-announcement of land acquisition, no entity or individual shall rush to conduct planting or construction within the scope of intended acquisition; and those who rush to conduct planting or construction in violation of regulations shall not be compensated for the part planted or constructed in rush.
Through land status surveys, the location, ownership, type, and area of the land, as well as the ownership, type, and quantity of rural villagers' houses, other ground attachments, and young crops, among others, shall be found out.
In social stability risk assessment, the social stability risk status of land acquisition shall be comprehensively studied and judged, risks shall be determined, and risk prevention measures and disposal plans shall be put forward. The social stability risk assessment shall be participated in by the rural collective economic organizations and their members, villagers' committees and other interested parties whose land has been acquired, and the assessment result is an important basis for applying for land acquisition.

Article 27 The local people's government at or above the county level shall, based on the results of the social stability risk assessment, and in consideration of the investigation into the current status of the land, organize the relevant departments of natural resources, finance, agriculture and rural areas, human resources, and social security to develop compensation and resettlement plans for land acquisition.
A compensation and resettlement plan for land acquisition shall include the scope of acquisition, the current status of the land, the purpose of acquisition, compensation methods and standards, resettlement objects, resettlement methods, and social security, among others.

Article 28 After a land acquisition compensation and resettlement plan is developed, the local people's government at or above the county level shall make an announcement within the scope of the township (town) and village or villagers' group where the land to be acquired is located, and the announcement time shall not be less than 30 days.
The land acquisition compensation and resettlement announcement shall also specify the method and time limit for handling compensation registration, and the objection feedback channels, among others.
Where the majority of the members of a rural collective economic organization whose land is to be acquired believe that the compensation and resettlement plan for land acquisition does not comply with the provisions of laws and regulations, the local people's government at or above the county level shall organize a hearing.

Article 29 The local people's government at or above the county level shall, after determining the compensation and resettlement plan for land acquisition in accordance with the provisions of laws and regulations, and hearings, among others, organize relevant departments to sign a land acquisition compensation and resettlement agreement with the owner of and holder of right to use the land to be acquired. A template of the land acquisition compensation and resettlement agreement shall be developed by the people's government of the province, autonomous region, and municipality directly under the Central Government.
Where it is indeed difficult for individuals to reach a land acquisition compensation and resettlement agreement, the local people's government at or above the county level shall truthfully make explanation when applying for land acquisition.

Article 30 The local people's government at or above the county level may, only after completing the preparatory work for land acquisition as prescribed in this Regulation, submit an application for land acquisition, and submit it to the people's government with approval power for approval in accordance with the provisions of Article 46 of the Land Administration Law.
The people's government with approval power shall examine the necessity and rationality of land acquisition, whether it falls under the circumstance under which land acquisition is required for public interests as prescribed in Article 45 of the Land Administration Law, and whether the legal procedures have been undergone.

Article 31 After an application for land acquisition is approved in accordance with the law, the local people's government at or above the county level shall, within 15 working days from the date of receipt of an approval document, issue a land acquisition announcement with the scope of the township (town), village and villagers' group where the land to be acquired is located, announce the scope and time of acquisition, and other specific work arrangements, make decisions on land acquisition compensation and resettlement where individuals have not reached land acquisition compensation and resettlement agreements, and organize implementation thereof in accordance with the law.

Article 32 Provinces, autonomous regions, and municipalities directly under the Central Government shall develop and announce comprehensive land prices for districts, determine the land compensation fees and resettlement subsidies standards for acquired agricultural land, and determine the distribution methods for land compensation fees and resettlement subsidies.
Compensation fees for ground attachments and young crops, among others, shall belong to their owners.
Social security expenses shall be mainly used for the subsidization of pension and other social insurance contributions from eligible farmers whose land is acquired, and be separately deducted in accordance with the rules of provinces, autonomous regions, and municipalities directly under the Central Government.
The local people's government at or above the county level applying for land acquisition shall pay land compensation fees, resettlement subsidies, compensation fees for rural villagers' houses, other ground attachments and young crops, social security fees, among others, in a timely manner, and ensure that they are paid in full and exclusively used for special purposes. Where relevant fees are not paid in full, land acquisition shall not be approved.

Section 4 Administration of rural housing land

Article 33 The layout of rural residential areas and the scale of construction land shall be planned reasonably under the principles of economy, intensiveness, and adaptation to local conditions. Local people's governments at or above the county level shall arrange for construction land quotas in accordance with the rules of the state, and reasonably guarantee the demand for rural villagers' rural housing land in their administrative regions.
In the territorial spatial plans and village plans of townships (towns), counties, and cities, overall consideration shall be given to the production and living needs of rural villagers, the orientation of economical and intensive land use shall be highlighted, and the scope of homestead shall be scientifically determined.

Article 34 To apply for rural housing land, rural villagers shall file applications with the rural collective economic organizations on a household basis; or file applications with the villagers' groups or villagers' committees where they are located, where no rural collective economic organizations have been formed. After being adopted upon collective discussion of rural villagers and announced within the scope of the group, an application for rural housing land shall be submitted to the township (town) people's government for examination and approval.
Where occupation of agricultural land is involved, the examination and approval formalities for transformation of agricultural land into construction land shall be undergone in accordance with the law.

Article 35 The state shall allow rural villagers who permanently settle down in cities to voluntarily return their rural housing land according to the law. The township (town) people's government, rural collective economic organizations, and villagers' committees, among others, shall give priority to using the rural housing land returned for guaranteeing the needs of members of the rural collective economic organizations for rural housing land.

Article 36 Rural housing land lawfully obtained and the rural villagers' houses and their ancillary facilities on the rural housing land shall be protected by law.
Forced transfer of rural housing land against the wishes of rural villagers, illegal recovery of rural housing land lawfully obtained by rural villagers, allowing rural villagers to permanently settle down in cities under the premise of returning rural housing land, and forcing rural villagers to relocate and return rural housing land shall be prohibited.

Section 5 Administration of collective operational construction land

Article 37 A territorial spatial plan shall coordinate and rationally arrange for the layout and use of collective operational construction land, control the scale of collective operational construction land in accordance with the law, and promote the economical and intensive use of collective operational construction land.
The use of collective operational construction land for key rural industries and projects shall be encouraged.

Article 38 For collective operational construction land that is determined by a territorial spatial plan to be industrial, commercial and other business purposes, and

for which land ownership registration has been handled in accordance with the law, land owners may, by transfer, leasing, and other methods, be handed over to entities or individuals for paid use for a certain number of years.

Article 39 Where a land owner intends to sell or lease collective operational construction land, the competent department of natural resources of the people's government of the city or county shall, according to the territorial spatial plan, put forward the planning conditions for the collective operational construction land intended to be transferred or leased, and specify the boundary, area, use, and development and construction intensity of land.
The competent departments of natural resources of the municipal and county people's governments shall, in conjunction with the relevant departments, put forward requirements for industrial access and protection of the ecological environment.

Article 40 A land owner shall, in accordance with the planning conditions, and the requirements for industrial access and protection of the ecological environment, develop plans for transfer and lease of collective operational construction land, request the rural collective economic organization to form written opinions according to the provisions of Article 63 of the Land Administration Law, and submit them to the municipal or county people's government not less than 10 working days prior to the transfer or lease. Where the municipal or county people's government believes that the plan does not meet the planning conditions or satisfy the requirements for industrial access and protection of ecological environment, it shall put forward amendment opinions within five working days upon receipt of the plan. A land owner shall make amendments in accordance with the opinions of the municipal or county people's government.
The plans for transfer and lease of collective operational construction land shall specify the land boundary, area, use, planning conditions, requirements for industrial access and protection of ecological environment, use period, transaction methods, market entry prices, and collective income distribution arrangements, among others.

Article 41 A land owner shall, according to the plan for transfer and lease of collective operational construction land, determine land users by bidding, auction, listing or agreement. Both parties shall sign a written contract, specifying the land boundary, area, use, planning conditions, use period, payment of transaction price, land delivery time and completion period, and requirements for industrial access and protection of ecological environment, agree on conditions for early recovery, compensation methods, renewal of land use rights upon expiration, methods for handling attachments such as aboveground structures and buildings, as well as the responsibilities for breach of contract and the methods for resolving disputes, among others, and report them to the competent department of natural resources of the municipal or county people's government for recordation. Where the planning conditions, and the requirements for industrial access and protection of ecological environment are not included in the contract in accordance with the law, the contract shall be invalid; and where losses are caused, civil liability shall be assumed in accordance with the law. The template of contract shall be developed by the competent department of natural resources of the State Council.

Article 42 Users of collective operational construction land shall pay the price of collective operational construction land in a timely manner in accordance with the

agreement, pay relevant taxes and fees in accordance with the law, and apply for handling real estate registration of the right to use collective operational construction land, and the ownership of the buildings, structures and their auxiliary facilities constructed on collective operational construction land in accordance with the law.

Article 43 Where the right to use collective operational construction land obtained by transfer or other means is transferred, exchanged, contributed, donated or mortgaged in accordance with the law, both parties shall sign a written contract and notify the land owner in writing.
The lease of collective operational construction land, assignment of the right to use collective operational construction land, as well as the maximum years, assignment, exchange, contribution as capital, gift, and mortgage, among others, of the right to use collective operational construction land, shall be governed, mutatis mutandis by, the provisions on state-owned construction land of the same type of purpose, unless as otherwise prescribed by laws and administrative regulations.

Chapter V Supervision and Inspection

Article 44 The natural resources supervision institution of the state shall, as authorized, supervise the following land use and land management conditions of the people's governments of provinces, autonomous regions, and municipalities directly under the Central Government and the municipal people's governments determined by the State Council:
(1) The protection of cultivated land.
(2) The situation of economical and intensive use of land.
(3) The development and implementation of territorial spatial plans.
(4) The implementation of major national land administration decisions.
(5) The implementation of laws and administrative regulations on land administration.
(6) Other land use and land management conditions.

Article 45 When conducting supervision, the natural resources supervision institution of the state shall have the right to learn about the supervision matters from relevant entities and individuals that shall support and assist the work of the supervision institution, truthfully report the situation, and provide the relevant materials.

Article 46 Where the supervised local people's government violates laws and administrative regulations on land administration or fails to effectively implement major national land administration decisions, the natural resources supervision institution of the state may issue supervisory opinions to the supervised local people's government which shall seriously organize rectification and report the rectification situation in a timely manner; and the natural resources supervision institution of the state may interview the relevant person in charge of the supervised local people's government, and put forward suggestions of holding relevant responsible persons liable to the supervision authority, appointment and dismissal authority and other relevant authorities in accordance with the law.

Article 47 Land administration supervisors and inspectors shall be trained, and pass the assessment, and may only carry out land administration supervision and inspection work after obtaining administrative law enforcement certificates.

Article 48 The competent departments of natural resources and the competent departments of agricultural and rural affairs may, according to the division of responsibilities, adopt the following measures when conducting supervision and inspection:
(1) Asking entities or individuals involved in illegal cases.
(2) Entering the sites of entities or individuals inspected that are suspected of violating laws on land to take photos or videos.
(3) Ordering parties to stop the ongoing land offenses.
(4) For entities or individuals suspected of land offenses, the land approval and registration formalities related to the illegal case shall be suspended during the investigation period.
(5) Sealing up documents and materials that may be transferred, destroyed, concealed or tampered with, and ordering entities or individuals suspected of land offenses not to sell or transfer property related to the case during the investigation.
(6) Other supervision and inspection measures as specified in Article 68 of the Land Administration Law.

Article 49 Where punishments are to be imposed upon in accordance with the provisions of Article 73 of the Land Administration Law, such punishments shall be given by the competent department of natural resources of the people's government at a higher level or other appointment and dismissal authorities and entities that order making of a decision on administrative penalties or directly give administrative penalties according to the administration authority.

Article 50 The competent department of natural resources of the people's government at or above the county level shall, in conjunction with the relevant departments, establish mechanisms for credit supervision and dynamic inspections, among others, strengthen the supervision over transaction of construction land supply and development and utilization after supply, take disciplinary actions against those who have major untrustworthy behaviors in the construction land market in accordance with the law, and disclose relevant information in accordance with the law.

Chapter VI Legal Liability

Article 51 Those who illegally occupy permanent basic farmland to develop forestry and fruit growing industry or dig ponds to raise fish in violation of the provisions of Article 37 of the Land Administration Law shall be ordered by the competent departments of natural resources of the people's governments at or above the county level to take corrective action within a prescribed time limit; those who fail to take corrective action within a prescribed time limit shall be given fines of not less than two times nor more than five times the cultivated land reclamation fees according to the occupied land area; and those who damage the planting conditions shall be punished in accordance with the provisions of Article 75 of the Land Administration Law.

Article 52 Those who construct permanent buildings on temporarily used land in violation of the provisions of Article 57 of the Land Administration Law shall be ordered by the competent departments of natural resources of the people's governments at or above the county level to demolish such buildings within a prescribed time limit, and be given fines of not less than five times nor more than 10

times the land reclamation fees according to the occupied land area; and where such buildings are not demolished within a prescribed time limit, the authorities making administrative decisions shall apply to the people's courts for compulsory enforcement in accordance with the law.

Article 53 Where buildings or structures are reconstructed or expanded in violation of the provisions of Article 65 of the Land Administration Law, the competent departments of natural resources of the people's governments at or above the county level shall order demolition within a prescribed time limit; where demolition is not conducted within a prescribed time limit, the authorities making administrative decisions shall apply to the people's courts for compulsory enforcement in accordance with the law.

Article 54 Where a fine is to be imposed upon in accordance with the provisions of Article 74 of the Land Administration Law, the fine shall be not less than 10% nor more than 50% the illegal income.

Article 55 Where a fine is to be imposed upon in accordance with the provisions of Article 75 of the Land Administration Law, the fine shall be not less than five times nor more than 10 times the cultivated land reclamation fees; and those who damage black land and other high-quality cultivated land shall be severely punished.

Article 56 Where a fine is to be imposed upon in accordance with the provisions of Article 76 of the Land Administration Law, the fine shall be not less than two times nor more than five times the land reclamation fees.
Where land reclamation is not completed or the planting conditions are not restored within one year from the expiration date of the time limit for temporary land use in violation of the provisions of this Regulation, the competent departments of natural resources of the people's governments at or above the county level shall impose penalties upon violators in accordance with the provisions of the Article 76 of the Land Administration Law, and the competent departments of natural resources of the people's governments at or above the county level shall, in conjunction with the competent departments of agriculture and rural affairs, complete the reclamation or restore the planting conditions on their behalf.

Article 57 Where a fine is to be imposed upon in accordance with the provisions of Article 77 of the Land Administration Law, the fine shall be not less than 100 yuan nor more than 1,000 yuan per square meter of illegally occupied land.
Those who carry out land development activities within the scope of prohibited reclamation as determined in a territorial spatial plan in violation of the provisions of this Regulation shall be ordered by the competent departments of natural resources of the people's governments at or above the county level to take corrective action within a prescribed time limit, and be given penalties in accordance with the provisions of Article 77 of the Land Administration Law.

Article 58 The competent departments of natural resources of the people's governments at or above the county level confiscating buildings and other facilities newly built on land illegally transferred or occupied in accordance with the provisions of Articles 74 and 77 of the Land Administration Law shall, within 90 days, hand over them to the people's governments at the same level or their designated

departments for management and disposal in accordance with the law.

Article 59 Where a fine is to be imposed upon in accordance with the provisions of Article 81 of the Land Administration Law, the fine shall be not less than 100 yuan nor more than 500 yuan per square meter of illegally occupied land.

Article 60 Where a fine is to be imposed upon in accordance with the provisions of Article 82 of the Land Administration Law, the fine shall be not less than 10% nor more than 30% the illegal income.

Article 61 Those who obstruct staff members of the competent departments of natural resources and the competent departments of agriculture and rural affairs from performing their duties in accordance with the law, which constitutes a violation of public security administration, shall be given public security administration penalties in accordance with the law.

Article 62 Those who violate the provisions of the laws and regulations on land administration and obstruct land acquisition for construction of the state shall be ordered by the local people's governments at or above the county level to surrender the land; and where they refuse to surrender the land, applications for compulsory enforcement shall be filed with the people's courts in accordance with the law.

Article 63 Those who infringe upon the rights and interests of rural housing land legally obtained by rural villagers in violation of the provisions of this Regulation shall be ordered to take corrective action within the prescribed time limit, and the relevant responsible entities shall be given circulation of notice of criticism and be given warnings; where losses are caused, they shall be liable for compensation in accordance with the law; and directly liable persons in charge and other directly liable persons shall be given penalties in accordance with the law.

Article 64 Those who embezzle, misappropriate, privately obtain, detain, and default on land acquisition compensation and resettlement fees and other related expenses shall be ordered to take corrective action, recover the relevant funds, return the illegal income within a prescribed time limit, and the relevant responsible entities shall be notified of criticism and be given warnings; where losses are caused, they shall be liable for compensation in accordance with the law; and directly liable persons in charge and other directly liable persons shall be given penalties in accordance with the law.

Article 65 Staff members of the people's governments at all levels, competent departments of natural resources, and competent departments of agriculture and rural affairs who neglect duties, abuse powers, or make falsification for private gain shall be punished in accordance with the law.

Article 66 Where violation of this Regulation constitutes a crime, the violator shall be held criminally liable in accordance with the law.

Chapter VII Supplementary Provisions

Article 67 This Regulation shall come into force on September 1, 2021.

© Pkulaw (www.pkulaw.com) provides various professional solutions in such fields as legal information, law knowledge and legal software. Pkulaw provides you with abundant reference materials. When you invoke articles of laws and regulations, please check them with the standard texts.
You are welcome to view all our products and services. Pkulaw Express: How to quickly find information you need? What are the new features of Pkulaw V6?

Scan QR Code for instant access to the original text.

Original Link: https://www.pkulaw.com/en_law/6ef282863f024c04bdfb.html