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REGULATIONS OF THE SHENZHEN SPECIAL ECONOMIC ZONE
ON LAND MANAGEMENT

(Adopted December 29, 1987 at the 30th Session of the Standing
Committee of the 6th Guangdong Provincial People's Congress and
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CHAPTER I GENERAL PRINCIPLES

[Article 1] These Regulations are formulated in accordance with the Law of the People's Republic of China on Land Management and other relevant laws in order to improve the management of land in the Shenzhen Special Economic Zone (hereinafter referred to as the Special Zone), to exploit the resources of the land and to implement rational utilisation of the land.

[Article 2] The Special Zone shall practice a system of compensatory usage and compensatory assignment of State owned land.

The State shall safeguard the rights of a land user unit or individual to use a piece of land and shall safeguard its rights to earnings from the land. A land user unit or individual shall be responsible for the protection, management and rational use of land allocated for its usage.

[Article 3] The Shenzhen Municipal People's Government (hereinafter referred to as the Municipal Government) shall be responsible for the uniform management of all areas of land, mineral reserves, waterways, mountain forest and other natural resources in the Special Zone which have been developed or are awaiting development.

Any unit or individual which wishes to use land shall apply to the Municipal Government and, for a fee, shall receive land use rights for a stipulated duration and shall be issued with a Land Use Certificate for State Owned Land.

[Article 4] A land user unit or individual shall only have the right of use of its allotted piece of State owned land and shall not be authorised to alter the purpose of usage of the land without approval.

[Article 5] The Municipal Government may, in line with public interest requirements, expropriate land in accordance with legal provisions. If collectively owned land is expropriated, the various items of compensation and resettlement subsidies shall be handled in accordance with the provisions of Implementing Measures of Guangdong Province on Land Management.

[Article 6] The Shenzhen Municipal Bureau for State Owned Land shall be the functionary organ of the Municipal Government in charge of the administration of urban and rural land within the administrative boundaries of the Municipality, and shall be responsible for organising the implementation and supervision of State and provincial land management laws and statutory regulations.

[Article 7] Income from the charged transfer of land use rights (hereinafter referred to as land use charges), land use fees and for the assignment of land use rights shall be used to establish a Special Zone land development fund. This fund, administered by the Municipal Government, shall be used to develop and safeguard land and shall not be diverted to any other purpose. Measures to administer the usage of the land development fund shall be formulated by the Municipal Government.

CHAPTER II COMPENSATORY USE OF LAND

[Article 8] Land use rights for State owned land in the Special Zone shall be handled under a Municipal Government monopoly and a uniform system of charged transfers of land use rights shall be implemented.

[Article 9] The Municipal Government may organise the charged transfer of land use rights for State owned land in the following ways:

- (1) Through an agreement;
- (2) Tender; or
- (3) Public auction.

The Municipal Government shall formulate procedures and measures for the transfer of land use rights.

[Article 10] A transferee shall sign a land use contract with the Municipal Bureau for State Owned Land in which the rights and obligations of both parties are clearly defined.

After the transferee has paid the land use charge in full, the Municipal Bureau for State Owned Land shall immediately issue a Land Use Certificate for State Owned Land and confirm the rights of usage.

[Article 11] If land use rights are transferred through an agreement or by tender, the transferee shall pay the land use charge to the Municipal Bureau for State Owned Land in accordance with provisions on the time limit and method stipulated in the land use contract. If payment is not made within the prescribed period, an overdue fine shall also be charged.

[Article 12] If land use rights are transferred through public auction, the transferee shall pay a deposit of 10% of the land use charge to the Municipal Bureau for State Owned Land within seven days of its signing of the land use contract.

A transferee shall pay the land use charge in full within 90 days of signing the land use contract. If payment has not been settled within the stipulated time limit, the Municipal Bureau for State Owned Land may dissolve the land use contract and the deposit shall not be refunded.

[Article 13] A transferee shall pay a land use fee to the Municipal Bureau for State Owned Land each year in accordance with Municipal Government provisions.

[Article 14] If a transferee wishes to alter the purpose of land usage as stipulated in the land use contract, an application for examination and approval shall be made to the Municipal Bureau for State Owned Land and, following approval, the transferee shall, in accordance with the provisions of the Municipal Bureau for State Owned Land, pay a supplementary land use charge, sign a supplementary land use contract and register the change.

[Article 15] Land use charges may, subject to Municipal Government approval, be reduced or made exempt on land used by State organs or the armed forces and for non profit-making purposes such as cultural, educational, sanitary, sports, scientific research and municipal public facilities.

[Article 16] The duration of the term of transfer of State owned land use rights shall be determined in accordance with the actual requirements of the production or management project, but the maximum term shall be 50 years.

If, on the expiry of the term for the right to use land, the transferee wishes to continue to use the land, it shall complete procedures to authorise continued use.

[Article 17] If a transferee fails for two consecutive years to meet the time limit stipulated in the land use contract for the handling of investment and construction matters, the Municipal Government shall have the right to dissolve the land use contract, recover the land use rights and, depending on the investment situation, claim compensation.

[Article 18] A land use contract signed between a land user unit or individual and the Municipal Government or its authorised department before the promulgation of these Regulations shall remain valid. If, however, the duration of the land use term or the amount of the land use fee has not been determined, supplementary procedures for the registration of land use rights for State owned land shall be completed. The Municipal Bureau for State Owned Land shall determine the land use term or the land use fee in accordance with the standard period or amount for a production or management project.

CHAPTER III COMPENSATORY ASSIGNMENT OF LAND RIGHTS

[Article 19] A land user unit or individual may assign with compensation, or may mortgage, its rights to use State owned land.

[Article 20] If a land user unit or individual assigns land use rights, it shall meet the following conditions:

- (1) Have obtained a Land Use Certificate;
- (2) Have paid, in addition to the transfer charge, 25% of the total investment pledge for development and building on the land.

[Article 21] The method of assignment of land use rights shall be determined by the parties involved.

[Article 22] If land use rights are assigned, the parties involved shall sign a contract for the assignment of land use rights, register the changes with the Municipal Bureau for State Owned Land, pay the fee for the assignment of land use rights and obtain a Land Use Certificate within 15 days of signing the contract. The standard amount for land use right assignment fees shall be determined by the Municipal Government.

[Article 23] After receiving the rights to use a piece of land, the assignee shall fulfil the obligations stipulated by the original land use contract.

[Article 24] If the fee for the assignment of land use rights is clearly lower than the current market price, the Municipal Bureau for State Owned Land may purchase back the land use right for the equivalent of the assignment fees.

[Article 25] If a land user unit or individual assigns land use rights which have had the land use charge reduced or made exempt or changes the use of the land and thereby receives economic benefits, it shall pay a land use charge to the Municipal Bureau for State Owned Land.

[Article 26] If a land user unit or individual assigns the rights to use a piece of land which it obtained through a gratis transfer before the promulgation of these Regulations, a supplementary land use charge shall be paid to the Municipal Bureau for State Owned Land. If, however, the conditions of the regulations of Article 15 of these Regulations are met, the amount may be reduced or made exempt.

[Article 27] If land use rights are mortgaged, the parties concerned shall sign a mortgage contract and register with the Municipal Bureau for State Owned Land. Mortgage loans shall be handled in accordance with the Regulations on Mortgage Loan Administration in the Shenzhen Special Economic Zone.

If a mortgagor fails to fulfil its obligations, the mortgagee shall have the right to engage an auction house to auction the land use rights mortgaged by the mortgagor and shall be entitled to priority payment of compensation from the funds received from the auction.

[Article 28] The duration of the term of assignment or mortgage of land use rights shall not exceed the duration stipulated in the original land use contract.

CHAPTER IV LAND ADMINISTRATION

[Article 29] The Municipal Bureau for State Owned Land shall be responsible for handling the following land administration matters:

(1) Surveying the natural resources of the land, formulating an overall land usage plan and establishing a land register system;

(2) Receiving applications for authorisation of ownership of land use rights, original registration applications or applications for registration of changes to land use rights and issuing the relevant certificates after verification, as well as registering the mortgage of land use rights;

(3) Handling matters concerning the charged transfer or assignment of land use rights for State owned land, determining the duration of land use terms and deciding the amount of land use charges;

(4) Collecting relevant land fees;

(5) Resolving disputes over land right ownership in accordance with the law;

(6) Determining administrative penalties for parties which violate land management laws and statutory regulations;

(7) Other matters concerning land administration.

[Article 30] The overall land usage plan drawn up by the Municipal Bureau for State Owned Land shall be implemented after its examination and verification by the Municipal Government and its approval by the Provincial People's Government.

[Article 31] The Municipal Bureau for State Owned Land shall formulate an annual land transfer plan and corresponding official survey maps, and the plan shall be implemented after approval by the Municipal Government.

[Article 32] If a dispute arises over land right ownership, the parties concerned shall resolve the matter through consultation. If consultation fails to resolve the matter, it shall be handled by the Municipal or District Bureau for State Owned Land. If either of the parties concerned disagrees with the decision, it may file a suit in the People's Court within 30 days of receiving notice of the decision.

CHAPTER V LEGAL LIABILITY

[Article 33] If these Regulations are violated through the use of deception, collaboration to force down prices or other improper means, in order to obtain land use rights, the matter shall be handled in accordance with the relevant provisions of the Law of the People's Republic of China on Land Management.

[Article 34] If a land user unit or individual alters the use of land without authorisation, the Municipal Bureau for State Owned Land shall order the matter to be rectified and may also issue a fine. If rectification is not undertaken, the Municipal Government may recover the land use rights and dismantle or confiscate any buildings or other facilities constructed on the land.

[Article 35] If a party disagrees with the administrative penalty decision imposed by the Municipal Bureau for State Owned Land, it may file a suit in the People's Court within 30 days of receiving notice of the decision. If a party fails to initiate legal proceedings or fails to comply with the decision within the time limit prescribed, the Municipal Bureau for State Owned Land shall apply to the People's Court for enforcement.

[Article 36] If a violation of State law occurs during the process of the charged transfer or assignment of land use rights and the act constitutes a criminal offence, criminal liability shall be investigated by the judicial organs.

CHAPTER VI SUPPLEMENTARY PRINCIPLES

[Article 37] Detailed Rules for the implementation of these Regulations shall be formulated by the Municipal Government and shall be reported to the Standing Committee of the Guangdong Provincial People's Congress and the Guangdong Municipal People's Government for their records.

[Article 38] These Regulations shall take effect from the date of promulgation. The Provisional Regulations on Land Administration in Shenzhen Special Economic Zone, adopted 17 November 1981 at the 13th Session of the Standing Committee of the 5th Guangdong People's Congress, shall be nullified simultaneously.