

**GOVERNMENT OF HIMACHAL PRADESH
TOWN AND COUNTRY PLANNING DEPARTMENT**



**THE HIMACHAL PRADESH
TOWN AND COUNTRY PLANNING
ACT, 1977**

[as amended vide Amendment Act No.14 of 1981]

[“	“	“	“	Act No. 1 of 1984]
[“	“	“	“	Act No.14 of 1989]
[“	“	“	“	Act No.10 of 1992]
[“	“	“	“	Act No.16 of 1994]
[“	“	“	“	Act No. 7 of 1995]
[“	“	“	“	Act No.11 of 1997]
[“	“	“	“	Act No.17 of 2000]
[“	“	“	“	Act No.15 of 2001]
[“	“	“	“	Act No.22 of 2006]
[“	“	“	“	Act No. 2 of 2007]
[“	“	“	“	Act No. 8 of 2009]
[“	“	“	“	Act No.41 of 2013]
[“	“	“	“	Act No.14 of 2015]



**TOWN AND COUNTRY PLANNING DEPARTMENT
BLOCK No. 32-A, SDA COMPLEX, KASUMPATI, SHIMLA-09**

HIMACHAL PRADESH

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THE HIMACHAL PRADESH TOWN AND COUNTRY PLANNING ACT, 1977

AN

ACT



*to make provision for planning and development and use of land; to make better provision for the preparation of development plans and sectoral plans with a view to ensuring that town planning schemes are made in a proper manner and their execution is made effective to constitute the Town and Country Development Authority for proper implementation of town and country development plan, to provide for the development and administration of special areas through the Special Area Development Authority**, to make provision for the compulsory acquisition of land required for the purpose of the development plans *and to regulate the construction, sale, transfer and management of apartments, to regulate colonies and provide for registration of promoters and estate agents and for enforcement of obligations on them” and for purposes connected with the matters aforesaid.*

BE it enacted by the Himachal Pradesh Legislative Assembly in the Twenty-eighth year of the Republic of India as follows:-

CHAPTER-I**PRELIMINARY**

1. (1) This Act may be called the Himachal Pradesh Town and Country Planning Act, 1977. Short title,
extent,
commencement
and application
- (2) It extends to the whole of the State of Himachal Pradesh.
- (3) It shall come into force on such date as the State Government may, by notification, appoint and different dates may be appointed for different areas and for different provisions of this Act.
- *“(3a) It shall apply to any area proposed for development of apartments or colonies ***“for the purpose of selling” outside the notified planning areas or special areas constituted under this Act and such areas shall be deemed to be planning areas.”
- (4) Nothing in this Act shall apply to-
 - (a) lands comprised within cantonment under the Cantonments Act, 1924;
 - (b) lands, owned, hired or requisitioned by the Central Government for the purpose of naval, military and air force works;
 - (c) lands under the control of railway administration of the purpose of construction and maintenance of works under Chapter-III of the Indian Railways Act, 1890; and
 - (d) Lands owned by any department of the Central Government where operational constructions are going on.

2 of 1924

9 of 1890

Definitions **2. In this Act, unless the context otherwise requires,-**



- (a) **“agriculture”** includes horticulture, farming, raising of annual or periodical crops, fruits, vegetables, flowers, grass, fodder, trees or any kind of cultivation of soil, the reserving of land for fodder, grazing or thatching areas, breeding and keeping of livestock including cattle, horses, donkeys, mules, pigs, breeding of fish and keeping of bees, and the use of land ancillary to the farming of land, but does not include-
- (i) keeping of cattle purely for the purpose of milking and selling the milk and milk products,
 - (ii) a garden which is an appendage of buildings, and the expression “agricultural” shall be construed accordingly;
- (b) **“amenity”** includes roads and streets water and electric supply open spaces, parks, recreational area, natural feature, play grounds, street lighting, drainage sewerage and other utilities, services and conveniences;
- *(c) **“building”** includes any structure or erection, or part of a structure or erection, which is intended to be used for residential, industrial, commercial or other purposes, whether in actual use or not. However, for the purpose of apartment, building shall mean a building constructed on any land, containing more than eight apartments, or two or more buildings with a total of more than eight apartments or any existing building converted into more than eight apartments”;
- (d) **“building operation”** includes-
- (i) erection or re-erection of a building or any part thereof;
 - (ii) roofing or re-roofing of any part of building or an open space;
 - (iii) any material alteration or enlargement of a building;
 - (iv) any such alteration of a building as is likely to alter its drainage or sanitary arrangements, or materially affect its security;
 - (v) the construction of door opening on any street or land not belonging to the owner;
- (e) **“commercial use”** means the use of any land or building or part thereof for the purpose of carrying on any trade, business or profession or sale or exchange of goods of any type whatsoever and includes running of with a view to make profit hospitals, nursing homes, infirmaries, educational institutions, hostels, restaurants and boarding houses not being attached to any educational institution, sarais and also includes the use of any land or building for storage of goods or as buildings for storage of goods or as an office whether attached to any industry or otherwise;
- (f) **“court”** means the principal civil court of original jurisdiction in the district;
- (g) **“development”** with its grammatical variations means the carrying out of a building, engineering, mining or other operations in, on, over or under land, or the making of any material change in any building or land or in the use of either, and includes sub-division of any land;

- (h) **“development plan”** means interim development plan or development plan prepared under this Act;
- (i) **“director”** means the Director of Town and Country Planning appointed under this Act;
- (j) **“existing land use map”** means a map indicating the use to which lands in any specified area are put at the time of preparing the map, and includes the register prepared, with the map giving details of land-use.
- (k) **“land”** includes benefits to arise out of land and things attached to the earth or permanently fastened to anything attached to the earth;
- (l) **“member”** means a member of a Town and Country Development Authority or a Special Area Development Authority, as the case may be, and includes a Chairman thereof;
- (m) **“occupier” includes-**
 - (i) a tenant,
 - (ii) an owner in occupation of or otherwise using his land,
 - (iii) rent free tenant,
 - (iv) a licensee, and
 - (v) any person liable to pay to the owner, damages for the use and occupation of the land;
- (n) **“owner”** includes a mortgagee in possession, a person who for the time being is receiving or is entitled to receive, or has received, the rent or premium for any land whether on his own account or on behalf of or for the further benefit of any other person or as an agent, trustee, guardian or receiver for any other person or for religious or charitable institutions or who would receive the rent or be entitled to receive the rent or premium if the land were to be let and includes a head of a Government department, General Manager of a Railway and the ***“Chief Administrator** by whatever name designated, or a local authority, statutory authority, company, corporation or undertaking in respect of properties under their control;
- (o) **“planning area”** means any area declared to be planning area under this Act;
- (p) **“region”** means any area established to be a region under this Act;
- (q) **“regional plan”** means a plan for the region prepared under this Act and approved by the State Government;
- (r) **“sector”** means any sector of a planning area for which, under the development plan, a detailed sectoral plan is prepared;
- (s) **“slum area”** means any predominantly residential area, where the dwellings which by reason of dilapidation, overcrowding, faulty arrangement of design, lack of ventilation, light or sanitary facilities or any combination of these factors are detrimental to safety, health or moral and which is defined by a development plan as a slum area;

*As amended *vide* Himachal Pradesh Town and Country Planning (Amendment) Act 1995 (Act No. 7 of 1995)

- (t) **“Special area”** means a special area designated as such under section 66;
- (u) **“Special Area Development Authority”** means an authority constituted under section 67;
- (v) **“Town Development Scheme”** means a scheme prepared for the implementation of the provisions of a development plan by the Town and Country Development Authority; and
- (w) **“Town and Country Development Authority”** means an authority established under section 40.
- *(x) **“advertisement”** means visible representation made to the general public either through announcement or display or in any other manner whatsoever, offering for sale or lease of a plot or apartment or inviting persons to purchase such plot or apartment to make advances or deposits for such purposes;
- *(y) **“allottee”** in relation to apartment or plot, means the person to whom such apartment or plot has been allotted, sold or otherwise transferred by the promoter;
- *(z) **“apartment”** whether called block, chamber, dwelling unit, flat, lot, premises, suite, tenement, unit or by any other name means a separate and self-contained part of any property including one or more rooms or enclosed spaces located on one or more floors or any part or parts thereof, in a building, or in a plot of land, used or intended to be used for residence, office, shop, showroom, or godown or for carrying on any business, industry, occupation, profession or trade or for any other type of independent use ancillary to the purpose specified above and with a direct exit to a public street, road or highway or to a common area leading to such street, road or highway and includes any garage or room whether or not adjacent to the building in which such apartment is located, provided by the promoter for the use by the allottee for parking any vehicle or as the case may be, for the residence of any domestic servant employed in such apartment;

Explanation-I- If a basement, cellar, garage, room, shop or storage space is sold separately from any apartment, it shall be treated as an independent apartment and not as part of any other apartment or of the common areas and facilities;

Explanation-II. Notwithstanding that provision is made for sanitary, washing, bathing or other conveniences as common to two or more apartments, the apartments shall be deemed to be separate and self contained;
- *(za) **“apartment number”** means the number, letter or combination thereof, designating an apartment;
- *(zb) **“apartment owner”** means the person owning an apartment and an undivided interest in the common areas and facilities appurtenant to such apartment in the percentage specified in the conveyance deed of apartment;
- *(zc) **“association”** means an association consisting of the majority of the apartment owners in a building acting as a group in accordance with the bye-laws made by the association under the Himachal Pradesh Apartment Ownership Act, 1978;

Explanation.- A member of a Co-operative Housing Society of the tenant co-partnership type, or an allottee under a hire-purchase agreement shall be deemed to be an owner, entitled to membership of the association.



*(zd)“**building regulations**” means the rules or regulations or bye-laws made under any law for the time being in force for the erection or re-erection of buildings or parts thereof and for the purpose of this Act includes Zoning Regulations framed under any law for the time being in force;

****(ze)“colony”** means an area of land not less than 2500 square metres contiguous divided or proposed to be divided into plots or apartments or buildings for residential, commercial or industrial purposes including cyber city, cyber park, construction of flats in form of group housing or for construction of integrated commercial complexes, but does not include any area of Abadi-deh of a village falling inside its Lal Lakir or land divided or proposed to be divided-

****(i)** for the purpose of agriculture:

Provided that such land shall not be used for the development of colony;

****(ii)** as a result of partition by way of inheritance or succession without a motive of developing a colony; and

****(iii)** by a company, institution or factory for providing residential accommodation for its employees:

**Provided that there is neither profit motive nor ownership of such houses shall be transferred to the employees and their rights to accommodation shall be restricted to the period of their employment with such company, institution or factory;

*(zf)“**common areas and facilities**” in relation to a building, means all parts of the building or the land on which it is located and all easements, rights and appurtenances belonging to the land or the building, which are neither in the exclusive possession of an apartment owner in terms of his conveyance deed of apartment, nor are handed over or intended to be handed over to the local authority or other public service agency and shall include the limited common areas and facilities;

*(zg)“**common expenses**” means,-

- (i) all sums lawfully assessed against the apartment owners by the association for meeting the expenses of administration, maintenance, repair or replacement of the common areas and facilities;
- (ii) expenses, declared by the provisions of this Act or by the bye-laws made by the association under the Himachal Pradesh Apartment Ownership Act, 1978 (41 of 1978) or agreed upon by the association, as common expenses; and
- (iii) the Government or municipal taxes including ground rent and property tax, which is not assessed separately for each apartment;

*(zh) “**development charges**” means the cost of external and internal development works;

*(zi) “**development works**” means external and internal development works;

*As amended vide Himachal Pradesh Town and Country Planning (Amendment) Act 2013, (Act No.41 of 2013).

** As amended vide Himachal Pradesh Town and Country Planning (Amendment) Act 2015, (Act No.14 of 2015).

***(zj) “estate agent”** means a person who negotiates or acts on behalf of a person in a transaction of transfer of property whether by way of sale, lease, license, mortgage or otherwise with another person and receives remuneration for his services in the form of commission and includes a person who introduces to each other for negotiation such persons or their agents;

Explanation. - The person who acts as described in this clause shall be deemed to be an estate agent even if he styles himself as a land or housing agent, property or real estate consultant, property dealer, realtor or by any other name;

***(zk)“external development works”** includes roads and road systems, water supply, sewerage and drainage systems, electric supply or any other work which may have to be executed in the periphery of, or outside, a colony for its benefit;

***(zl) “internal development works”** means roads, footpaths, water supply, sewers, drains, rain water harvesting system, tree planting, street lighting, provisions for community buildings and for treatment and disposal of sewerage and sullage water, or any other work within in a colony necessary for its proper development;

***(zm)“joint family”** means a Hindu undivided family and in the case of other persons, a group the members of which are by custom joint in possession of property or residence;

***(zn)“limited common areas and facilities”** means those common areas and facilities which are designated in writing by the promoter before the allotment, sale or transfer of any apartment, as reserved for use by the resident of certain apartments to the exclusion of other apartments;

***(zo)“local authority”** means a Municipal Corporation constituted under section 3 of the Himachal Pradesh Municipal Corporation Act, 1994 or a Municipal Council or a Nagar Panchayat constituted under section 3 of the Himachal Pradesh Municipal Act, 1994 or Panchayati Raj Institutions constituted under the Himachal Pradesh Panchayati Raj Act, 1994 or Cantonment Board or any other authority notified by the State Government for the purposes of this Act;

***(zp)“natural disaster”** means a catastrophe, mishap, calamity or grave occurrence in any area, arising from natural or manmade causes or by accident or negligence which results in substantial loss of life or human suffering or damage to, and destruction of property or damage to, or degradation of environment and is of such a nature or magnitude as to be beyond the coping capacity of the community of the affected area;

***(zq)“natural hazards”** means probability of occurrence, within a specified period of time in a given area, of a potentially damaging natural phenomenon;

***(zr)“natural hazard prone areas”** means areas likely to have,-

- (i) moderate to very high damage risk zone of earthquakes or
- (ii) significant flow or inundation or
- (iii) landslide potential or proneness or
- (iv) one or more of these hazards;

***(zs)“person”** includes company, firm, co-operative society, joint family and incorporated body of persons;

***(zt)“prescribed”** means prescribed by the rules made under this Act;

*(zu)“**promoter**” means a person who,-

- (i) constructs or causes to be constructed a building consisting of apartments or converts an existing building or a part thereof into apartments for the purpose of selling all or some of the apartments to other persons and includes his assigns; or
- (ii) develops land into a colony, whether or not, he also constructs structures on any of the plots **“for the purpose of” selling to other persons, all or some of the plots whether open or with structures thereon; and
- ** (iii) “constructs more than eight apartments or converts an existing building into more than eight apartments or develops a colony and the person who sells apartments or plots are different persons in any planning area, or any special area or any deemed planning area as specified in sub-section (3a) of section 1, the terms includes both of them;”

Explanation.- A person who acts as described in sub-clause (iii) of this clause shall be deemed to be a promoter, even if-

- (i) he styles himself as a builder, colonizer, contractor, developer, estate promoter or by any other name; or
- (ii) he claims to be acting as the holder of a power of attorney from the owner of the land on which the building is constructed or colony is developed; and

*(zv)“**property**” means the land, the building, all improvements and structures thereon and all easements, rights and appurtenances belonging thereto and includes every type of right and interest in land which a person can have to the exclusion of other persons, such as possession, use and enjoyment free from interference, right of disposition, franchises and hereditament.”.

CHAPTER-II

DIRECTOR OF

TOWN AND COUNTRY PLANNING

3. (1) After the commencement of this Act the State Government shall by notification in the Official Gazette, appoint an officer for the purpose of carrying out function assigned to him under this Act, as the Director of Town and Country Planning for the State and may appoint such other categories of officers as it may deem fit. Director and other officers
- (2) The Director shall exercise such powers and perform such duties as are conferred or imposed upon him by or under this Act and the officers appointed to assist the Director shall, within such area as the State Government may specify, exercise such powers and perform such duties conferred and imposed on the Director by or under this Act as the State Government may, by special or general order, direct.
- (3) The officers appointed to assist the Director shall be subordinate to him and shall work under his guidance, supervision and control.

*As amended vide Himachal Pradesh Town and Country Planning (Amendment) Act 2013 (Act No.41 of 2013).

**As amended vide Himachal Pradesh Town and Country Planning (Amendment) Act 2015 (Act No.14 of 2015).

CHAPTER-III

REGIONAL PLANNING



Establishment
of Regions

- 4. (1)** The State Government may, by notification,-
- (a) declare any area in the State to be a region for the purposes of this Act;
 - (b) define the limits of such area; and
 - (c) specify the name by which such region shall be known.
- (2)** The State Government may, by notification, alter the name of any such region and on such alteration, any reference in any law or instrument or other documents to the region shall be deemed to be a reference to the region as re-named unless expressly otherwise provided or the context so requires.
- (3)** The State Government may, by notification,-
- (a) alter the limits of a region so as to include therein or exclude there from such area as may be specified in the notification;
 - (b) amalgamate two or more regions so as to form one region;
 - (c) divide any region into two or more region; or
 - (d) declare that the whole or part of the area comprising a region shall cease to be a region or part thereof.

Director to
prepare
regional plan

- 5.** Subject to the provisions of this Act and the rules made there under, it shall be the duty of the Director:-
- (i) to carry out a survey of the regions;
 - * (ii) to prepare an existing land use map indicating the natural hazard proneness of the area; and
 - * (iii) to prepare a regional plan keeping in view the regulation for land use zoning for natural hazard prone area.

Survey

- 6. (1)** The Director shall, with a view to prepare the existing land use map, and other maps as are necessary for the purpose of regional plan,-
- (a) carry out such surveys as may be necessary;
 - (b) obtain from any department of Government and any local authority such maps, survey reports and land records as may be necessary for the purpose.
- (2)** It shall be the duty of every Government department and local authority to furnish, as soon as may be possible maps, reports and record, as may be required by the Director.

Contents of
regional plan

- 7.** The regional plan shall indicate the manner in which land in the region should be used, the phasing of development, the net work of communications and transport, the proposals for conservation and development of natural resources, and in particular :-

* As amended vide Himachal Pradesh Town and Country Planning (Amendment) Act 2013 (Act No.41 of 2013)

- (a) allocation of land to such purposes as residential, industrial, agricultural or as forests or for mineral exploitation;
- (b) reservation of open spaces for recreational purposes, gardens, tree belts, and animal sanctuaries;
- (c) access or development of transport and communication facilities such as roads, railways, water ways, and the allocation and development of airports;
- (d) requirements and suggestions for development of public utilities such as water supply, drainage and electricity;
- (e) allocation of areas to be developed as “Special Areas” wherein new towns, townships, large industrial estates or any other type of large development projects may be established;
- (f) landscaping and the preservation of areas in their natural state;
- (g) measures relating to the prevention of erosion, including rejuvenation of forest areas;
- (h) proposals relating to irrigation, water supply or flood control works.

8.(1) After preparation of the existing land use map, the Director shall cause to be prepared a draft regional plan and publish it by making a copy thereof available for inspection and publishing a notice in such form and manner as may be prescribed inviting objections and suggestions from any person with respect to the draft plan before such date as may be specified in the notice, such date not being earlier than sixty days from the publication of the notice. Such notice shall specify in regard to the draft plan the following particulars, namely:-

Preparation
of regional
plans

- (a) the existing land use map and the narrative report thereon;
- (b) a narrative report supported by necessary map and charts explaining the provisions of the draft plan;
- (c) a notice indicating the priorities assigned to works included in the draft plan and the phasing of the program of development as such;
- (d) a notice on the role being assigned to different departments of Government the Town and Country Development Authorities, the Special Area Development Authorities, and the Local Authorities in the enforcement and implementation of draft plan.

(2) The Director shall consider all the objections and suggestions received by him within the period specified in the notice under sub-section (1) and shall, after giving a reasonable opportunity to all persons affected thereby of being heard, prepare the regional plan containing such modifications, if any, as he considers necessary and submit it to the State Government for approval together with all connected documents, plans, maps and charts.

9.(1) The State Government may approve the draft regional plan submitted under section 8 with or without modification or reject or return the same to the Director for reconsideration.

Finalisation
of regional
plan.

(2) Immediately after the draft regional plan is approved under sub-section (1) the State Government shall publish in such manner, as may be prescribed, a notice stating that the regional plan has been approved and mentioning a place where a copy of the plan may be inspected at all reasonable hours and shall specify therein a date on which the regional plan shall come into operation:

Provided that where the State Government approves the draft regional plan with modifications, it shall not be published, unless the State Government having published such modifications in the Official Gazette along with a notice inviting objections and suggestions thereon, within a period of not less than thirty days from the date of publication of such notice have considered the objections and suggestions after giving a reasonable opportunity of being heard to persons affected thereby.

Restriction
on use of
land or
development

- 10.**(1) Notwithstanding anything contained in any other law for the time being in force, on or after the date of publication of the draft regional plan no person, authority, department of government or any other person shall change the use of land for any purpose other than agriculture, or carry out any development in respect of any land contrary to the provisions of the draft plan, without the prior approval of the Director or any officer next to him authorized by the Director, in this behalf.
- (2) Notwithstanding anything contained in any law for the time being in force, the permission referred to in sub-section (1) shall not be granted otherwise than in conformity with the provision of the draft or final plan and no permission, if granted, shall be construed to confer any legal right whatsoever on the person seeking the permission.
- (3) If any work is carried out in contravention of the provisions of this section, the Municipal Corporation, Municipal Council or Nagar Panchayat within its such local area, and the Collector in area outside such local areas may cause such work to be removed or demolished at the cost of the defaulter, which shall be recovered from him in the same manner as an arrear of land revenue:

Provided that no action shall be taken under this sub-section unless the person concerned is given a reasonable opportunity of being heard and a notice calling upon him to remove or demolish the work within a time specified therein.

- (4) Any person aggrieved by the order of the Municipal Corporation, *Municipal Council or Nagar Panchayat or Collector, as the case may be, calling upon to remove or demolish the work may prefer an appeal to the Director within fifteen days of the receipt of the notice under sub-section (3) and the order of the director in such appeal shall be final.

Exclusion
from claims
of amount in
certain cases

- 11.** Where the regional plan assigns a particular land use to certain areas and any land situate therein is already put to such use, subject to substantially similar restrictions in force under any other law which was in force on the date on which restrictions were imposed by or under this Act and if amount in respect of such restrictions have already been paid under any such other law which was in force for the time being in respect of the property or any right or interest therein to the claimant, or any predecessor in interest of the claimant, the owner shall not be entitled to any further amount on account of injury or damage caused to his rights by reasons of the restrictions placed on the use of the land under the provisions of this Act.

Review of
regional
plan.

- 12.**(1) The Director may on his own motion or if so required by the State Government, at any time after regional plan has come into operation, undertake the review and evaluation of the regional plan and make such modification in it as may be justified by the circumstances.

* As amended *vide* Himachal Pradesh Town and Country Planning (Amendment) Act 2001 (Act No.15 of 2001)

- (2) The foregoing provisions of this Chapter shall so far as they can be made applicable, apply to the modifications under sub-section (1) as these provisions apply in relation to the preparation, publication and approval of a regional plan.



CHAPTER -IV

PLANNING AREAS AND DEVELOPMENT PLANS

- 13.(1)** The State Government may, by notification, constitute planning areas for the purposes of this Act and define the limits thereof.

Planning
Area

- (2) The State Government may, by notification,-

- (a) alter the limits of a planning area so as to include therein or exclude there from such area as may be specified in the notification;
- (b) amalgamate two or more planning areas so as to constitute one planning area;
- (c) divide any planning area into two or more planning areas;
- (d) declare that the whole or part of the area constituting the planning area shall cease to be planning area or part thereof.

- 14.** Subject to the provisions of this Act and the rules made thereunder the Director shall-

Director to
prepare
Development
Plans

- *(a) prepare an existing land use map indicating the natural hazard proneness of the area;
- *(b) prepare an interim development plan keeping in view the regulation for land use zoning for natural hazard prone area;
- *(c) prepare a development plan keeping in view the regulation for land use zoning for natural hazard prone area;
- (d) prepare a sectoral plan;
- (e) carry such surveys and inspections and obtain such pertinent reports from Government departments, local authorities and public institutions as may be necessary for the preparation of the plans;
- (f) perform such duties and functions as are supplemental, incidental and consequential to any of the foregoing functions or as may be assigned by the State Government for the purpose of carrying out the provisions of this Act.

- 15.(1)** The Director shall carry out the survey and prepare an existing land use map and forthwith publish the same in such manner as may be prescribed together with public notice of the preparation of the map and of the place or places where the copies may be inspected, inviting objections and suggestions in writing from any person with respect thereto within thirty days from the date of publication of such notice.

Existing
Land use
Maps

- (2) After the expiry of the period specified in the notice published under sub-section (1), the Director may, after allowing a reasonable opportunity of being heard to all such persons who have filed the objections or suggestions, make such modifications therein as may be considered desirable.
- (3) As soon as may be after the map is adopted with or without modifications the Director shall publish a public notice of the adoption of the map and the place or places where the copies of the same may be inspected.
- (4) A copy of the notice shall also be published in the Official Gazette and it shall be conclusive evidence of the fact that the map has been duly prepared and adopted.

***15-A. Freezing of landuse pending preparation of existing landuse map under section 15(1)-** Wherever the State Government, after the constitution of the planning area under section-13 **or the special area under Section-66 but before the publication of the existing landuse map under section-15, is satisfied that in any planning area or part thereof ** or the Special Area or part thereof as the case may be, the change of the landuse on any building operation therein-

- (a) is likely to cause injurious disturbance of the surface or any land or soil, or is considered detrimental to the preservation of the soil, prevention of land slip; or protection against erosion; or
- (b) is likely to make it difficult to plan and develop the area in question in accordance with the provisions of the Act, the State Government may, by notification published in the Official Gazette, freeze the existing landuse, for a period not exceeding ***“five years.”

(2) On the issuance of a notification under sub-section (1)-

- (a) no person shall change, the use of any land or carryout any development of land (other than the change for the purpose of agriculture), without the written permission of the Director; and
- (b) no local authority or officer or other authority shall, not withstanding anything contained in any other law for the time being in force, grant permission for the change in use of land without the written permission of the Director.

(3) Any permission that the Director may grant under sub-section (2) shall be subject to such conditions and restrictions as may be imposed in this behalf by the State Government.

Freezing of
land use

16. On the publication of the existing land use map under section 15-

- (a) no person shall institute or change the use of any land or carryout any development of land for any purpose other than that indicated in the existing land use map without the permission in writing of the Director;

Provided that the Director shall not refuse permission if the change is for the purpose of agriculture;

*As amended *vide* Himachal Pradesh Town and Country Planning (Amendment) Act 1992 (Act No.10 of 1992).

**As amended *vide* Himachal Pradesh Town and Country Planning (Amendment) Act 1994 (Act No.16 of 1994).

***As amended *vide* Himachal Pradesh Town and Country Planning (Amendment) Act 2015 (Act No. 14 of 2015).

- (b) no local authority or any officer or other authority shall, notwithstanding anything contained in any other law for the time being in force, grant permission for the change in use of land otherwise than as indicated in the existing land use map without the permission in writing of the Director.
- *(c) no Registrar or the Sub-Registrar, appointed under the Indian Registration Act, 1908, shall, in any planning area constituted under section 13, ***“in any special area or any deemed planning area as specified in sub-section (3a) of section 1” register any deed or document of transfer of any sub-division of land by way of sale, gift, exchange, lease or mortgage with possession, unless the sub-division of land is duly approved by the Director, subject to such rules as may be framed in this behalf by the State Government:

Provided that the Registrar or the Sub-Registrar may register any transfer,-

- (i) where the land is owned by a person and the transfer is made without involving any further divisions;
- (ii) where the partition/sub-division of land is made in a Joint Hindu Family;
- (iii) where the lease is made in relation to a part or whole of a building;
- (iv) where the mortgage is made for procuring the loans for construction or improvements over the land either from the Government or from any other financial institution constituted or established under any law for the time being in force or recognized by the State Government.

17.(1)As soon as may be, after the declaration of a planning area, the Director shall, within such time as may be necessary, prepare, after consultation with local authorities concerned, if any, and submit to the State Government an interim development plan for the planning area or any of its parts and such other area or areas contiguous or adjacent to the planning areas as the State Government may direct to be included in the Interim Development Plan.

Interim
Development
Plans

(2) The interim development plan shall-

- (a) indicate broadly the land use proposed in the planning area;
- (b) allocate broadly areas or sector of land for-
 - (i) residential, industrial, commercial or agricultural purposes;
 - (ii) open spaces, parks and gardens, green belts, zoological gardens and play grounds;
 - (iii) public institutions and offices;
 - (iv) such special purposes as the Director may deem fit;
- (c) lay down the pattern of National and State highways connecting the planning area with the rest of the region, ring roads, arterial roads and the major roads within the planning areas;
- (d) provide for the location of airports, railway stations, bus terminal and indicate the proposed extension and development of railways and canals;
- (e) make proposals for general landscaping and preservation of natural areas;
- (f) project the requirement of the planning area of such amenities and utilities as water, drains, electricity and suggest their fulfillment;

* As amended *vide* Himachal Pradesh Town and Country Planning (Amendment) Act 1981 (Act No.14 of 1981).

** As amended *vide* Himachal Pradesh Town and Country Planning (Amendment) Act 2015 (Act No.14 of 2015).

- (g) propose broad based regulations for sectoral development, by way of guidelines, within each sector of the location, height, size of buildings and structures, open spaces, court-yards and the use to which such buildings and structures and land may be put *including regulations for facade control and sloping roof conforming to the hill architecture and environs”;
 - (h) lay down the broad based traffic circulation patterns in a city;
 - (i) suggest architectural control features, elevation and frontage of buildings and structures;
 - (j) indicate measures for flood control, *and protection against land slide”, prevention of air and water pollution, disposal of garbage and general environmental control.
- (3) Subject to provisions of the rules made under this Act for regulating the form and contents of the interim development plan any such plan shall include such maps and such descriptive matters as may be necessary to explain and illustrate the proposals in the interim development plan.
- (4) As soon as may be, after the submission of the interim development plan, under sub-section (1) the State Government may either approve the interim development plan or may approve it with such modification as it may consider necessary.
- (5) The State Government shall publish the interim development plan as approved under sub-section (4) in the Official Gazette. The interim development plan shall come into operation from the date of its publication in the Official Gazette and shall be binding on all local authorities functioning within the planning areas.

Development
Plan

18. A development plan shall-

- (a) indicate broadly the land use proposed in the planning areas;
- (b) allocate broadly areas or sector of land for,-
 - (i) residential, industrial, commercial or agricultural purposes
 - (ii) open spaces, parks and gardens, green belts, zoological gardens and play grounds,
 - (iii) public institutions and offices,
 - (iv) such special purposes as the Director may deem fit;
- (c) lay down the pattern of National and State highways connecting the planning area with the rest of the region ring roads, arterial roads, and the major roads within the planning area;
- (d) provide for the location of airports, railway stations, bus terminal and indicate the proposed extension and development of railways;
- (e) make proposals for general landscaping and preservation of natural areas;
- (f) project the requirement of the planning area of such amenities and utilities as water, drainage, electricity and suggest their fulfillment;
- (g) propose broad based regulations for sectoral development, by way of guideline, within each sector of the location, height, size of buildings and structures, open spaces, court-yards and the use to which such buildings and structures and land may be put *including regulations for facade control and sloping roof conforming to the hill architecture and environs”;

* As amended *vide* Himachal Pradesh Town and Country Planning (Amendment) Act 2013 (Act No.41 of 2013).

- (h) lay down the broad based traffic circulation patterns in a city;
- (i) suggest architectural control features, elevation and frontage of buildings and structures;
- (j) indicate measures for flood control, *and protection against land slide”, prevention of air and water pollution, disposal of garbage and general environmental control.

19.(1) The Director shall forthwith publish the draft development plans prepared under section 18 in such manner as may be prescribed together with a notice of the preparation of the draft development plan and the place or places where the copies may be inspected, inviting objections and the suggestions in writing from any person with respect thereto, within thirty days from the date of publication of such notice. Such notice shall specify in regard to the draft development plan the following particulars, namely:-

Publication
of Draft
Development
Plan

- (i) the existing land use maps;
 - (ii) a narrative report, supported by maps and charts, explaining the provisions of the draft development plan;
 - (iii) the phasing of implementation of the draft development plan as suggested by the Director;
 - (iv) the provisions for enforcing the draft development plan and stating the manner in which permission to development may be obtained;
 - (v) an approximate estimate of the cost of land acquisition for public purposes and the cost of works involved in the implementation of the plan.
- (2) The Director shall, not later than ninety days after the date of expiry of the notice period under sub-section (1), consider all the objections and suggestions as may be received within the period specified in the notice under sub-section (1) and shall, after giving reasonable opportunity to all persons affected thereby of being heard, make such modifications in the draft development plan as he may consider necessary, and submit not later than six months after the publication of the draft development plan, the plan so modified, to the State Government for approval together with all connected documents, plans, maps and charts.

20.(1) As soon as may be after the submission of the development plan under section 19 the State Government may either approve the development plan or may approve it with such modifications as it may consider necessary or may return it to the Director to modify the same or to prepare a fresh plan in accordance with such directions as it may issue in this behalf.

Sanction of
Development
Plan

- (2) Where the State Government approves the development plan with modifications, the State Government shall, by a notice published in the Official Gazette invite objections and suggestions in respect of such modifications within a period of not less than thirty days from the date of publication of the notice in the official Gazette.
- (3) After considering objections and suggestions and after giving a hearing to the persons desirous of being heard the State Government may confirm the modification in the development plan.

- (4) The State Government shall publish the development plan as approved, under the foregoing provisions in the Official Gazette and shall along with the plan publish a public notice, in such manner as may be prescribed, of the approval of the development plan and the place or places where the copies of the approved development plan may be inspected.
- (5) The development plan shall come into operation from the date of publication thereof in the Official Gazette and as from such date shall be binding on all Development Authorities constituted under this Act and all local authorities functioning within the planning area.
- (6) After the coming into operation of the development plan the interim development plan shall stand modified or altered to the extent the proposals in the development plan are at variance with development plan.

CHAPTER-V

SECTORAL PLAN

Director to
prepare
Sectoral Plan

- 21.** The Director may, on his own motion, at any time, after publication of the development plan, or thereafter if so required by the State Government shall, within six months of such requisition, prepare a sectoral plan.

Contents of
Sectoral Plan

- 22.(1)** The sector plan shall enlarge the details of land use as indicated in the development plan and shall-

- (a) indicate the land liable to acquisition for public purpose or the purposes of the Union Government, the State Government, the Town and Country Development Authority, the Special Area Development Authority, the local authority or any other authority established by or under any enactment for the time being in force;

Provided that no land shall be so designated unless the acquisition proceedings are likely to be completed within ten years of the preparation of the plan.

- (b) define in detail and provide for areas reserved for agriculture, public and semi-public, open spaces, parks, play grounds, gardens, recreational areas, green belts and natural reserves;
- (c) allocate in detail areas or sectors for residential, commercial, industrial, agricultural and other purposes;
- (d) define and provide for the complete road and street pattern for the present and in the future and indicate the traffic circulation;
- (e) lay down in detail the projected road, and street improvement;
- (f) indicate and provide for areas reserved for public buildings, institutions and civic developments;
- (g) assess, make projections for and provide for the future requirements of amenities, services and utilities such as municipal, transport, electricity, water and drainage;

- (h) prescribe in detail the sectoral regulations for each sector, with a view to facilitating an individual layout and regulating the location, height, number of storeys and the size of buildings and other structures, the size of the court-yards, courts and other open spaces and the use of the buildings, structures and land *including regulations for facade control and sloping roof conforming to hill architecture and environs”;
 - (i) define areas which have been badly laid-out or areas which have developed so as to form slums, and provide for their proper development and/or relocation;
 - (j) designate areas for future development and expansion;
 - (k) indicate the phasing of the programme of development.
- (2) The sectoral plan may and if possible shall indicate-
- (a) control over architectural features, elevation and frontage of buildings and structures; and
 - (b) the details of development of specific areas for housing, shopping centres, industrial areas, educational and cultural institutions and civic centres.
- 23.** The provisions of sections 19 and 20 shall apply for preparation, publication, approval and operation of sectoral plan as they apply in respect of the development plan. Provisions of Section 19 and 20 to apply to Sectoral Plan
- 24.(1)** The Director may on his own motion or if so required by the State Government shall, at any time after the sectoral plan has come into operation, undertake a review and evaluation of the development plan and sectoral plan. Review of Development Plan and Sectoral Plan
- (2) The foregoing provisions of sections 19, 20 and 23 shall, so far as may be, apply to the modification under sub-section (1) as those provisions apply in relation to the preparation, publication, and approval of a development plan or a sectoral plan.

CHAPTER-VI

CONTROL OF DEVELOPMENT AND USE OF LAND

- 25.** The overall control of development and the use of land in the planning area shall, as from the date of publication in the official Gazette of a notification by the State Government, vest in the Director. Director to control land use
- 26.(1)** After coming into force of the development plan, the use and development of land shall conform to the provisions of the development plan: Conformity with Development Plan
- Provided that the Director may, at his discretion, permit the continued use of land for the purpose for which it was being used at the time of the coming into operation of the development plan;
- Provided further that such permission shall not be granted for a period exceeding seven years from the date of coming into operation of the development plan.

* As amended *vide* Himachal Pradesh Town and Country Planning (Amendment) Act 2013 (Act No. 41 of 2013).

Prohibition of
Development
without
permission

- 27.** After coming into operation of the development plan, no person shall change the use of any land or carry out any development of land without the permission in writing of the Director:



Provided that no such permission shall be necessary.-

- (a) for carrying out works for the maintenance, repair or alteration of any building which does not materially alter the external appearance of the building;
- (b) for carrying out work for the improvement or maintenance of a highway, road or public street by the Union or State Government or an authority established under this Act or by a local authority having jurisdiction, provided that such maintenance or improvement does not change the road alignment contrary to the provisions of the development plan;
- (c) for the purpose of inspecting, repairing or renewing any drain, sewers, mains, pipes, cables, telephone or other apparatus including the breaking open of any street or other land for that purpose;
- (d) for the excavation or soil shaping in the interest of agriculture;
- (e) for restoration of land to its normal use where land has been used temporarily for any other purposes;
- (f) for use for any purpose incidental to the use of building for human habitation, or any other building or land attached to such buildings;
- (g) for the construction of a road intended to give access to land solely for agricultural purposes.

Development
undertaken on
behalf of
Union or State
Government

- 28.**(1) When the Union Government or the State Government intends to carry out development of any land for the purpose of its departments or offices or authorities, the officer-in-charge thereof shall inform in writing to the Director the intention of the Government to do so, giving full particulars thereof, accompanied by such documents and plans as may be prescribed at least thirty days before undertaking such development.

- (2) Where the Director raises any objection to the proposed development on the ground that the development is not in conformity with the provisions of the development plan, the officer shall,-
- (i) make necessary modification in the proposals for development to meet the objections raised by the Director; or
 - (ii) submit the proposal for development together with the objections raised by the Director to the State Government for decision:

Provided that where no modification is proposed by the Director within thirty days of the receipt of the proposed plan by the Government, the plan will be presumed to have been approved.

- (3) The State Government, on receipt of the proposals for development together with the objections of the Director shall, approve the proposals with or without modifications or direct the officer to make such modifications in the proposals as it considers necessary in the circumstances.
- (4) The decision of the State Government under sub-section (3) shall be final and binding.

29. Where a local authority or any authority specially constituted under this Act intends to carry out development on any land for the purpose of that authority, the procedure applicable to the Union or State Government, under section 28 shall, *mutatis mutandis*, apply in respect of such authority.

Development by local authority or by any authority constituted under this act. Application for permission for development by others.

30.(1) Any person, not being the Union Government, State Government, a local authority or a special authority constituted under this Act intending to carry out any development on any land, shall make an application in writing to the Director for permission, in such form and containing such particulars and accompanied by such documents as may be prescribed.

(2) Such application shall also be accompanied by such fee as may be prescribed.

***“30-A.**(1) Any person who owns land in rural areas, falling within Planning or Special Areas wherein neither Interim Development Plan nor Development Plan has been notified, shall be exempted from permission under this Act for the following development activities up to the limits as may be prescribed:-

Exemption from development permission in rural areas falling within Planning or Special Area

- (i) Residential activities such as farm-houses and residential houses up to three storeys, cattle shed, toilet, septic tank, kitchen, store, parking shed or garage and rain shelter;
 - (ii) Commercial activities such as basic commercial activities like shops of general merchandise, cobbler, barber, tailoring, fruit, vegetable, tea or sweet, eating places and dhabas, chemist and farm produce sale depot;
 - (iii) Service Industries such as cottage or house-hold, service industries like carpentry, knitting, weaving, blacksmith, goldsmith, atta-chakki with capacity up to five horse-power, water mill, agriculture equipments or machinery repair, electrical, electronic and house-hold appliances;
 - (iv) Public amenities such as public amenities like panchayat offices, schools, mahila mandals, yuvak mandals, community halls, post offices, dispensaries and clinics (including health, veterinary and Indian System of Medicines) information technology kiosks, patwar khanas, guard huts, anganwaries, electricity and telephone installations and connections, roads and paths, ropeways, water tanks, rain harvesting tanks, overhead or underground water tanks, pump houses, check dams, temples, churches, mosques, graveyards, cemeteries, cremation grounds and other religious buildings, bathing ghats, cremation shelters, rest sheds, baths, drainage, toilets, latrines, urinals, sewerage installations, wells, tube wells, baulies, garbage disposal bins, depots and other installations;
 - (v) Agriculture and horticulture related activities including rain harvesting structures, milk chilling plant, farm level godowns, seeds and fertilizer stores, farm clinics, pre-cooling units, primary processing units, green houses and poly houses; and
 - (vi) Heritage related activities such as lakes, reservoirs, dams, baulies, wild life sanctuaries, cemeteries, graveyards, railway lines.
- (2) Any person who owns land in areas falling outside urbanisable areas, as shown in the Interim Development Plans or Development Plans of Planning or Special Areas, shall be exempted from permission under this Act for the development activities specified under sub-section (1) upto the limits as may be prescribed.”

* As amended *vide* Himachal Pradesh Town and Country Planning (Amendment) Act, 2009 (Act No. 8 of 2009).

Grants or
refusal of
permission

31.(1)On receipt of an application under section 30 **or 30-A the Director may, subject to the provisions of this Act by order in writing-

- (a) grant the permission unconditionally;
- (b) grant the permission, subject to such conditions as may be deemed necessary under the circumstances; and
- (c) refuse the permission.

(2) Every order granting permission subject to conditions, or refusing permission shall state the grounds for imposing such conditions or for such refusal.

(3) Any permission granted under sub-section (2) with or without conditions shall be in such manner as may be prescribed.

(4) Every order under sub-section (2) shall be communicated to the applicant in such manner as may be prescribed.

(5) If the Director does not communicate his decision whether to grant or refuse permission to the applicant within **two months from the date of receipt of his application, such permission shall be deemed to have been granted to the applicant on the date immediately following the date of expiry of **two months:

Provided that in computing the period of **two months the period in between the date of requisitioning any further information or documents from the applicant and date of receipt of such information or documents from the applicant shall be excluded.

***31-A. Structural Stability Certificate--

The applicant shall submit a Structural Stability Certificate of the building before putting the same into use, in the manner prescribed ****“including soil investigation report and structural design basis report as per provisions for safety against natural hazard.”

Appeal

32.(1)Any applicant aggrieved by an order *****“passed under any of the provisions of this Act” may, within thirty days of the date of communication of order to him, prefer an appeal to an officer not below the rank of a Secretary*, appointed by the State Government in this behalf, and such an appeal shall be made in such manner and accompanied by such fees as may be prescribed.

*****“(2)The officer appointed under sub-section (1) shall, after giving a reasonable opportunity of being heard, decide the appeal preferred under this section within a period of six months from the date of filing of the same.”

(3) Subject to the provisions of section 33 the order of the appellate authority shall be final.

* As amended *vide* Himachal Pradesh Town and Country Planning (Amendment) Act, 1981 (Act No.14 of 1981).

**As amended *vide* Himachal Pradesh Town and Country Planning (Amendment) Act, 1997 (Act No.11 of 1997).

***As amended *vide* Himachal Pradesh Town and Country Planning (Amendment) Act, 2001 (Act No.15 of 2001).

****As amended *vide* Himachal Pradesh Town and Country Planning (Amendment) Act, 2013 (Act No.41 of 2013).

*****As amended *vide* Himachal Pradesh Town and Country Planning (Amendment) Act, 2015 (Act No.14 of 2015).

33. The State Government may, at any time, but not later than twelve months of the passing of the order, on its own motion or on an application filed by the person aggrieved by any order by the appellate authority under section 32 within thirty days of the date of communication of such order to him, call for and examine the record of any case disposed of by the Director under section-31 or appellate authority under section 32 for the purpose of satisfying itself as to the correctness of the order and as to the regularity of any proceeding of the Director or the appellate authority and may, when calling such record direct that the execution of the order be suspended. The State Government may, after examining the record, pass such order as it thinks fit and its order shall be final and no further application for revision or review thereof shall lie:

Revision



Provided that no order shall be passed unless the person affected thereby and the Director has been given a reasonable opportunity of being heard.

34. Every permission granted under section 31 or section 32 or section 33 shall remain in force for a period of *three years from the date of such grant and thereafter it shall lapse:

Lapse of permission

Provided that the Director may, on an application, extend such period from year to year but the total period shall, in no case exceed *five years from the date on which the permission was initially granted:

Provided further that such lapse shall not bar any subsequent application for fresh permission under this Act.

- 35.(1) Where any land is designated by a development plan as subject to compulsory acquisition:-

Obligation to acquire land

- (a) for development for the purpose of town expansion or town improvement, or
- (b) for development for the purpose of the Union or State Government or a local authority or a Special Area Development Authority constituted under this Act, or
- (c) for development as a highway or a public utility services and the owner of the land claims.-
 - (i) the land has become incapable of reasonably beneficial use in its existing state, or
 - (ii) the permission to develop land is given subject to conditions, that the land cannot be rendered capable of reasonably beneficial use by carrying out the permitted development in accordance with the conditions, or
 - (iii) the sale value of the land has diminished because of the designation of the land for acquisition or development;

Such owner may serve on the State Government within such time in such manner and together with such documents as may be prescribed, a notice requiring the appropriate authority to purchase his interest in the land in accordance with the provisions of this Act.

* As amended *vide* Himachal Pradesh Town and Country Planning (Amendment) Act, 1994 (Act No. 16 of 1994).

- (2) On receipt of the notice under sub-section (1) the State Government shall forthwith call from the Director and the appropriate authority such report or records, or both as may be necessary, which these authorities shall forward to the State Government as soon as possible but not later than thirty days from the date of their requisition.
- (3) On receiving such records or reports the State Government may,-
- if it is satisfied that the conditions specified in sub-section (1) are fulfilled, and that the order of decision for permission was not duly made on the ground that the applicant did not comply with any of the provisions of this Act or the rules made there under, confirm the notice or direct that the permission be granted without conditions or subject to such conditions as will make the land capable of reasonably beneficial use;
 - in any other case, refuse to confirm the notice but in that case, the applicant shall be given a reasonable opportunity of being heard.
- (4) If within a period of one year from the date on which the notice is served, the State Government does not pass any final order thereon, the notice shall be deemed to have been confirmed at the expiration of that period.
- (5) Upon, conformation of the notice the State Government shall, within a period of one year of such confirmation, proceed to acquire the land or that part of any land regarding which the notice has been conformed in accordance with the provisions of this Act.

Deletion of reservation of designated land from draft or final development plan

36.(1) The appropriate authority, if it is satisfied, that the land is not or is no longer required for the public purpose for which it is designated or reserved or allocated in the draft development plan or sectoral plan, or the final development plan or sectoral plan may request.-

- the Director to sanction the deletion of such designation or reservation or allocation from the draft development plan or sectoral plan; or
- the State Government to sanction the deletion of such designation or reservation or allocation from the final development plan or sectoral plan.

- (2) On receipt of such request from the appropriate authority, the Director, or as the case may be the State Government may make an order sanctioning the deletion of such designation or reservation or allocation from the relevant plan;

Provided that, the Director or, as the case may be, the State Government may, before making any order, make such enquiry as he/it may consider necessary and satisfying himself/ itself that such reservation or designation or allocation is no longer necessary in the public interest.

- (3) Upon an order under sub-section (2) being made the land shall be deemed to be released from such designation, reservation or, as the case may be, allocation and shall become available to the owner for the purpose of development as otherwise permissible in the case of adjacent land under the relevant plan.

Power of revocation and modification or permission to development

37.(1) If it appears to the Town and Country Development Authority or Special Area Development Authority that it is expedient, having regard to the development plan prepared or under preparation and to any other material considerations, that any permission to develop land granted under this Act or any other law, should be

revoked or modified, the Town and Country Planning Development Authority or the Special Area Development Authority may, by an order, revoke or modify the permission to such extent as appears to it to be necessary:



Provided that-

- (a) where the permission related to the carrying out or other operations, no such orders.-
 - (i) shall affect such of the operations as have been previously carried out;
 - (ii) shall be passed after those operations have been completed.
- (b) where permission related to a change of use of land, no such order shall be passed at any time after the change has taken place.
- (2) Where permission is revoked or modified by an order under the last foregoing section, and the owner claims from the Town and Country Development Authority or the Special Area Development Authority, within the time and in the manner prescribed, amount in lieu of the expenditure incurred in carrying out the works after the grant of permission and in accordance with such permission, which has been rendered abortive by the revocation or modification the Town and Country Development Authority or the Special Area Development Authority shall, after giving the owners reasonable opportunity of being heard by the Town Planning Officer and after considering his report, assess and offer subject to provisions of section 11 such amount to the owner as it thinks fit.
- (3) If the owner does not accept the amount and gives notice within such time as may be prescribed, of his refusal to accept, the Town and Country Development Authority or the Special Area Development Authority shall refer the matter for the adjudication of the court and the decision of the court shall be final and be binding on the owner and the Town and Country Development Authority or the Special Area Development Authority.

38. Any person who, whether at his own instance or at the instance of any other person commences, undertakes or carries out any development or changes use of any land-

Penalty for unauthorized development or for use other than in conformity with development plan

- (a) without permission required under this Act;
- (b) in contravention of the permission granted or any condition subject to which such permission has been granted;
- (c) after the permission for development has been duly revoked; or
- (d) in contravention of any permission which has been duly modified;
- *“(e) in contravention of any other provision of this Act”;

shall, without prejudice to any action that may be taken under section 39 be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees or with both, and in the case of a continuing offence with further fine which may extend to two hundred rupees for every day during which the offence continues after conviction for the first commission of the offence.

*Provided that imposition of fine shall not be deemed to regularize the unauthorized constructions, colonies or buildings, and the Director after giving a notice of thirty days and after affording a reasonable opportunity of being heard, may demolish or remove such unauthorized constructions. The amount incurred on account of demolition or removal of un-authorized construction shall be recovered from the owner of such building as arrears of land revenue.

* As amended *vide* Himachal Pradesh Town and Country Planning (Amendment) Act, 2013 (Act No.41 of 2013).

Power to
require
removal of
unauthorized
development

39.(1)Where any development has been carried out as indicated in section 38 the Director may, within *ten years of such development serve on the owner a notice requiring him, within **fifteen days from the date of service of the notice.-



- (a) in cases specified in clause (a) or (c) of section 38 to restore the land to its condition existing before the said development took place;
- (b) in cases specified in clause (b) or (d) of section 38 to secure compliance with the conditions or with the permission as modified;
- *** (c) in cases specified in clause (e) of section 38 to secure compliance in the manner as may be prescribed;

Provided that where the notice requires the discontinuance of any use of land it shall be served on the occupier also.

***“(2) in case any person after issuance of notice under sub-section (1) does not comply with the directions, he shall be served with a notice to stop or to seal, as the case may be, unauthorized development in the manner as may be prescribed.”

***“(3) Any person aggrieved by such notice may within fifteen days of the receipt of the notice, apply for composition of offences under section 39-C and till the time the application is disposed of, the notice shall stand withdrawn; and”

(4) The foregoing provisions of this chapter shall, so far as may be applicable, apply to an application under sub-section (3).

***“(5) If the offence is compounded, the notice shall stand withdrawn, but if the offence is not compounded, the notice shall stand, or if such offence is partly compounded, the notice shall stand withdrawn to the extent the offence is compounded, but shall stand in respect of the offence which is not compounded, and thereupon the owner shall be required to take steps specified in the notice under sub-section (1) in respect of the offence not compounded”.

(6) If within the period specified in the notice or within the same period after the disposal of the application, the notice or so much of it as stands is not complied with, the Director may-

- (a) prosecute the owner for not complying with the notice and whether the notice requires the discontinuance of any use of land, any other person also who uses the land or causes or permits the land to be used in contravention of the notice, and
- (b) where the notice required the demolition or any alteration of any building or works or carrying out of any building or other operations itself, cause the restorations of the land to its condition before the development took place and secure compliance with the condition of the permission or with the permission as modified by taking such steps as the Director may consider necessary including demolition or alteration of any building or works or carrying out of any building or other operations, and recover the amount of any expenses incurred by him in this behalf from the owners as arrears of land revenue.

(7) Any person prosecuted under clause (a) of sub-section (6) shall on conviction, be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both, and in the case of a continuing offence with further five which may extend to two hundred and fifty rupees for every day during which the offence continues after conviction for the first commission of the offence.

* As amended *vide* Himachal Pradesh Town and Country Planning (Amendment) Act, 1994 (Act No.16 of 1994).

**As amended *vide* Himachal Pradesh Town and Country Planning (Amendment) Act, 2001 (Act No.15 of 2001).

***As amended *vide* Himachal Pradesh Town and Country Planning (Amendment) Act, 2013 (Act No.41 of 2013).

***39-A. Power to stop development.-**

- (1) Where any development in any area being commenced in contravention of the development plan or sectoral plan or without the permission, approval or sanction referred to in sections 15.A (2), 16 or 31 or in contravention of any conditions subject to which such permission, approval or sanction has been granted:-
 - (i) in relation to a planning area or a special area, the State Government or an officer of the State Government empowered by it in this behalf.
 - (ii) in relation to any other area within the local limits of a local authority, the competent authority thereof, may in addition to any prosecution that may be instituted under this Act, make an order requiring the development to be discontinued on and from the date of the service of the order, and such order shall be complied with accordingly.
- (2) Where such development is not discontinued in pursuance of the order under sub-section (1), the State Government or the officer of the State Government or the competent authority, as the case may be, may require any police officer to remove the person by whom the development has been commenced and all his assistants and workmen from the place of development or to seize any construction material, tools, machinery, scaffolding or other things used in such development within such time, as may be specified in the requisition and such police officer shall comply with the requisition accordingly.
- (3) Any of the things caused to be seized by the State Government or the officer of the State Government or the competent authority, as the case may be, under sub-section (2) shall, unless the owner thereof turns up to take back such things and pays to the State Government or the officer of the State Government or the competent authority, as the case may be, the charges for the removal or storage of such things, be disposed of by it or him by public auction or in such other manner and within such time as the State Government or the officer of the State Government or the competent authority thinks fit.
- (4) The charges for the removal and storage of the things sold under sub-section (3) shall be paid out of the proceeds of the sale thereof and the balance, if any, shall be paid to the owner of the things sold on a claim being made there within a period of one year from the date of sale, and if no such claim is made within the said period, shall be credited to the fund of the State Government or the competent authority, as the case may be.
- (5) If any development in the area other than a planning area or the special area, has been commenced in contravention of the development plan or sectoral plan or without the permission, approval or sanction referred to the Section 15-A (2), 16 or 31 or in contravention of any conditions subject to which such permission, approval or sanction has been granted and the competent authority has failed to make an order under sub-section (1) or, as the case may be, a requisition under sub-section (2), within the time may be specified in this behalf by the State Government, the State Government may, after observing such procedure as may be prescribed by rules made in this behalf, direct any officer to make the order or requisition, as the case may be, and that officer shall be bound to carry out such directions and the order or requisition made by him in pursuance of the direction shall be complied with accordingly.

- (6) After the requisition under sub-section (2) or sub-section (5) has been complied with, the competent authority or the officer to whom the direction was issued by the state Government under sub-section (5), as the case may be, may depute by a written order a police officer or an officer or an employee of the State Government or local authority concerned to ensure that the development is not continued.
- (7) Any person failing to comply with an order under sub- section (1), or as the case may be, under sub-section (5), shall be punishable with fine which may extend to two hundred rupees for every day during which the noncompliance continues after the service of the order.
- (8) No compensation shall be claimable by any person for any damage which he may sustain in consequence of the removal of any development under section 39 or the discontinuance of the development under this section.
- (9) The provisions of this section shall be in addition to, and not in derogation of any other provision relating to stoppage of building operations contained in any other law for the time being in force.

***39-B. Power to seal unauthorized development.-**

- (1) It shall be lawful for the State Government or the competent authority, as the case may be, at any time, before or after making an order for the removal or discontinuance of any development under section 39 or section 39-A to make an order directing the sealing of such development in the manner prescribed by rules, for the purpose of carrying out the provisions of this Act, or for preventing any disputes as to the nature and extent of such development.
- (2) Where any development has been sealed, the State Government or the competent authority, as the case may be, may, for the purpose of removing or discontinuing such development order the seal to be removed.
- (3) No person shall remove such seal except:-
 - (a) under an order made by the State Government or the competent authority under sub-section (2); or
 - (b) under an order of the appellate authority or the State Government made in an appeal under this Act.

***“39-C. Power to compound offences.-**

- (1) The Director may, on an application made to him, accept from any person who has committed an offence punishable under this Act, by way of composition of such offence; a sum of money as may be fixed by the State Government by rules.
- (2) On payment of such sum of money to the Director, no further proceedings shall be taken against such person in respect of such offence”.

* As amended *vide* Himachal Pradesh Town and Country Planning (Amendment) Act, 1994 (Act No.16 of 1994).

CHAPTER-VII

TOWN AND COUNTRY DEVELOPMENT AUTHORITY



- 40.**(1) The State Government may, by notification, establish a Town and Country Development Authority by such name and for such area as may be specified in the notification. If the State Government considers the local authority or authorities or any other authorities like State Housing Board, the State Government may by notification designate such authority or authorities as the Town and Country Development Authority or Authorities for a particular area or areas to perform the functions of the Town and Country Development Authority or Authorities under this Act in addition to their own duties and functions and in such cases sections 42, 43, 44, 45, 46 and 48 of this Act will not operate.
- Establishment of Town and Country Development Authority
- (2) The duty of implementing the proposal in the development plan, preparing one or more town development schemes, and acquisition and development of land for the purposes of expansion or improvement of the area specified in the notification under sub-section (1) shall, subject to the provisions of this Act, vest in the Town and Country Development Authority established for the said area.
- 41.** Every Town and Country Development Authority shall be a body corporate by the name specified in the notification under section 40, and shall have perpetual succession and a common seal, with power to acquire and hold property, both movable and immovable, and subject to the provisions of this Act or any rules made there under, to transfer any property held by it, to contract and to do all other things necessary for the purposes of this Act and may sue and be sued in its corporate name.
- Incorporation of Town and Country Development Authority
- *42.**(1) Save as provided in section 42-A, every Town and Country Development Authority shall consist of the Chairman and other members not exceeding twelve to be appointed by the State Government:
- Constitution of Town and Country Development Authority
- Provided that, whenever it is expedient to ensure the efficient performance of the functions assigned to the Town and Country Development Authority, the State Government may appoint one or more persons as its Vice-Chairmen and where more than one person is appointed as Vice -Chairman one of them shall be designated as Senior Vice- Chairman;
- Provided further that the State Government may, if it considers it necessary so to do, constitute a single member Town and Country Development Authority.
- (2) The Chairman and in the absence of the Chairman the Senior Vice Chairman, and in the absence of both the Chairman and Senior Vice Chairman, the Vice Chairman, shall preside over the meeting of the Town and Country Development Authority constituted under sub-section (1). The Senior Vice Chairman and Vice Chairman shall in relation thereto, exercise such powers and perform such functions as the Chairman may assign to them.

* As amended *vide* Himachal Pradesh Town and Country Planning (Amendment) Act, 1995 (Act No.7 of 1995).

***42-A Constitution of Town and Country Development Authority for the Capital Town of Himachal Pradesh.-**



- (1) Notwithstanding anything to the contrary contained in Section-42, the Town & Country Development Authority for the capital town of Himachal Pradesh shall consist of the Chairman, Vice Chairman and eight other members to be appointed by the State Government.
- (2) The Chief Minister and the Minister-in-Charge of Town and Country Planning, shall be the *ex-officio* Chairman and Vice-Chairman of the Town and Country Development Authority constituted under sub-section (1) and for the discharge of their duties as such they shall not be entitled to any emoluments and in relation to them the provisions contained in section 43 sub-section (3) of section 44, section 45 and section 46 will not operate.

Provided that during the period of any proclamation issued under Article 356 of the Constitution of India the Governor, may, by notification, appoint any person to act as the Chairman and the Vice Chairman of the Development Authority constituted under this section and the persons so appointed shall exercise the powers vested in them and perform the functions assigned to them under the Act during the period the said proclamation issued under Article 356 continues to be in force and the provisions contained in section 43, 44 (3), 45 and 46 shall apply to them.

- (3) In the absence of the Chairman, the Vice Chairman shall preside over the meetings of the Town and Country Development Authority constituted under this Section and shall, in relation thereto, exercise powers and perform such functions as the Chairman may assign to him.

Term of office
of Chairman
and other
members

- 43.(1) The names of the Chairman *Vice-Chairman and the members shall be notified in the Official Gazette.
- (2) The term of office of the Chairman *Vice-Chairman and the members shall be such as may be prescribed.
- (3) The person ceasing to be a Chairman, *Vice-Chairman or member by reason of the expiry of his term of office, shall if otherwise qualified be eligible for reappointment.

Resignation of
Members and
filling of
casual vacancy

- 44.(1) Every person becoming a *Vice-Chairman or a Member under Section-42 may at any time resign his office by writing under his hand addressed to the Chairman, and upon receipt of resignation by the Chairman, the office of Vice-Chairman or the Member as the case may be shall become vacant.
- (2) If the State Government consider that the continuance in office of any Vice-Chairman or any member is not in the public interest, the State Government may make an order terminating his appointment and there-upon he shall cease to be a *Vice Chairman or a member as the case may be of Town and Country Development Authority, notwithstanding that the term for which he was appointed has not expired.
- (3) In the event of a vacancy occurring in the office of the Chairman, *Vice-Chairman, or any Member, the vacancy shall be filled by the State Government in accordance with the provisions of section-42 and the persons so appointed shall hold office for remainder of the term of his predecessor.

* As amended *vide* Himachal Pradesh Town and Country Planning (Amendment) Act, 1995 (Act No.7 of 1995).

****45.**(1)The Chairman shall receive such salary and allowances and shall be subject to such terms and conditions of service as may be prescribed.



(2) The Senior Vice-Chairman, Vice-Chairman and Members shall be paid such allowances as may be prescribed.

46.(1)The State Government may grant leave to the Chairman subject to such terms and conditions as may be prescribed.

Leave of absence and appointment etc. of acting Chairman

******(2)Whenever the office of the Chairman, falls vacant on account of leave under sub-section (1), the Senior Vice Chairman or whenever the offices of the Chairman and the Senior Vice-Chairman falls vacant, on account of leave the Vice-Chairman shall act as the Chairman.

47.(1)The meetings of the Town and Country Development Authority shall be held at such time and such place as may be laid down by regulations:

Meeting of Town and Country Development Authority

Provided that until regulations are made in this behalf such meetings shall be convened by the Chairman.

(2) The quorum of meeting shall, unless otherwise provided by regulations, be one third of the total number of members of the Town and Country Development Authority.

(3) The Town and Country Development Authority shall make regulations to provide for the conduct of its business.

48.(1)There shall be a ******Chief Administrator of every Town and Country Development Authority who shall also act as the *****Member Secretary of the Authority.

Chief Administrator

(2) The ******Chief Administrator shall be appointed by the State Government

49. Every Town and Country Development Authority may appoint such other officers and servants as may be necessary and proper for the efficient discharge of its duties:

Other officers and servants

Provided that no post shall be created save with prior sanction of the State Government.

Provided further that the power of appointment shall be subject to such restrictions as the State Government may, from time to time, impose.

50.(1)The ******Chief Administrator under section 48 and other officers and servants appointed under section 49 shall work under the superintendence and control of the Chairman.

Conditions of service of Chief Administrator and officers and servants

(2) The State Government may make rules in respect of recruitment, qualifications, appointment, scale of pay, leave, leave allowances, loans, pension and other service conditions of the Chief Administrator and other officers and servants.

* As amended *vide* Himachal Pradesh Town and Country Planning (Amendment) Act, 1984 (Act No.1 of 1984).

**As amended *vide* Himachal Pradesh Town and Country Planning (Amendment) Act, 1995 (Act No.7 of 1995).

51. A town development scheme may make provision for any of the following matters:-

- (i) acquisition, development and sale or leasing of land for the purpose of town expansion;
- (ii) acquisition, relaying out of, rebuilding or relocating areas which have been badly laid out or which have developed or degenerated into a slum;
- (iii) acquisition and development of land for public purposes such as housing development, development of shopping centres, cultural centres, administrative centres;
- (iv) acquisition and development of areas for commercial and industrial purposes;
- (vi) acquisition of land and its development for the purpose of laying out or remodeling of road and street pattern;
- (vii) acquisition and development of land for play-grounds, parks, recreation centres, and stadium;
- (viii) reconstruction of plots for the purpose of buildings, roads drains, sewerage lines and other similar amenities;
- (ix) any other work of a nature such as would be about environmental improvements which may be taken up by the authority with the prior approval of the State Government.

52.(1) The Town and Country Development Authority may, at any time declare its intention to prepare a town development scheme.

- (2) Not later than thirty days from the date of such declaration of intention to make a scheme, the Town and Country Development Authority shall publish the declaration in the Official Gazette and in such other manner as may be prescribed.
- (3) Not later than two years from the date of publication of the declaration under sub-section (2) the Town and Country Development Authority shall prepare a town development scheme in draft form and publish it in such form and manner as may be prescribed together with a notice inviting objections and suggestions from any person with respect to the said draft development scheme before such date as may be specified therein, such date being not earlier than thirty days from the date of publication of such notice.
- (4) The Town and country Development Authority shall consider all the objections and suggestions as may be received within the period specified in the notice under sub-section (3) and shall, after giving a reasonable opportunity to such persons affected thereby as are desirous of being heard or after considering the report of the committee constituted under sub-section (5), approve the draft scheme as published or make such modifications therein as it may deem fit.
- (5) Where the town development scheme relates to reconstitution of plots, the Town and Country Development Authority shall notwithstanding anything contained in sub-section (4), constitute a committee consisting of the *Chief administrator of the said authority and two other members of whom one shall be representative of the Himachal Pradesh Housing Board and the other shall be an officer of the Public works Department not below the rank of an Executive Engineer nominated by the Chief Engineer, Public works Department for the purpose of hearing objections and suggestions received under sub-section (3).

* As amended *vide* Himachal Pradesh Town and Country Planning (Amendment) Act, 1995 (Act No.7 of 1995).

(6) The Committee constituted under sub-section (5) shall consider the objections and suggestions and give hearing to such persons as are desirous of being heard and shall submit its report to Town and Country Development Authority within such time as it may fix along with proposals to:-

- (i) define and demarcate the areas allotted to or reserved for public purposes;
- (ii) demarcate the reconstituted plots;
- (iii) evaluate the value of the original and the constituted plots;
- (iv) determine whether the areas reserved for public purpose are wholly or partially beneficial to the residents within the area of the scheme;
- (v) estimate and apportion the compensations to or contribution from the beneficiaries of the scheme on account of the reconstitution of the plot and reservation of portions for public purpose;
- (vi) evaluate the increment in value of each reconstituted plots and assess the development contribution leviable on the plot holder:

Provided that the contribution shall not exceed half the accrued increment in value;

- (vii) evaluate the reduction in value of any reconstituted plot and assess the amount payable therefore.

(7) Immediately after the town development scheme is approved under sub-section (4) with or without modifications and Town and Country Development Authority shall publish in the Official Gazette and in such other manner as may be prescribed a final town development scheme and specify the date on which it shall come into operation.

53. The Director may, at any time, but not later than two years from the date of publication of the final town development scheme under section-52 on his own motion or on an application filed within thirty days of such publication of the final scheme by any person aggrieved by the final scheme, call for and examine the record of any scheme for the purpose of satisfying himself as to the correctness of the order passed by the Town and Country Development Authority, or as to the regularity of any proceedings of such authority and when calling such record direct that the execution of the scheme be suspended. The Director may, after examining the record, pass such order as he thinks fit and his order shall be final:

Power to receive the development scheme

Provided that no order shall be passed unless the person affected thereby and the Town and Country Development Authority have been given a reasonable opportunity of being heard.

54.(1) The State Government may, if it consider necessary in public interest so to do, give directions to the Town and Country Development Authority:-

Power of State Government to give Directions

- (a) to frame a town development scheme;
- (b) to modify a town development scheme during execution;
- (c) to revoke a town development scheme, for reasons to be specified in such direction;

Provided that no direction to modify or revoke a town development

scheme shall be given unless the Town and Country Development Authority is given an opportunity to present its case.



- (2) The directions given by the State Government under this section shall be binding on the Town and Country Development Authority.

Restriction on
land use and
development

- 55.** As from the date of publication of declaration to prepare a town development scheme no person shall, within the area included in the scheme, institute or change the use of any land or building or carry out any development save in accordance with the development authorized by the director in accordance with the provisions of this Act prior to the publication of such declaration.

Lapse of
scheme

- 56.** If the Town and Country Development Authority fails to implement the town development scheme within a period of three years from the date of publication of the final scheme under section 52 it shall, on the expiration of the said period of three years, lapse.

Town
development
scheme public
purpose

- 57.** Land needed for the purpose of town development scheme shall be deemed to be a land needed for a public purpose within the meaning of the Land Acquisition Act, 1894. 1 of 1894

Acquisition of
land for Town
and Country
Development
Authority

- 58.** The Town and Country Development Authority may at any time after the date of publication of the final town development scheme under section 52 but not later than three years therefrom, proceed to acquire by agreement the land required for the implementation of scheme and, on its failure so to acquire, the State Government may, at the request of the Town and Country Development Authority, proceed to acquire such land under the provisions of the Land Acquisition Act, 1894 and on the payment of amount awarded under that Act and any other charges incurred by the State Government in connection with the acquisition, the land shall vest in the Town and Country Development Authority subject to such terms and conditions as may be prescribed.

Developments

- 59.**(1)The Town and Country Development Authority shall take necessary steps to develop the land vested in it under section 58 in accordance with the provisions of the town development scheme:

Provided that if the State Government or the Director has, after such enquiry as may be necessary, reason to believe that the Town and Country Development Authority is not taking adequate steps to develop the land or has deviated from the final scheme, it/he may give such directions to that authority as may be considered necessary in the Circumstances.

- (2) The directions given under this section shall be binding on the Town and Country Development Authority and that authority shall give effect to them forthwith.

Disposal of
land, buildings
and other
development
works

- 60.** Subject to such rules as may be made by the State Government in this behalf, the Town and Country Development Authority shall by regulation, determine the procedure for the disposal of development lands, houses, buildings and other structures.

61.(1) Where as a result of the implementation of town development schemes there is in the opinion of the Town and Country Development Authority, an appreciation in the market values of lands adjacent to and affected by scheme the Town and Country Development authority may, in lieu for providing of the acquisition of such land, levy development charges on owners of such land.

Development charges

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EMPOWERING LEGAL CLARITY

(2) The development charges shall be an amount equal to not less than one-fourth and not more than one-third of the difference between the value of the land on the date of publication of the intention to prepare the town development scheme and the date of completion of the scheme.

62.(1) On completion of the town development scheme, the Town and Country Development Authority shall, by a notice in such form and published in such manner as may be prescribed, declare the fact of such completion and of its intention to levy development charges in the area covered by the scheme, calling upon owners of land liable to pay development charges to submit objection, if any, within such period which shall not be less than thirty days from the date of publication of the notice.

Mode of Levy

(2) The authority specified in the notice shall, after giving the objectors an opportunity to be heard, forward the report to the Town and Country Development Authority.

(3) On receipt of the report under sub-section (2), the Town and Country development Authority shall pass such orders thereon as it may consider fit.

(4) The Town and Country Development Authority shall, not later than three months after the publication of a notice declaring its intention to levy development charges, issue a notice in the prescribed form, assessing the charge due from every person affected by the levy of charges.

(5) Where the assessment is accepted it shall be final. If, however, the assessment is not accepted, the person aggrieved may, within thirty days of the publication of notice, file an application in writing before the Revenue Officer not below the rank of Sub-Divisional Officer as may be authorized by the State Government in this behalf.

(6) The Revenue Officer may, after giving the applicant and the Town and Country Development Authority an opportunity to be heard, pass such order on the application as he may deem fit under the circumstances and orders so passed shall be final.

(7) After the final determination of the assessment the Town and Country Development Authority shall cause a notice to be served on each assessee asking him to pay the development charges within a period of sixty days from the date of receipt of the notice by him.

(8) Any payment made after the expiration of the period specified in the notice under sub-section (7) shall carry simple interest at 10 percent per annum as from the date of the receipt of the notice by the assessee.

(9) The Town and Country Development Authority may, on an application made to it in that behalf, permit assessee to make payment of Development charges in annual installment not exceeding five and fix a date by which each installment shall be payable.

- (10) Where permission is granted to make payment in installments the amount of development charges shall carry a simple interest at 15 percent per annum as from the date of the receipt of notice under sub-section (7) and the interest due shall be payable along with each installment.

Fund of Town
and Country
Development
Authority

- 63.** The Town and Country Development Authority shall have its own fund and all receipt of the authority shall be credited thereto and all payments by that authority shall be made therefrom.

Annual Budget

- 64.**(1) The *Chief Administrator or any other Officer designated to act as the *Chief Administrator shall cause to be prepared not later than the 10th of March every year a statement of annual income and expenditure giving the estimates and actual of the past year and the estimates of the next financial year.

- (2) The annual statement (hereinafter called the budget) to be prepared shall be placed by the *Chief Administrator or any other officer designated to act as the *Chief Administrator with the prior approval of the Chairman, before the Town and Country Development Authority.

- (3) The Town and Country Development Authority shall consider the budget so submitted to it and sanction the same either unaltered, or subject to such alterations as it may think fit.

- (4) A copy of the budget as sanctioned under sub-section (3) shall be submitted to the State Government and the Director.

- (5) The State Government may direct the Town and Country Development Authority to make such modification in the budget as may be deemed necessary.

- (6) The Town and Country Development Authority shall within thirty days of the date of receipt of such directions either accept the modification or make further submission to the State Government.

- (7) The State Government, after considering the submissions of the Town and Country Development Authority, shall pass such orders thereon as may be deemed fit and from the date of such orders, the budget shall be deemed to be in force, with modifications ordered by the Government.

Power to borrow
money

- 65.** Subject to such terms and conditions as may be prescribed the Town and Country Development Authority may, with the prior sanction of the State Government, issue debentures or borrow money from Government **or other financial institutions of the open market for all or any of the purposes of this Act.

*As amended *vide* Himachal Pradesh Town and Country Planning (Amendment) Act, 1995 (Act No.7 of 1995).

**As amended *vide* Himachal Pradesh Town and Country Planning (Amendment) Act, 1984 (Act No.1 of 1984).

CHAPTER-VIII

SPECIAL AREAS



Constitution
of Special
Areas

66.(1) If any area, town or township, is designated as a special area in the regional plan or if the State Government is otherwise satisfied that it is expedient in the public interest that any area, town or township should be developed as a special area, it may, by notification, designate the area as a special area, which shall be known by such name as may be specified therein.

(2) Such notification shall define the limits of special area.

(3) The State Government may, by notification, -

- (a) alter the limits of the special area so as to include therein or exclude therefrom such area as may be specified in the notification.
- (b) declare that the special area shall cease to be so.

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13 of 1994

(4) Notwithstanding anything contained in the Himachal Pradesh *Municipal Corporation, Act, 1994, the Himachal Pradesh Municipal Act, 1994 and the Himachal Pradesh Panchayati Raj Act, 1994 the Municipal Corporation, Municipal Council, Nagar Panchayat or a Gram Panchayat, as the case may be, shall, in relation to the special area and as from the date the Special Area Development Authority undertakes the functions under clause (v) or clause (vi) of section 70 cease to exercise the powers and perform the functions and duties which the Special Area Development Authority is competent to exercise and perform under this Act.

****“67.**(1) Every Special Area shall have Special Area Development Authority, which shall consist of –

Special Area
Development
Authority

- (a) Chairman; and
 - (b) Such other members as the State Government may determine from time to time who shall be appointed by the State Government.
- (2) The State Government may, if consider expedient, appoint Vice Chairman or Chief Executive Officer or both, for any Special Area Development Authority.
- (3) The Chief Executive Officer shall be a whole time officer of the Authority who shall receive such salary and allowances, and shall be subject to such terms and conditions as may be determined by the State Government.
- (4) The Chairman, Vice-Chairman and members shall not be entitled to any salary but shall receive such allowances as may be prescribed.
- (5) The Chief Executive Officer shall exercise such powers and perform such duties as may be specified by regulations made by the Authority.”

****“68.**(1) Every Special Area Development Authority shall be a body corporate with perpetual succession and a common seal unless abolished and shall have power to acquire, hold and dispose of property, both moveable and immovable to contract and sue and be sued by the name specified in the notification under sub-section (2) of section-66.

Incorporation
of Special
Area
Development
Authority

*As amended *vide* Himachal Pradesh Town and Country Planning (Amendment) Act, 2001 (Act No.15 of 2001).

**As amended *vide* Himachal Pradesh Town and Country Planning (Amendment) Act, 2006 (Act No.22 of 2006).

(2) The State Government may, by notification in the Official Gazette, abolish the Special Area Development Authority constituted under section 67 of the Act from such date as may be specified therein and the said authority shall stand abolished accordingly.

(3) On and with effect from the date of abolition of the Special Area Development Authority all properties, assets, liabilities, funds, dues and staff which are realizable and vested by the authority shall vest in or be realizable by such authority or corporation or agency, as the case may be as the State Government may deem fit.”

Staff **69.**(1) Every Special Area Development Authority may appoint officers and servants as may be necessary and proper for the efficient discharge of its duties.

Provided that no post shall be created save with the prior sanction of the State Government.

(2) The State Government may make rules in respect of recruitment, qualification, appointment, scale of pay, leave allowance and other conditions of service of the officers and servants appointed under sub-section (1).

Functions **70.** The functions of the Special Area Development Authority shall be:-

- (i) to prepare, if required to do so, the development plan for the special area;
- (ii) to implement the development plan after its approval by the State Government;
- (iii) for the purpose of implementation of the plan, to acquire, hold, develop, manage and dispose of land and other property;
- (iv) to carry out construction activity and to provide such utilities and amenities as water, electricity, drainage and the like;
- (v) provide the municipal services as specified in the Himachal Pradesh Municipal Act, 1994;*
- (vi) to provide for the municipal management of the special area in the same manner as is provided in the Himachal Pradesh Municipal Act, 1994;*
- (vii) to otherwise perform all such functions with regard to the special area as the State Government may, from time to time, direct:-

Provided that functions specified in clauses (v) and (vi) shall not be performed unless so required by the State Government.

Powers **71.** The Special Area Development Authority shall:-

- ** (a) for the purpose of acquisition of land, make a request to the State Government to acquire land for public purpose under the provisions of ***“Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013”.
- (b) for the purpose of planning, exercise the powers which the Director has under this Act ***“except CHAPTERS-IX-A and IX-B; and
- (c) for this purpose the municipal administration have the powers which a Municipal Council has under the Himachal Pradesh Municipal Act, 1994*.

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*As amended *vide* Himachal Pradesh Town and Country Planning (Amendment) Act, 2001 (Act No.15 of 2001).

**As amended *vide* Himachal Pradesh Town and Country Planning (Amendment) Act, 2007 (Act No.2 of 2007).

***As amended *vide* Himachal Pradesh Town and Country Planning (Amendment) Act, 2015 (Act No.14 of 2015).

72.(1) Every Special Area Development Authority shall have its own fund and all receipts of that authority shall be credited thereto and all payment of that authority shall be made therefrom.

Fund of
Special Area
Development
Authority
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(2) The Special Area Development Authority shall levy the development charge in the manner as prescribed under section 61 and 62 of this Act.

“(2a) The Special Area Development Authority may levy infrastructure and maintenance charges at such rates as may be prescribed on the commercial establishments including industries, hotels, brick kiln, apartments, shopping mall etc. which may be utilized on development and maintenance of infrastructure like roads, parks, parking etc. with the prior approval of the Government.”

(3) The Special Area Development Authority may for all or any of the purposes of this Act:-

- (a) accept grants from the State Government or a local authority;
- (b) raise loans, subject to such terms and conditions as may be prescribed.

73.(1) The Chairman shall lay, not later than 10th of March every year, before the Special Area Development Authority an estimate of the income and of the expenditure of that authority for the year commencing on the first day of April next ensuing in such detail and form as that Authority may from time to time direct.

Annual
estimates

(2) Such estimates shall make provision for the due fulfillment of all liabilities of the Special Area Development Authority and for the efficient implementation of this Act and shall be complete and a copy thereof shall be sent to each member of that authority at least ten clear days prior to the meeting before which the estimate is to be laid.

(3) The Special Area Development Authority shall consider the estimate so submitted and shall sanction the same either unaltered or subject to such alterations as it may think fit.

(4) The estimates so sanctioned shall be submitted to the State Government who may approve the same with or without modifications

(5) If the State Government approves the estimates with modifications, the Special Area Development Authority shall proceed to amend the same and the estimates so modified and amended shall be in force during the year.

CHAPTER-IX

CONTROL

74. The State Government shall have power of superintendence and control over the acts and proceedings of the officers appointed under section 3 and the authority constituted under this Act.

Power of State
Government
of supervision
and control

75.(1) In the discharge of their duties the officers appointed under section 3 and the authority constituted under this Act shall be bound by such directions on matters of policy as may be given to them by the State Government.

Power of State
Government
to give
directions

(2) If any dispute arises between the State Government and any authority, as to whether a question is or not a question of policy, the decision of the State Government shall be final.

Power of Government to review plans etc. for ensuring conformity

- 76.** Notwithstanding anything contained in any other enactment for the time being in force, the State Government may, with a view to ascertaining that no repugnancy exists or arises with the provisions of this Act or the rules made thereunder, review the town improvement schemes, building plans or any permission for construction sanctioned or given by any authority under development plans, sanctioned under any enactment for the time being in force and may revoke, vary, or modify any scheme, plan, permission or sanction in conformity with the provisions of this Act:

Provided that no order under this section shall be made without giving a reasonable opportunity of being heard to the persons affected thereby.

Delegation of Powers

- 77.(1)***The State Government may, by order notified in the Official Gazette, direct that any power either exercisable by it or by the Director, under this Act (not being the power to make rules) may also be exercised, in such cases and subject to such conditions, if any, as may be specified in such order, by such officer or authority as may be specified herein.

***“Provided that in case the powers are delegated to Municipal Corporation, Municipal Council or Nagar Panchayat ***“or the Panchayati Raj Institutions”, the Government may, by notification, permit such authorities to utilize the fee collected under the provisions of Himachal Pradesh Town and Country Planning Rules, 1978, toward their local fund”.

- (2) Subject to such restrictions as may be imposed by the State Government by a general or special order, the Director may by an order in writing delegate to any officer subordinate to him all or any powers exercisable by him under this Act or the rules made thereunder other than the power to hear appeal and revision.

Dissolution of authority

- 78.(1)**Whenever in the opinion of the State Government the continued existence of any authority constituted under this Act is unnecessary or undesirable the State Government may by notification declare that such authority shall be dissolved from such date as may be specified therein and the authority shall stand dissolved accordingly.

- (2) As from the said date -

- (a) all the properties, funds and dues which are vested in or realizable by the authority shall vest in or be realizable by the State Government;
- (b) all liabilities which are enforceable against the authority shall be enforceable against the State Government;
- (c) for the purpose of realizing properties, funds and dues referred to in clause (a), the function of the authority shall be discharged by the State Government;
- (d) all powers and functions to be exercised or discharged by the authority under this Act shall be exercised and discharged by the Director and for the purpose any reference in this Act to the said authority shall be construed as a reference to the Director.

*As amended *vide* Himachal Pradesh Town and Country Planning (Amendment) Act, 1997 (Act No.11 of 1997).

**As amended *vide* Himachal Pradesh Town and Country Planning (Amendment) Act, 2001 (Act No.15 of 2001).

*** As amended *vide* Himachal Pradesh Town and Country Planning (Amendment) Act, 2013 (Act No.41 of 2013).

CHAPTER IX-A*REGISTRATION OF PROMOTERS AND ESTATE AGENTS****78a. Registration compulsory.-**

- (1) No person shall carry on the business of promoter or estate agent, or represent or hold himself out as carrying on such business, except under and in accordance with the terms and conditions of the certificate of registration granted under this Act. Registration Compulsory
- (2) An application for registration under sub-section (1) as a promoter, or as an estate agent, as the case may be, shall be made alongwith a prescribed fee in the prescribed form to the Director, and the Director on receipt of the application may enter the name of the applicant in the register of promoter, or, in the register of estate agents, as the case may be, maintained under this Act in the prescribed form and grant a certificate of registration in the prescribed form to such person for the conduct of his business in accordance with the terms and conditions of the certificate of registration and the provisions of this Act and the rules made thereunder.

78b. Conditions for registration.-

Before registering and granting a certificate of registration to a promoter or, an estate agent under the provisions of section 78a, the Director shall satisfy itself, Conditions for registration

- (a) in the case, if the application is for registration as a promoter, that the promoter himself or one of his employees, or one of the partners of the firm or one of the directors of the company if the applicant is a firm or company, as the case may be, possesses the prescribed qualifications for conducting the business of a promoter;
- (b) in the case, if the application is for registration as an estate agent, that the applicant possesses qualifications as may be prescribed;
- (c) that the applicant furnishes to the Director, either a bank guarantee or a security, for such amount and in such manner as may be prescribed;
- (d) that the person has furnished the statement of affairs clearly indicating the detailed assets and liabilities;
- (e) in case of a company, the applicant has furnished a certificate of registration of incorporation with the Registrar of Companies;
- (f) in case of a firm, certificate of registration under the Partnership Act, 1932 from the competent authority;
- (g) that the applicant has produced an attested copy of PAN alongwith Income Tax returns of last 3 years;
- (h) that the applicant has furnished the details of previous projects executed during the last 5 years alongwith their completion certificate; and
- (i) that the applicant has not been convicted of an offence under this Act or under any law involving moral turpitude.

- 78c. Term and renewal of registration.-** Every certificate of registration of a promoter or an estate agent, issued under section 78a shall be valid for a period of *****“five years”** and, on the expiry of such a period, it may be renewed for another period of two years by the Director, on an application, alongwith the prescribed fee, made by the promoter or the estate agent in that behalf: Terms and renewal of registration

*As amended *vide* Himachal Pradesh Town and Country Planning (Amendment) Act, 2013 (Act No.41 of 2013).

**As amended *vide* Himachal Pradesh Town and Country Planning (Amendment) Act, 2015 (Act No.14 of 2015).

Provided that the conditions referred to in section 78b continue to be fulfilled and the application has been made at least **“one month”* before the expiry of the certificate of registration.



78d. Refusal to grant or renew registration.-

Refusal to grant or renew registration	If after giving the applicant an opportunity of being heard, the Director refuses to grant or renew a certificate of registration, he shall record his reasons therefore in writing and communicate the same to the applicant.
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78e. Cancellation of certificate of registration.-

Cancellation of certificate of registration	<p>(1) A certificate of registration granted under section 78a shall be liable to be cancelled by the Director on the grounds mentioned in sub-section (2) and by an order made in writing recording the reasons for such cancellation.</p> <p>(2) A certificate of registration is liable to be cancelled, if the promoter or estate agent, as the case may be,-</p> <ul style="list-style-type: none"> (a) surrenders the certificate of registration as he does not wish to continue carrying on the business; (b) has applied to be adjudicated or has been adjudicated an insolvent or is an undercharged insolvent; (c) has been adjudicated to be of unsound mind by a competent court; (d) has been convicted of an offence under this Act or under any law involving moral turpitude, if convicted, a period of five years has not elapsed since his conviction; and (e) has contravened any of the terms and conditions of the certificate of registration or any of the provisions of this Act or the rules made thereunder.
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78f. Notice before cancellation.

Notice before cancellation	<p>(1) Before cancelling a certificate of registration Under section 78e, the Director shall give notice to the promoter, or the estate agent, as the case may be, specifying the grounds and calling upon him to show-cause why the certificate of registration should not be cancelled.</p> <p>(2) After considering the explanation, if any, offered by the promoter, or, the estate agent, as the case may be, the Director may cancel the certificate of registration, or pass such orders as it may deem fit.</p> <p>(3) Notwithstanding anything contained in sub-sections (1) and (2), the Director may suspend the certificate of registration of a promoter or an estate agent, as the case may be, pending decision on the matter of cancellation of the certificate of registration.</p> <p>(4) Where any certificate of registration is suspended or cancelled under this Act, no person shall be entitled to any compensation or the refund of any fee paid in respect thereof:</p>
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Provided that if such person intends to withdraw his application at the processing stage, he shall be entitled to the refund of seventy five percent of such fee.

78g. Carrying on business after cancellation.-

When a certificate of registration is suspended or cancelled under the provisions of section 78f or when it expires and is not renewed, under the provisions of section 78c, a promoter or estate agent, as the case may be, shall cease to carry on the business and any business or activity in furtherance of his business during the period of suspension or after the expiry or cancellation of the certificate of registration, shall be liable for all consequences thereof:



Provided that when decision is pending on an application for renewal of registration, no such presumption shall be made, if business is carried on after the expiry of the period of registration of certificate.

78h. Maintenance of accounts and records.-

- (1) Every promoter or estate agent shall maintain such accounts, registers and records in such form and manner as may be prescribed.
- (2) The Director shall maintain such register as may be prescribed showing sufficient particulars of all cases in which license under section 78p or certificate of registration under this Chapter is granted or refused by him and the said register shall be available for inspection without charges by all interested persons and such persons shall be entitled to have extract there from on payment of fee as may be determined by the Director.

Maintenance
of accounts
and records

78i. Audit.-

The promoter or estate agent shall get his accounts audited after the close of every financial year by a Chartered Accountant, and shall produce a statement of accounts duly certified and signed by such Chartered Accountant in the manner prescribed and it shall be verified during the audit that amounts collected for a particular purpose are not utilized for any other purpose.

Audit

78j. Periodical returns.-

Every promoter or estate agent shall submit to the Director such periodical returns as may be prescribed.

Periodical
returns

78k. Inspection.-

For the purpose of satisfying itself, that the requirements of this Act and the rules made thereunder or the terms and conditions of the certificate of registration granted under this Chapter or licence granted under section 78p of this Act of a promoter or an estate agent are duly complied with, the Director may inspect or cause to be inspected, at any time during business hours, any accounts or records of a promoter or an estate agent relating to such business.

Inspection

78l. Essentiality Certificate.-

A promoter who needs to arrange land for any project from private land owners shall have to obtain essentiality certificate from the Government.

Essentiality
Certificate

78m. No Objection Certificate.-

In case the intended area of development falls outside Town and Country Planning areas, the promoter concerned shall be required to obtain No Objection Certificate from Director before applying for essentiality certificate.

No Objection
Certificate

CHAPTER-IX-B*REGULATION OF PROMOTION, CONSTRUCTION, SALE, TRANSFER AND MANAGEMENT OF APARTMENTS, PLOTS AND PROPERTIES****78n. General liabilities of promoter. –**

General
liabilities of
promoter

(1) Notwithstanding anything contained in any other law for the time being in force, a promoter, who develops a colony or who constructs or intends to construct a building or apartments, shall, in all transactions with persons taking or intending to take a plot or an apartment on ownership basis, be liable to give or produce, or cause to be given or produced, the information and the documents mentioned hereinafter in this section.

(2) A promoter who develops a colony or who constructs or intends to construct such building or apartments shall,-

(a) make full and true disclosure of the nature of his title to the land on which such colony is developed or such building is constructed or is to be constructed, such title to the land having been duly certified by an Assistant Collector First Grade or Second Grade, as the case may be, after he has examined the transactions concerning it in the previous ten years; and if the land is owned by another person, the consent of the owner of such land to the development of the colony or construction of the buildings has been obtained:

Provided that the promoter may be issued letter of intent on the basis of the consent of the landowner(s) but the licence shall only be granted when the promoter acquires the absolute and clear title of the land in his own name;

(b) make full and true disclosure of all encumbrances on such land, including any right, title, interest or claim of any party in or over such land;

(c) make available for inspection on seven days notice or on demand,-

(i) of the layout of the colony and plan of development works to be executed in a colony as approved by the Director in the case of colony; and

(ii) of the plan and specifications of the building built or to be built on the land as well as of the common areas and facilities and common services provided (including supply of electricity and water, sewerage and drainage system, lifts, fire-fighting equipment), such plans and specifications being in accordance with the provisions of the building regulations, and approved by the authority which is required so to do under any law for the time being in force, indicating thereon what parts of the building and the appurtenant areas are intended to be kept as common areas and facilities in the case of apartments:

Provided that the number and sizes of the apartments shall conform to the building regulations, and the area of an apartment shall not exceed such limit as may be fixed by the Director;

* As amended *vide* Himachal Pradesh Town and Country Planning (Amendment) Act, 2013 (Act No.41 of 2013).

- (d) display or keep all the documents, plans and specifications or copies thereof referred to in clauses (a), (b) and (c) at the site and in his office and make them available for inspection to persons taking or intending to take a plot or an apartment and after the association is formed, he shall furnish the association a copy of these documents and of the sanctioned plan of the building;
- (e) disclose the nature of fixtures, fittings and amenities, including the provision for one or more lifts, provided or to be provided;
- (f) disclose on reasonable notice or on demand, if the promoter is himself the builder the prescribed particulars in respects of the design and the materials to be used in construction and, if the promoter is not himself the builder, disclose all agreements entered into by him with the architects and contractors regarding the design, materials and constructions of the building;
- (g) specify, in writing, the date by which possession of the plot or apartment is to be handed over and he shall hand over such possession accordingly;
- (h) except where there are no agreements about specific plots or apartments and allotment is made by draw of lots, prepare and maintain a list of plots or apartments with their numbers, the names and addresses of the parties who have taken or agreed to take plots or apartments, the price charged or agreed to be charged therefor, and the terms and conditions, if any, on which the plots or apartments are taken or agreed to be taken;
- (i) state in writing, the precise nature of and the terms and conditions governing the association to be constituted of persons who have taken or are to take the apartments;
- (j) not allow person to enter into possession until an occupation certificate required under any law is duly given by the appropriate authority under that law and no person shall take possession of an apartment until such occupation certificate is obtained;
- (k) make a full and true disclosure of all outgoings, including ground rent, if any, municipal or other local taxes, charges for water and electricity, revenue assessment, interest on mortgages or other encumbrances, if any;
- (l) give the estimated cost of the building and the apartments proposed to be constructed, or colony to be developed; and the manner in which escalation in such cost for valid reasons as may be approved by mutual agreement;
- (m) make a full and true disclosure of such other information and documents in such manner as may be prescribed; and
- (n) give on demand and on payment of reasonable charges true copies of such of the documents referred to in any of the clauses of this sub-section as may be prescribed.

*** (3) “Any promoter who has been granted licence under this Act, without reasonable cause, fails to comply with or contravenes the provisions of this section, sections 78p or 78q and rules or regulations made thereunder, shall, on conviction, be punished with imprisonment for a term which may extend to three years or with fine which may extend to five lacs rupees or with both.”**

* As amended *vide* Himachal Pradesh Town and Country Planning (Amendment) Act, 2015 (Act No.14 of 2015).

78o. Issue of advertisement or prospectus. –

Issue of
advertisement
or prospectus

- (1) No promoter shall issue an advertisement or prospectus, offering for sale of any apartment or plot or inviting persons who intend to take such apartments or plots to make advances or deposits, unless,-
 - (a) the promoter holds a certificate of registration under sub-section (2) of section 78a and it is in force and has not been suspended or revoked and its number is mentioned in the advertisement or prospectus;
 - (b) a copy of the advertisement or prospectus is filed in the office of the Director before its issue or publication; and
 - (c) the promoter holds a valid licence under sub-section (3) of section 78p of this Act for the colony or the building, as the case may be.
- (2) The advertisement or prospectus issued under sub-section (1) shall disclose the area of the apartments or plots offered for sale, title to the land, extent and situation of land, the price payable and in the case of colonies, also layout of the colony, the plan regarding the development works to be executed in a colony and the number and the validity of the licence issued by the Director under sub-section (3) of section 78p and such other matters as may be prescribed.
- (3) The advertisement or prospectus shall be available for inspection at the office of the promoter and at the site where the building is being constructed or on the land being developed into a colony, along with the documents specified in this section and in section 78n.
- (4) When any person makes an advance or deposits on the faith of the advertisement or prospectus, and sustains any loss or damage by reason of any untrue statement included therein, he shall be compensated by,-
 - (a) the promoter, if an individual;
 - (b) every partner of the firm, if the promoter is a firm;
 - (c) every person who is a director at the time of issue of the advertisement or prospectus, if the promoter is a company:

Provided however, that such person shall not be liable if he proves that-

- (a) he withdrew his consent to become a director before the issue of the advertisement or prospectus; or
 - (b) the advertisement or prospectus was issued without his knowledge or consent, and on becoming aware of its issue, he forthwith gave reasonable public notice that it was issued without his knowledge or consent;
 - (c) after the issue of the advertisement or prospectus and before any agreement was entered into with buyers of plots or apartments, he, on becoming aware of any untrue statement therein, withdrew his consent and gave reasonable public notice of the withdrawal and of the reasons therefor.
- (5) When any advertisement or prospectus includes any untrue statement, every person who authorized its issue, shall be punishable with imprisonment for a term which shall not be less than three months but which may extend to two years or with fine which shall not be less than five lacs rupees but which may extend to ten lacs rupees, or, with both, unless he proves that the statement was immaterial or that he had reason to believing and did upto the time of issue of the advertisement or prospectus believing that the statement was true.

78p. Development of land into colony and construction of building.-

Development
of land into
colony and
construction
of building

- (1) Any promoter, who desires to develop a land into a colony or intends to construct a building, shall make an application in the prescribed form alongwith the prescribed information and with the prescribed fee to the Director for grant of permission for the same and separate permission shall be required for each colony or building.
- (2) On receipt of the application under sub-section (1), the Director, after making enquiry into the title to the land, extent and situation of the land, capacity of the promoter to develop the colony, layout of the colony, conformity of the development of the colony with the neighboring areas, plan of development works to be executed in the colony and such other matters as it may deem fit, and after affording the applicant an opportunity of being heard and also taking into consideration the opinion of the prescribed authority, shall pass an order, in writing, recording reasons either granting or refusing to grant such permission.
- (3) Where an order is passed granting permission under sub-section (2), the Director shall grant a licence in the prescribed form, after the promoter has deposited **“development charges as may be prescribed”* in the shape of bank draft and the promoter has undertaken to enter into an agreement in the prescribed form for carrying out completion of development works in accordance with the conditions of the licence so granted:

Provided that the promoter shall not be entitled to any interest on the bank draft deposited under this sub-section.

- (4) The licence granted under sub-section (3) shall be valid for a period of **“five years”* and may be renewed thereafter for a period of two years at a time on payment of prescribed fee by the Director.
- (5) The promoter shall enter into agreement undertaking to pay development charges for development works to be carried out by the Government or a local authority.
- (6) The Director shall determine the development charges and the time and the manner in which such charges referred to in sub-section (5) shall be paid to the Government or the local authority, as the case may be.
- (7) The promoter either himself or by any other person or entity shall develop infrastructure, amenities and common facilities such as schools, hospitals, community centers and other community buildings including street lighting on the land set apart for this purpose as per approved layout plan of the colony. He shall handover such land and assets to the local authority including Panchayati Raj Institutions and Urban Local Bodies in running order on such terms and conditions as may be fixed by the Director:

Provided that if having regard to the amenities which exists or are proposed to be provided in the locality, the Director is of the opinion that it is not necessary to provide one or more of such amenities, he may exempt the promoter from providing such amenities, either wholly or in part, on such terms and conditions, as he may deem fit.

* As amended *vide* Himachal Pradesh Town and Country Planning (Amendment) Act, 2015 (Act No.14 of 2015).

- *“(8) The promoter shall reserve 10% plotted area of the project or 10% of the total apartments in Group Housing Colony, as the case may be, having above 30,000 square metres of area for Economically Weaker Sections and Low Income Groups of Society, but where the total area of the project is between 5,000 to 30,000 square metres, the promoter shall reserve either 10% plots or 10% apartments for such Economically Weaker Sections and Low Income Groups of Society or may pay such shelter fee in lieu of such plots or apartments as may be prescribed.
- *(8-a) The promoter shall reserve 15% of the plotted area or 15% of the total apartments of the project or 15% of the Luxurious Dwelling Units, as the case may be, to the Bonafide Himachalis or may pay such shelter fee only in case of Luxurious Dwelling Units as may be prescribed.
- *(8-b) The Director shall maintain a separate account of shelter fee which shall be utilized for the construction of houses for Economically Weaker Sections and Low Income Groups of Society.

Explanation.- For the purpose of this section,-

- (i) **“Group Housing”** shall mean the Group Housing for more than eight dwelling units;
 - (ii) **“shelter fee”** shall mean the fee levied and collected in lieu of the reservation of plots or apartments or Luxurious Dwelling Units, as the case may be, determined on the basis of rates specified in the rules; and
 - (iii) **“Luxurious Dwelling Units”** shall mean the Duplex, Apartments or Cottages or Villas as by whatever name called;”
- (9) The promoter shall carry out all directions issued by the Director for ensuring due compliance of the execution of the layout and the development works therein and to permit the Director or any officer authorized by him to inspect such execution:
- Provided that the promoter shall fully provide essential infrastructure i.e. roads, foot-paths, water supply, sewerage and street lighting in running order before handing over the colony or apartments to the local authority or allottees, as the case may be.
- (10) The promoter shall be responsible for the maintenance and upkeep of all roads, open spaces, public parks and public health services until the date of transfer thereof in running order, free of cost to the local authority including Panchayati Raj Institutions and Urban Local Bodies or association. Where the basic amenities have been provided by the local authorities including Panchayati Raj Institutions and Urban Local Bodies, the promoter shall pay service charges to such local authorities as may be prescribed by such authorities till transfer.
- (11) In the event of the promoter contravening any provisions of this Act, or rules made thereunder or any conditions of the licence granted under sub-section (3), the Director may, after giving an opportunity of being heard, cancel the licence and forfeit such security as has been furnished by the promoter under sub-section (3).
- (12) When a licence is cancelled under sub-section (11), the Director shall cause to be carried out the development works at the risk of the promoter and after adjusting the amount received as bank draft, recover remaining charges as the Director incurs on the said development works from the promoter and the allottees in the manner as may be prescribed as arrear of land revenue.

- (13) Notwithstanding anything contained in this Act, after development works have been carried out under sub-section (12), the Director may, with a view to enabling the promoter, to transfer the possession of, and the title to, the land to the allottees within a specified time, authorize the promoter by an order to receive the balance amount, if any, due from the allottees after adjustment of the amount which may have been recovered by the Director towards the cost of the development works and also transfer the possession of, and the title to, the land to the allottees within the specified time and if the promoter fails to do so, the Director shall on behalf of the promoter transfer the possession of, and the title to, the land to the allottees on receipt of the amount which was due from them.
- *“(14) The promoter may transfer the approved project to any other registered promoter with the prior approval of Director in such manner and on payment of such fee as may be prescribed. However, the registered promoter may get an approved project transferred in his name only after getting a valid licence in such manner, on payment of such fee, security and service charges as may be prescribed”.

78q. Agreement of sale.-

Agreement of
sale

- (1) Notwithstanding anything contained in any other law for the time being in force, a promoter who intends to construct or constructs building or apartments, all or some of which are to be taken or are taken on ownership basis or who intends to offer for sale of plots in a colony, shall, before he accepts any sum of money as advance payment or deposit, which shall not be more than twenty five per cent of the sale price, enter into a written agreement for sale with each of such persons who are to take or have taken such apartments or plots, as the case may be, and the agreement shall be in the prescribed form together with prescribed documents:

Provided that if only a refundable application fee is collected from the applicant before draw of lots for allotment, such agreement shall be required only after such draw of lots.

- (2) The promoter shall not cancel unilaterally the agreement of sale entered into under sub-section (1) and if he has sufficient cause to cancel it, he shall give due notice to the other parties to the agreement and tender a refund of the full amount collected together with interest at the rate of twelve percent per annum.
- (3) The agreement to be prescribed under sub-section (1) shall contain inter alia the particulars as hereunder specified in clause (a) in respect of apartments and as specified in clause (b) in respect of plots in a colony and to such agreement shall be attached the copies of the documents specified in clause (c), -
- (a) the particulars in the case of apartment,-
- (i) the liability of promoter to construct the building according to the plans and Specifications approved by the authority which is required so to do under any law for the time being in force and the statement of the use for which the apartment is intended and restrictions on its use, if any;
 - (ii) the price of the apartment and date by which its possession is to be handed over to the allottee with area including area of balconies; and.
 - (iii) the nature, extent and description of the common areas and facilities and the limited common areas and facilities including the proportionate price of the common areas and facilities and intervals at which the installments thereof may be paid by the allottee of the apartment. The percentage of undivided interest in the common areas

and facilities and in the limited common areas and facilities, if any, pertaining to the apartment agreed to be sold, such percentage shall be the ratio of the built-up area of the apartment to the total built-up area of all the apartments;



- (b) the particulars in the case of plots in a colony,-
 - (i) the date by which the possession of the plot is to be handed over to allottee; and
 - (ii) the price and area of the plot with statement of the use for which the plot is intended and restriction on its use, if any;
- (c) the copies of documents to be attached with the agreement,-
 - (i) the certificate by an Assistant Collector First Grade or Second Grade, as the case may be, referred to in clause (a) of sub-section (2) of section 78n;
 - (ii) certified copy from any relevant revenue record showing the nature of the title of the promoter to the plot or the land on which the building or apartment is constructed or is to be constructed; and
 - (iii) the plans and specifications of the apartment as approved by the authority which is required so to do under any law for the time being in force.

Maintenance
of accounts by
promoters

78r. Maintenance of accounts by promoters.-

The promoter shall obtain all requisite permissions and shall maintain proper account of payments received and expenses incurred and will show it to the Director as and when required.

Responsibility
for payment of
charges till
transfer

78s. Responsibility for payment of charges till transfer.-

A promoter shall, while he is in possession, and, where he collects from persons who have taken or are to take apartments or plots, sums for the payment of charges, even thereafter, pay all charges (including ground rent, municipal or other local taxes, charges for water or electricity, revenue assessment, interest on mortgages or other encumbrances, if any) until he transfers the property to the persons taking over the apartments or plots. Where any promoter fails to pay all or any of the charges collected by him from the persons who have taken over or are to take over apartments or plots, before transferring the property to the persons taking over the apartments or plots, the promoter shall continue to be liable, even after the transfer of the property, to pay such charges and penal charges, if any, to the authority or person to whom they are payable and be responsible for any legal proceedings which may be taken therefor by such authority or person.

No alterations
and rectification
of defects

78t. No alterations and rectification of defects.-

- *“(1) After the approval of the project i.e. grant of licence under sub- section (3) of section 78 p of this Act, the promoter shall not make any addition or alteration in the project, without the consent of the buyer and without the prior approval of competent authority in the prescribed manner.”

* As amended vide Himachal Pradesh Town and Country Planning (Amendment) Act, 2015 (Act No.14 of 2015).

- (2) Subject to the provisions of sub-section (1), the building shall be constructed and completed in accordance with the plans and specifications aforesaid; and if any defect in the building or material used, or if any unauthorized change in the construction is brought to the notice of the promoter **“by the buyer”* within a period of one year from the date of handing over possession, it shall wherever possible be rectified by the promoter without further charge to the persons who have agreed to take the apartments, and in other cases such persons shall be entitled to receive reasonable compensation for such defects or change and where there is a dispute as regards any defect in the building or material used or any unauthorized change in the construction, or as to whether it is reasonably possible for the promoter to rectify any such defect or change, or as regards the amount of reasonable compensation payable in respect of any such defect or change which cannot be or is not rectified by the promoter, the matter shall, on payment of such fee as may be prescribed and within a period of three years from the date of handing over possession, be referred for decision to the Director and the Director shall, after giving an opportunity of being heard to the parties and after making further enquiry, if any, as it may deem fit, pass order, which shall be final.

78u. Refund of amount.—If the promoter,-

Refund of
amount

- (a) fails to give possession in accordance with the terms of the agreement reached with the buyers of a plot or an apartment duly completed by the date specified or any further date agreed to by the parties; or
- (b) does not give possession by the date specified or further date agreed, the promoter shall be liable on demand but without prejudice to any other penalties to which he may be liable, to refund the amounts already received by him in respect of that plot or apartments with simple interest at the rate of twelve percent per annum from the date the promoter received the sums till the date the amounts and interest thereon is refunded and the amounts and the interest shall be a charge on the land on which a plot is to be developed or a building is or was to be constructed and the construction, if any, thereon shall be subject to any prior encumbrances.

78v. No mortgage without consent.-

No mortgage
without
consent

- (1) No promoter shall, after he executes an agreement to sell any apartment or plot, mortgage or create a charge on such apartment or the land or the plot, without the previous consent of the person who takes or agrees to take such apartment or plot, and if any such mortgage or charge is made or created without such previous consent, it shall not affect the right and interest of such person.
- (2) If a promoter has executed an agreement of sale of an apartment or a plot with a buyer and has not yet received from him all the amounts agreed to be paid, the buyer shall not mortgage or create a charge against such apartment or plot without the previous consent of the promoter:

Provided that the promoter shall not withhold consent if the mortgage or charge is for the purpose of obtaining finance for the payment of amounts due to the promoter.

Completion and occupation certificate **78w. Completion and occupation certificate.-**

- (1) It shall be the responsibility of the promoter,-
 - (i) in the case of apartments, to obtain from the authority required to do so under any law completion and occupation certificate **“in respect of complete project or part thereof”* for the building and if a promoter, within a reasonable time, after the construction of the building, does not apply for an occupation certificate from such authority, the allottee of an apartment may apply for an occupation certificate from the said authority; and
 - (ii) in the case of a colony, to obtain completion certificate from the Director to the effect that the development works have been completed in all respects as per terms and conditions of the licence granted to him under section 78p.
- (2) The authority referred to in sub-section (1) shall after satisfying itself about the agreement of sale between the promoter and the allottee, and the compliance of the building regulations and all other formalities,**“and development work carried out by the promoter, issue an occupation certificate for complete project or part thereof”*.

Promoter to execute documents **78x. Promoter to execute documents.-**

After the completion or occupation certificate is obtained under section 78w, the promoter shall submit a copy thereof to the Director and thereafter he shall take all necessary steps to complete his title and convey the exclusive ownership of the apartment or plot containing such particulars as may be prescribed and the undivided interest in the common areas and facilities appurtenant to such apartment or plot to the person in whose favour he has executed an agreement of sale of that apartment or plot, and execute a conveyance deed of apartment or plot containing such particulars as may be prescribed and all other relevant documents therefor in accordance with such agreement, within three months from the date of giving possession of the apartment or plot and also deliver all documents of title relating to the property which may be in his possession or power and the promoter shall not reserve any right in the property except to the extent of apartments or plots which he is taking up in his own name and apartments or plots which are meant for sale but are still unsold.

Enforcement of registration of conveyance **78y. Enforcement of registration of conveyance.-**

- (1) If the promoter without sufficient cause fails to execute the conveyance deed of apartment or plot and other relevant documents within three months in terms of the provisions of section 78x, the person in possession of the apartment or plot in pursuance of the agreement of sale may make an application, in writing, in the prescribed form to the Director for a certificate to be produced before the concerned registering officer for enforcing the registration of the transfer and on receipt of such application and after making such enquiry as may be necessary and satisfying itself that occupation or completion certificate has been obtained from the authority required to do so under any law and the person in possession has done what he was required to do under the agreement of sale, the Director shall issue a certificate to the registering officer that it is a fit case for enforcing registration of the conveyance deed and direct the person who has taken the apartment or plot to present the conveyance deed of apartment or plot though not executed by the promoter for unilateral execution of registration.

* As amended *vide* Himachal Pradesh Town and Country Planning (Amendment) Act, 2015 (Act No.14 of 2015).

- (2) After the conveyance deed of apartment or plot alongwith the certificate issued by the Director under sub-section (1) is presented for registration, the registering officer shall cause a summons to be issued to the promoter and if the promoter fails to appear in compliance with the summons so issued, the execution of the instrument shall be deemed to be admitted by him and the registering officer shall proceed to register the instrument and if the promoter appears but denies execution of the conveyance deed, the registering officer, after giving him a reasonable opportunity of being heard, if satisfied that the promoter has failed to execute the conveyance deed without sufficient cause, shall proceed to register the same.
- (3) If the promoter fails to execute a written agreement of sale as required under section 78q, or fails to execute the conveyance deed of apartments or plots and other relevant documents as specified in sub-section (1), within three months, the Director may, either on a complaint or *suomoto*, impose for each plot or apartment for which there is a default, a penalty upto a maximum of five percent of the price of the plot or the apartment or fifty thousand rupees, whichever is greater, and further minimum penalty of five hundred rupees for each day for which the default continues for each plot or apartment, and such penalty may be recovered against the bank draft deposited under sub-section (3) of section 78p :

Provided that the penalty if not received fully against the bank draft, the balance shall be recoverable as arrear of land revenue.

- (4) The penalty imposed under sub-section (3) shall be in addition to any action taken under the Indian Stamp Act, 1899, (2 of 1899) or the Registration Act, 1908 (16 of 1908) and if a penalty is imposed under the provisions of any of these Acts, the promoter shall not be liable to penalty for the same offence under this Act or under any other law governing the apartment ownership.

78z. Promoter's responsibility for essential services.-

Promoter's
responsibility
for essential
services

- (1) No promoter and no person who is responsible for the management and maintenance of a building or apartments, shall without just and sufficient cause, either by himself or through any person, cut off, withhold, curtail or reduce, any essential supply or service enjoyed in respect of such apartment or plot by the person who has taken or agreed to take an apartment or plot or by any person in occupation thereof through or under him.
- (2) If there is a contravention of the provisions of sub-section (1), the person who has taken or agreed to take the apartment or plot or the occupier thereof may make an application to the Director for a direction to restore such supply or service.
- (3) If the Director on enquiry finds that the person referred to in sub-section (2) has been in enjoyment of the essential supply or service and that it was cut off or withheld or curtailed or reduced without just and sufficient cause, the Director shall make an order directing the restoration of such supply or service before a date to be specified in the order.
- (4) If the supply or service is not restored before the date specified under sub-section (3), the promoter or the person responsible for the management and maintenance of the building or apartment or plot shall be liable, upon a further direction by the Director to that effect, to a penalty which may extend to one thousand rupees for each day during which the default continues thereafter.

- (5) Notwithstanding anything contained in any law for the time being in force, the Director shall have jurisdiction to decide any application made under sub-section (2) and no other court shall have jurisdiction to entertain such application and no appeal shall lie from any order made on such application.
- (6) Any promoter or person responsible for the management and maintenance of building or apartment or plot, who contravenes the provisions of sub-section (1), shall on conviction be punished with imprisonment for a term which may extend to three months or with fine, which may extend to fifty thousand rupees or with both.
- (7) The offence under sub-section (6) shall be cognizable, and shall not be triable by any court inferior to that of Judicial Magistrate of the First Class.

Explanation-I-In this section, "essential supply or service" includes the supply of water, electricity, lights in passages and on staircase, and lifts and conservancy or sanitary service.

Explanation-II-For the purposes of this section withholding any essential supply or service shall include acts or omissions attributable to the promoter or the person responsible for the management and maintenance of the building or apartment, on account of which the essential supply of service is cut off by the local authority or any other authority.

Regulation of property **78za. Regulation of property.-**

- (1) A promoter who enters into a transaction for the transfer relating to a property shall,-
- (a) make full and true disclosure of the nature of his title to the property indicating clearly that his title to property has been duly certified by an Assistant Collector First Grade or Second Grade, as the case may be, after he has examined transactions concerning it in the previous ten years;
 - (b) make full and true disclosure of all encumbrances on such property, including any right, title, interest or claim of any party in or over such property;
 - (c) in case the property is land held on lease, produce consent from the lessee for the transaction;
 - (d) in case the property is land, subject to the provisions of the Urban Land (Ceiling and Regulation) Act, 1976; produce clearance from the competent authority under that Act;
 - (e) make full and true disclosure of any reservations, in the development plan framed under any law for the time being in force or restrictions on the use to which the property may be put and any liability to carry out any development works;
 - (f) specify, in writing, the date by which possession of the property is to be handed over;
 - (g) make full and true disclosure of all charges, including ground rent, if any, municipal or other local taxes, revenue assessment, interest on any mortgage or other encumbrance, development charges or charges for maintenance and

upkeep of roads, drainage, sewerage, water supply, electricity, layout and constructed by the Government or any local authority.



- (2) No person shall issue a prospectus or advertisement offering for sale any property, unless the prospectus or advertisement indicates the place and time the documents and certificates relating to the matters specified in sub-section (1) are available for inspection.
- (3) The provisions of sub-sections (4) and (5) of section 780 shall apply mutatis mutandis for mis-statements in the prospectus or advertisement issued under sub-section (2) of this section.
- (4) The provisions of sections 78r, 78x and 78y shall apply mutatis-mutandis to a transaction of property made under this section.

78zb. General liabilities of allottee.-

General liabilities of allottee

- (1) Every allottee who has executed an agreement of sale to take an apartment or a plot under section 78q or any property under section 78za shall pay at the proper time and place, the price, the proportionate share of the municipal taxes, water and electricity charges, ground rent, if any, and other charges in accordance with the agreement of sale.
- (2) Any person who has executed an agreement of sale of an apartment or plot or other property and who, without reasonable excuse, fails to comply with or contravenes the provisions of sub-section (1) shall, on conviction, be punished with fine which may extend to one percent of the price of the apartment or plot or property, as the case may be, or one thousand rupees, whichever is higher.

78zc. Restriction on structures in a colony.-

Restriction on structures in a colony

Every person, erecting or re-erecting any structure in a colony in respect whereof a licence has been obtained under sub-section (3) of section 78p, shall comply with such conditions regarding use of land, layout plan, zoning regulations, site coverage, height of building, set back lines, structural and sanitary requirements, architectural control, design of buildings and material to be used in erection thereof as may be prescribed.

78zd. Constitution of Development Fund.-

Constitution of Development Fund

- *“(1) Every promoter to whom a licence has been granted under section 78p to develop a colony shall deposit the service charges as may be prescribed.”
- (2) The amount of service charges levied under sub-section (1) if not paid within the stipulated period, shall be recoverable as arrears of land revenue or the Director may cancel his licence after giving him an opportunity of being heard.
- (3) The amount of service charges deposited by the promoter under sub-section (1) or recovered under sub-section (2) shall constitute a fund to be called “the Development Fund” (hereinafter referred to as the “Fund”) and shall vest *“(with the Director”.
- (4) The fund shall be utilized *“(by the Director” for the benefit of the allottees, for development of the colonies, to promote research and development in town and country and urban affairs and for such other similar purposes as may be prescribed.
- (5) The State Government shall publish annually in the Official Gazette the report of the activities financed from the Fund and the statement of accounts.

***“78ze. Exemptions –**

Exemptions

Save as provided under section 78 zd of this Act, nothing as contained in CHAPTER IX-A and IX-B shall apply, if the promoter is -

- (a) a local authority or statutory body constituted for the development of land or housing or an authority constituted under section 40 or section 67 of this Act;
- (b) a company or a body created for development of land or housing or promotion of industry wholly owned and controlled by the State Government or the Central Government; and
- (c) any project of public interest or public utility which is to be transferred to the Government after certain period of time:

Provided that if the authorities as specified above, intends to carry out any development of land under section 29 of the Act, shall make an application in writing to the Director for seeking change of land use and for planning permission.

Penalty for contravention of the provision of Chapter IX-A and Chapter IX-B of the Act

***“78zf. Penalty for contravention of the provisions of CHAPTER IX-A and CHAPTER IX-B of the Act.-**

- (1) Save as provided in sections 38 and 39 of this Act, any person, other than a promoter, who constructs colony or building in contravention of the provisions of CHAPTER IX-A and CHAPTER IX-B of this Act and rules or regulations made thereunder, shall, on conviction, be punished with imprisonment which may extend to seven years or with fine which may extend to rupees ten lac or with both.
- (2) The fine imposed under this Act, shall be recovered as arrears of land revenue and out of the fine so recovered, the court may award such amount as he deems fit to the person from whom the advance or deposit was obtained by the promoter or the estate agent, as the case may be.”

CHAPTER-X

MISCELLANEOUS

Right of entry

79.(1) Without prejudice to any other provisions of this Act the Director or any authority established under this Act may enter into or upon, or cause to be entered into or upon, any land or building for the purpose of the preparation of plan or scheme under this Act for-

- (a) making any measurement or survey or taking levels of such land or buildings;
- (b) setting out or making boundaries and intended lines of development;
- (c) making such levels, boundaries and lines by placing marks and cutting trenches;
- (d) examining works under construction and ascertaining the course of sewers and drains;
- (e) ascertaining whether any land is being or has been developed in contravention of any provision of this Act or the rules or the regulations made there under:

* As amended *vide* Himachal Pradesh Town and Country Planning (Amendment) Act, 2015 (Act No.14 of 2015).

Provided that-

- (i) in the case of any building used as a dwelling house or upon any enclosed part of garden attached to such a buildings, no such entry shall be made except between the hours of sunrise and sunset or without giving its occupier at least 24 hours notice in writing of the intention to enter;
- (ii) sufficient opportunity shall in every instance be given to enable women (if any) to withdraw from such land or buildings;
- (iii) due regard shall always be had so far may be compatible with the exigencies of the purpose for which the entry is made, to the social and religious usages of the occupants of the land or building entered.

- (2) Any person who obstructs the entry of an officer empowered or duly authorized under this section to enter into or upon any land or building or molests such officer after such entry shall, on conviction, be punished with simple imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

80. No court inferior to that of Magistrate of the first class shall try an offence punishable under this Act. Jurisdiction of Court.

81. No court shall take cognizance of any offence under this Act except on a complaint in writing made over the signature of an officer duly authorized by the Director or a Town and Country Development Authority or a Special Area Development Authority, as the case may be. Cognizance of offences

45 of 1860 **82.** Every member and every officer of any authority established under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860. Members and officers to be public servants

83. No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act or any rule made thereunder. Suit and other proceedings

***83-A. Restriction on grant of Electricity, Water or Sewerage connection-**No electricity, water or sewerage connection shall be given to any person within the planning or Special area constituted under the Act unless a No Objection Certificate has been obtained by such person from the Director or the Special Area Development Authority, as the case may be.

***“Provided that the service providing authorities shall disconnect the service connections forthwith of a building or a land, in case any deviations from approved plan or un-authorized constructions is brought to the notice of such authorities by the Director or officer vested with the powers of the Director.”

84. No act of a Town and Country Development Authority or a Special Area Development Authority or any of its committee shall be invalid merely by reasons of- Vacancy not to invalidate proceedings

- (a) any vacancy, in or defect in the constitution thereof; or
- (b) any defect in the appointment of a person acting as Chairman or member thereof; or
- (c) any irregularity in the procedure thereof not affecting the merits of the case.

* As amended *vide* Himachal Pradesh Town and Country Planning (Amendment) Act, 2001 (Act No.15 of 2001).

**As amended *vide* Himachal Pradesh Town and Country Planning (Amendment) Act, 2015 (Act No.14 of 2015).

Member to continue till successor enters upon office

- 85.** A Chairman or a member of a Town and Country Development Authority or a Special Area Development Authority shall, notwithstanding the expiration of his term, continue to hold office till his successor enters upon office.

Interpretation of regional plan etc.

- 86.**(1) If any question arises regarding the interpretation of any regional plan, the matter shall be referred to the Director who shall pass such order thereon as he may deem fit.
- (2) Any person aggrieved by the decision of the Director may prefer an appeal to the State Government within such time and in such manner as may be prescribed.
- (3) The decision of the State Government and subject to the decision of the State Government, the decision of the Director shall be final.

CHAPTER-XI

RULES AND REGULATIONS

Powers to make rules

- 87.**(1) The State Government may, after previous publication, make rules for carrying out the purposes of this Act.
- (2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for-
- (i) other categories of officers which may be appointed under section- 3(1);
 - (ii) the form and manner of publication of notice inviting objections and suggestion under section 8(1);
 - (iii) the manner of publication of the regional plan under section 9(2);
 - (iv) the manner of publication of an existing land use map under section 15(1) for inviting objections and suggestions;
 - (v) the regulation of the forms and contents of interim development plan under section 17;
 - (vi) the manner of publication of the draft development plan under section 19(1);
 - (vii) the manner of publication of public notice under section 20 (4);
 - (viii) the documents and plans which shall accompany the information under section 28(1);
 - (ix)(a) the form of application under section 30(1), the particulars which such application shall contain and the documents which shall accompany such application;
 - (b) the fee which shall be accompanied with the application under section 30 (2);
 - (x) the form in which permission shall be granted under section 31 (3);
 - (xi) the manner of communication of order under section 31 (4).
 - *“(xi-a) the Form in which Structural Stability Certificate is to be furnished under section 31-A of the Act”; and
 - (xii) the manner in which the appeal shall be made and the fees which shall accompany such appeal under section 32 (1);

- (xiii) the time within which, the manner in which and the documents together with which a notice shall be served under section 35 (1);
- (xiv) the manner in which amount in lieu of expenditure incurred after the grant of permission may be assessed under section 37 (1);
- ***“(xiv-a) the manner in which an application shall be made under section 39-C of the Act and the amount to be charged for composition of offence;”.
- (xv) the manner in which an application shall be made under section 39 (3);
- **“(xv-a) the rates at which, and conditions subject to which, the salary and allowances to be paid to the Chairman, Vice-Chairman and members under Section 45;
- (xvi) the manner of publication of declaration under section 52(2);
- (xvii) the form in which and the manner in which the town development schemes in draft form shall be published under section 52(3);
- (xviii) the manner in which the final town development scheme shall be published under section 52 (7);
- (xix) the terms and conditions subject to which the land shall vest in the Town and Country Development Authority under section 58;
- (xx)(a) the form in which and the manner in which a notice shall be published under section 61(1);
- (b) the form in which a notice shall be issued under section 62(4);
- (xxi) the terms and conditions subject to which the Town and Country Development Authority may issue debentures or borrow money under section 65;
- (xxii) the terms and conditions subject to which loans may be raised under section 72(2); and
- ****“(xxiii) the form of application for registration of promoters and estate agents and the fee for such application, form for maintenance of registers and the form of registration certificate under sub-section (2) of section 78a;
- (xxiv) the qualifications for a promoter and for an estate agent and the amount and manner of security to be furnished under section 78b;
- (xxv) the fee for renewal of registration under section 78c;
- (xxvi) the form and manner of maintaining accounts, registers and records by a promoter or estate agent under sub-section (1) and maintenance of register by the Director under sub-section (2) of section 78h;
- (xxvii) the manner in which the accounts shall be audited and certified by a Chartered Accountant under section 78i;
- (xxviii) the periodical returns which a promoter or estate agent has to submit to the Director under section 78j;
- (xxix) the particulars in respect of the design and the materials to be used in the construction of the building and the other information and documents to be disclosed, the manner in which disclosure is to be made and the documents of which true copies shall be given by the promoter under clauses (f), (m) and (n) of sub-section (2) of section 78n;
- (xxx) the other matters to be disclosed in an advertisement or prospectus under sub-section (2) of section 78o;

* As amended *vide* Himachal Pradesh Town and Country Planning (Amendment) Act, 1995 (Act No.7 of 1995).

** As amended *vide* Himachal Pradesh Town and Country Planning (Amendment) Act, 2001 (Act No.15 of 2001).

*** As amended *vide* Himachal Pradesh Town and Country Planning (Amendment) Act, 2013 (Act No.41 of 2013).

- (xxxi) the form of application, the information to be attached with the application and the fee to be paid for the grant of permission under sub-section (1), the authority to be prescribed for giving opinion to the Director under sub-section (2), the form of licence to be issued and the agreement to be entered into under subsection(3), the fee to be paid for renewal of licence under sub-section (4), the manner of earmarking developed land, residential apartments or plots for weaker sections of society and the terms and conditions subject to which the reservation is to be made under sub-section (8) and service charges to be paid under subsection (10) of section 78p;
- (xxxii) the form for the agreement of sale and the particulars and conditions to be contained in and the documents or copies thereof to be attached to such agreement under sub-section (1) of section 78q;
- (xxxiii) the particulars to be included in respect of conveyance deed of apartment under section 78x;
- (xxxiv) the form of application under sub-section (1) of section 78y;
- (xxxv) the conditions to be prescribed under section 78y;
- (xxxvi) the purposes to be prescribed under sub-section (4) of section ***“78zd”**;
- (xxxvii) any other matter for which Building Regulations or Bye-Laws may be made including the matters relating to the development control and natural hazard prone area; and
- (xxxviii) any other matter for which rules may be made.”.

Regulations

88.(1)A Town and Country Planning Development Authority or a Special Area Development Authority, as the case may be, may, subject to the provisions of this Act and the rules made thereunder, make regulations generally to carry out the purposes of this Act.

- (2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for-
 - (a) the summoning and holding of meetings, the time and place where such meetings shall be held; and the conduct of business thereat;
 - (b) procedure for disposal of developed lands, houses, buildings and other structures under section 60;
 - (c) the management of property and the maintenance and audit of accounts;
 - (d) the mode of appointment of committees, summoning and holding of meetings, and the conduct of business of each such committee.
 - (e) such other material as may be necessary for the exercise of the powers and performance of duties and functions by the Town and Country Development Authority or the Special Area Development Authority, as the case may be, under this Act.

Power to lay the rules and regulations

89. Every rule made under section 87 or the regulations made under section 88 shall be laid, as soon as may be after it is made, before the Legislative Assembly of Himachal Pradesh while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions; and if, before expiry of the session in which it is so laid or session immediately following, the Legislative Assembly agrees in making any modification in the rule or regulation, as the case may be, or decides that the rule or regulation should not be made, the

rule or regulation, as the case may be, shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.



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|---|--|---------------------------|
| <p>4 of 1922
31 of 1966
2 of 1977</p> | <p>90.(1) The Punjab Town Improvement Act, 1922, as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organization Act, 1966 and the Himachal Pradesh Town and Country Planning Ordinance, 1977, are hereby repealed.</p> | <p>Repeal and Savings</p> |
| <p>21 of 2005</p> | <p>*“(2) The Himachal Pradesh Apartment and Property Regulation Act, 2005 (Act No. 21 of 2005) is hereby repealed.</p> | |
| | <p>*(3) The repeal of the Act under sub-section (2) shall not affect-</p> <ul style="list-style-type: none"> (i) any right, privilege, delegation or liability required or incurred under the Act so repealed under sub-section(2); (ii) any penalty, forfeiture or punishment incurred in respect of any offence committed against the Act so repealed under sub-section(2); (iii) any investigation, legal proceedings or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, or punishment as aforesaid; and any such investigation, legal proceedings or remedy may be instituted, continued or enforced, or any such penalty, forfeiture and punishment may be imposed as if the aforesaid Act had not been repealed. | |
| | <p>*(4) Notwithstanding such repeal anything done or any action taken under the Act so repealed under sub-section (2) including any notification, order, notice issued, application made, or permission granted, which is not inconsistent with the provisions of this Act shall be deemed to have been done or taken under the corresponding provisions of this Act as if this Act was in force at the time such thing was done or action was taken and shall continue to be in force, unless and until superseded by anything done or any action taken under this Act.”.</p> | |