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PART I

Acts, Ordinances, President's Orders and Regulations
NATIONAL ASSEMBLY SECRETARIAT

Islamabad, the 12th April, 1975

The following Acts of Parliament received the assent of the President on the 8th April, 1975, and are hereby published for general information:—

ACT No. XXXV OF 1975

An Act to establish a system of urban planning for the North-West Frontier Province to provide for effective vertical and horizontal integration of physical planning with the economic and social planning at all Governmental levels, and to create suitable institutional framework to effectuate such objectives

WHEREAS it is expedient in the public interest to establish a system of urban planning for the North-West Frontier Province to provide for the integration of physical planning with economic and social planning at provincial, regional and local levels; to provide a structure and processes for formulating and carrying out integrated urban and rural development policies; to co-ordinate the provincial planning system with planning under the Federal Government; to create or designate government agencies to ensure proper and effective implementation of the foregoing; and to vest them with necessary powers;

AND WHEREAS the Proclamation of Emergency referred to in Article 280 of the Constitution is in force;

It is hereby enacted as follows:—

CHAPTER I—PRELIMINARY

1. **Short title, extent and commencement.**—(1) This Act may be called the North-West Frontier Province Urban Planning Act, 1975.

(2) It extends to the whole of the North-West Frontier Province.

(3) It shall come into force at once and, except section 45, shall be deemed to have taken effect on the seventh day of January, 1975.

2. **Definitions.**—In this Act, unless there is anything repugnant in the subject or context,—

(1) “agriculture” or “agricultural” includes horticulture, farming, growing of crops, fruits, vegetables, flowers, grass, fodder, trees or any kind of cultivation of soil, breeding and keeping of livestock including cattle, horses, donkeys, mules, fish and bees, and the use of land which is ancillary to the farming of land or any other agricultural purposes, but shall not include the use of any land attached to building for the purposes of a garden to be used along with such building;

(2) “Board” means the Provincial Urban Development Board, North-West Frontier Province, established under section 3;

(3) “development” includes those subjects, embraced by the operative National Five-Year Plan, Annual Development Plan or similar plan, which have special aspects or implications;

(4) “development planning” and “development plan” mean, respectively, planning and plans for development engaged in or formulated by the planning agency; and include the full range of scales, types and functions of planning;

(5) “functions” includes powers and duties;

(6) “Government” means the Government of the North-West Frontier Province;

(7) "government agency" includes—

- (a) any division, department, bureau, section, commission, board, district officer or any other officer, body or unit of Government ;
- (b) any municipal body, as defined in clause (14) ; and
- (c) any development authority or other public authority, company or corporation (whether autonomous or semi-autonomous in character), board or Improvement Trust owned or controlled by Government or a municipal body ;

(8) "land" includes the earth, water and space above, below or on the surface and includes any improvements of structures customarily regarded as land ;

(9) "land development" means the dividing of land into two or more plots, the amalgamation of plots, the carrying out of any building operation including erection, construction, redevelopment, alteration or repair, the making of any material change in the use or appearance of any structure on land and includes—

- (a) a change in the type of use of a structure or land, or, if the Land Development Regulations divide uses into classes, a change from one designated class of use to a use in another designated class ;
- (b) a reconstruction, alteration of the size or material change in the external appearance, of a structure or land ;
- (c) a change in the intensity of use of land, such as an increase in the number of business, manufacturing establishments, offices, or dwelling units in a structure or on land ;
- (d) commencement of excavation ;
- (e) demolition of a structure or removal of trees ;
- (f) deposit of refuse, solid or liquid waste or fill on land ;
- (g) in connection with the use of land, the making of any material change in noise levels, thermal conditions, or omissions of waste material ;
- (h) commencement or change in the location of an advertising structure or use of land, the commencement or change in location of advertising on the external part of a structure ;
- (i) alteration of share, bank, or flood plain of a river, lake, pond or artificial body of water ;
- (j) the installation of underground or overhead public service facilities ;
- (k) re-establishment of a use which has been abandoned or suspended for one year regardless of the intended duration of the suspension ; and
- (l) departure from the normal use for which development permission has been granted, or failure to comply with the conditions of Land Development Regulations or an order granting the development permission under which the development was commenced or is continued,

but does not include—

- (i) the carrying out by any government agency of any works on land within the boundaries of a highway, road or public street for maintenance purposes ;
- (ii) the carrying out by any government agency or public utility company or authority of any work for the purpose of inspecting, repairing or renewing any sewers, drains, mains, pipes, cables, powerlines, lighting, traffic or telephone pole or other apparatus or the like ;

- (iii) the breaking open of a highway, road or public street for any of the purposes in sub-clause (ii) ;
- (iv) the carrying out of works for the maintenance, renewal, improvement or alteration of any structure, if the work affects only the interior of the structure or colour or decoration of the exterior but does not otherwise materially affect the external appearance of the structure ;
- (v) the use of any structure or land devoted to dwelling uses for any purposes customarily incidental to enjoyment of the dwelling ;
- (vi) the use of any land for agricultural purposes ;
- (vii) excavations, including the making of wells, in the ordinary course of agricultural operations ;
- (viii) the construction of an unmetalled road intended to give access to land solely for agricultural purposes ;
- (ix) a change in the use of land or a structure from a use within a class designated in Land Development Regulations to another use in the same class ; and
- (x) a change in the form of ownership of any plot or structure or the creation or termination of easements or covenants concerning land development ;

(10) "Local Area Authority" means the Local Area Authority established under section 15 ;

(11) "Local Council" means a Local Council constituted under the North-West Frontier Province Local Government Ordinance, 1972 (N.W.F.P. Ord. No. II of 1972) ;

(12) "Local Area Plan" includes plans prepared by or for a Local Area Authority ;

(13) "member" means a member of the Board and includes the Chairman ;

(14) "municipal body" includes any municipal committee, municipal corporation, or other general purpose organization for local government constituted by or operating under a Provincial law relating primarily to municipal organization and administration and any department, committee, board, officer, body or unit thereof ;

(15) "owner" includes the person for the time being receiving the rent of land and building, whether on his own account or as agent or trustee for any person or society or for any religious or charitable purpose, or who would so receive the same if land or building were let to a tenant ;

(16) "person" includes any individual, company or association or body of individuals, including defence co-operative housing societies, whether incorporated or not or any government agency ;

(17) "planning agency" includes the Provincial Planning and Development Department, the Provincial Urban Development Board, Local Area Authority and any other government agency engaged primarily in planning for development ;

(18) "prescribed" means prescribed by rules ;

(19) "provincial concern" includes those subjects, matters, policies, areas, projects, schemes, sites, works or facilities having important implications for provincial development ;

(20) "Regulations" means regulations made under this Act ;

(21) "rules" means rules made under this Act ;

(22) "structure" includes anything constructed or installed or portable, the use of which requires a location on a plot of land, movable structure while it is located on land which can be used for housing, business, commercial, agricultural or office purposes either temporarily or permanently, and fences, billboards, pool, swimming pools, poles, pipelines, transmission lines, tracks and advertising signs whether located on a rock, tree, separate structure or part of another structure ;

(23) "urban area" means any area within the jurisdiction of a town or municipal committee and includes any other area which Government may, by notification in the official Gazette, declare to be urban area for the purposes of this Act.

CHAPTER II—CONSTITUTION AND FUNCTIONS OF THE BOARD

3. **Establishment of the Board.**—(1) As soon as may be after the commencement of this Act, Government shall, by notification, establish a Board to be called the Provincial Urban Development Board, North-West Frontier Province, to perform the functions assigned to it under this Act.

(2) The Board shall be a body corporate, having perpetual succession and a common seal, with power, subject to the provisions of this Act and the rules, to acquire and hold property, both movable and immovable, and shall by its name sue and be sued.

4. **Appointment of members.**—(1) The Board shall consist of such number of members not exceeding nine, as Government may from time to time appoint, of whom one shall be appointed as Chairman of the Board.

(2) The Chairman or any member, as designated by Government, shall be the Chief Executive of the Board.

(3) The members other than *ex officio* members shall be appointed for a period of three years and on such terms and conditions as may be determined by Government ; provided that Government may extend such term of office by such further period as it deems fit.

(4) No member appointed by virtue of his office shall continue to be member if he ceases to hold that office.

(5) Any member other than *ex officio* member may, at any time before the expiry of his term, upon three months' notice in writing to the Chairman or, in the case of Chairman to Government, resign his office, or upon similar notice, be removed from office by Government without assigning any reason.

5. **Disqualification of members.**—No person shall be or shall continue to be a member who—

(a) is or at any time has been convicted of an offence involving moral turpitude ; or

(b) is or at any time has been adjudicated insolvent ; or

(c) is a lunatic or becomes of unsound mind ; or

(d) is or at any time has been disqualified for employment in, or dismissed from, the service of Pakistan ; or

(e) is under the age of twenty-one years ; or

(f) is not a citizen of Pakistan.

6. Appointment of officers, advisers and other employees.—(1) The Board may, subject to such general or special orders as Government may from time to time give, appoint such officers, advisers and employees as it considers necessary for the efficient performance of its functions, on such terms and conditions as it may determine.

(2) The Board may employ such officers, experts, advisers, consultants and other persons as may be transferred to it by Government, on such terms and conditions as may be determined by Government.

(3) The Chairman, in cases of urgency, may appoint such officers, advisers, consultants and other employees as may be necessary :

Provided that every appointment made under this sub-section shall be reported to the Board without unnecessary delay, and shall not continue beyond six months unless approved by the Board.

(4) The Board may associate with itself in such manner, on such terms and for such period as it may deem fit, any person whose assistance or advice it may deem necessary in carrying out any of the provisions of this Act :

Provided that a person associated under this sub-section for any purpose shall not have a right to vote and shall not be deemed to be a member for that or any other purpose ; but he shall have a right to take part in the discussion of the Board.

7. Meetings of the Board.—(1) The meetings of the Board shall be held at such times and at such places as may be prescribed :

Provided that until rules are made in this behalf, such meetings shall be held at such times and at such places as may be determined by the Chairman :

Provided further that in case of emergency the Chairman may call a meeting of the Board at any time at a notice of three days.

(2) The quorum necessary for transacting business at a meeting of the Board shall be one-third of the total membership of the Board.

(3) Each member, including the Chairman shall have one vote but in the event of an equality of votes, the Chairman shall have a second or casting vote.

(4) The meeting of the Board shall be presided over by the Chairman, and, in his absence, by a member authorised by him in this behalf, and in default of such authorization by a person elected for the purpose by the members present from among themselves.

(5) No act or proceeding of the Board shall be invalid merely on the ground of the existence of any vacancy in, or any defect in the constitution of, the Board.

8. Committees.—The Board may constitute such financial, technical, advisory or other committees as may be necessary for carrying out the purposes of this Act.

9. Functions of the Board.—In order to achieve effective integration of provincial urban development planning with development planning by Federal, regional and local planning agencies and to ensure that proper consideration is

given to special aspects or implications of economic and social planning, and to accomplish other objectives of this Act, the Board shall, subject to such directions as Government may from time to time give, formulate and amend long-term, medium-term and short-term policies for development of urban areas in the North-West Frontier Province, hereinafter referred to as "Development Policies".

10. Review of public urban development activities.—(1) In order to secure compliance with urban development policies or urban development plans and Land Development Regulations, or otherwise to ensure that urban public development activities are adequately coordinated or conducted in accordance with accepted planning practices and procedures, the Board may review activities undertaken or to be undertaken by government agencies in carrying out development plans, programmes or schemes of provincial concern.

(2) For the purposes of this section, the Board may—

- (a) require any government agency to file records, reports or plans at such time as may be appointed ;
- (b) require consultation ;
- (c) make inspections ;
- (d) require the obtaining of permits from the Board prior to undertaking specified types of actions ; and
- (e) advise or direct government agencies to take corrective action in instances of non-compliance with applicable urban development policies or development plans, planning positions, Land Development Regulations or other regulations, permits or standards.

11. Inventory and annual planning review reports.—(1) The Board shall prepare and maintain accumulative inventory containing reference to or summaries of proposed or approved development policies, development plans, programmes, schemes and planning positions providing information useful to the performance of its functions.

(2) The Board shall prepare and submit to Government Annual Planning Review Reports describing significant relationships among the various items contained in the inventory then current, identifying any inconsistencies or problems of coordination and recommending measures for their correction or solution.

(3) The Government shall cause the Annual Planning Review Reports to be laid before the Provincial Assembly.

12. Regulation of development in provincial control areas.—(1) The Board may identify and define the boundaries of areas which contain, or are influenced by or influence public facilities, public investments, natural resources, or other resources of provincial concern, which may be adversely affected unless protected by adequate and effective Land Development Regulations.

(2) If upon the recommendation of the Board, Government finds that such protection is not adequate or effective in an area so defined, or that existing Land Development Regulations are unduly restrictive so as to impair the utilization of such facilities, investments or resources, Government may, by notification, declare such area to be a Provincial Control Area.

(3) The Board may adopt Land Development Regulations for a Provincial Control Area.

(4) The submission, approval, administration and enforcement of the Land Development Regulations shall be governed *mutatis mutandis* by the provisions of Chapter V.

13. Provincial physical development plans and programmes.—(1) The Board may, upon its own initiative or at the request of any government agency, and if so required by Government, shall, prepare a plan or programme for particular development project, scheme or site of provincial concern.

(2) If Government is of opinion that any area, site or project of provincial concern under the jurisdiction of another planning agency is not adequately serviced by such other agency, Government may, by notification, provide for the preparation by the Board of an appropriate plan for the area, site or project.

(3) If directed by Government, the Board shall prepare a provincial urban physical development plan to be integrated with a provincial economic development plan or adopted separately, as may be directed.

(4) The provisions of Chapter III relating to the preparation, contents and approval of Local Area Plans shall apply *mutatis mutandis* to the making of plans by the Board under sub-sections (1), (2) and (3), subject to such modifications as may be directed.

14. Other functions of the Board.—(1) The Board may provide technical guidance and support for the development and coordination of urban planning in the Province, including the provision of technical services, personnel or financial assistance to municipal bodies, for projects approved by the Board and for this purpose enter into contract with any municipal body.

(2) In connection with the performance of its functions, the Board may—

- (a) establish and maintain central technical planning and research facilities for urban areas ;
- (b) conduct training programmes and seminars on urban planning ;
- (c) prepare and distribute brochures and guidelines, model development regulations, including Land Development Regulations, or other materials for use by planning agencies or other government agencies ;
- (d) prescribe procedures, requirements or standards to be followed by other planning agencies, as may be appropriate to promote or protect provincial interest in the urban areas ;
- (e) undertake research in urban planning ;
- (f) promote professional organizations in urban planning ; and
- (g) perform any other functions assigned to it by Government.

CHAPTER III—LOCAL AREA AUTHORITIES

15. Establishment of local area authorities.—(1) When the Board is of the view that the implementation of provincial urban policies is of sufficient importance, requires considerable investment and local area planning, it may, with the prior approval of Government, by notification, establish a Local Area Authority to undertake detailed planning and implementation in a local area.

(2) The boundaries of the local area shall be such as may be defined by the Board.

16. **Delegation of functions.**—The Board may delegate all or any of its functions in respect of the local area to the Local Area Authority.

17. **Principal planning and implementation of functions of Local Area Authority.**—(1) In addition to other functions assigned to it under this Act, such Local Area Authority shall engage in a continuing planning process, and the objectives of the process, the planning tasks, the manner of performance and the type of documents to be produced shall be such as may from time to time be specified by the Board.

(2) The objectives of planning process include planning for land development and implementation thereof for all parts of the local area which may be related to any of the following :—

- (a) the location, distribution, characteristics, and intensity of uses and development of land for agricultural, residential, commercial, industrial, public or other purposes ;
- (b) the development, improvement or provision of public facilities and services such as transportation and traffic circulation system or their components ; industrial, public utility, educational, health, sanitation, community and recreational facilities, and other environmental facilities and services ;
- (c) the location, distribution, characteristics, rehabilitation and development of public and private housing ;
- (d) the preservation and protection of open spaces and historical or archaeological sites ;
- (e) the designation, improvement, clearance, re-development or renewal of blighted, insanitary or otherwise deteriorated area and the re-location and rehabilitation of their residents ;
- (f) the location and development of new or expanded urban areas ;
- (g) the acquisition of land for public purposes ;
- (h) the allocation of public land, including the terms and conditions of sales or leases ; and
- (i) any other objectives as may be prescribed.

(3) The planning tasks include—

- (a) the making of studies and surveys of population distribution and characteristics or any other factors relating to the objectives or subjects set out in sub-section (2) ;
- (b) the identification of major problems relating to, and opportunities for, development of the local area ;
- (c) the analysis, making of projections or forecasts, evaluation, and testing of or with respect to—
 - (i) the existing development conditions, policies or programmes ;
 - (ii) past or prospective changes in development condition ; or
 - (iii) proposed development policies or programmes, or alternatives.

(4) The implementation task includes maintaining of such establishment and providing with such resources and vesting it with such powers as are required for the successful implementation of approved plans.

(5) The types of documents to be produced by a Local Area Authority in the course of performing its tasks under this section may include any of the plans described in section 18 and other documents referred to in section 20.

(6) In the performance of its functions under this section, the Local Area Authority shall follow such directions as the Board may from time to time give.

18. Local Area Plans.—(1) Local Area Plans shall be known by such titles or descriptions as the Local Area Authority in its discretion may select, subject to specifications found in the notification establishing or designating the Local Area Authority or as otherwise prescribed.

(2) A Local Area Plan shall consist of a written statement summarising or setting forth findings, recommendations, proposed policies, plans, programmes and schemes described in sub-section (3) of section 17, together with such reports on underlying studies, surveys, analysis, evaluations, projections, forecasts or testing, and such explanatory maps, charts or other supplemental materials, as are declared by the Local Area Authority to be part of the Local Area Plan.

(3) The territorial and time dimensions, range of subject matter and degree of specificity of Local Area Plans shall be determined by the Local Area Authority subject to specification made in the notification designating the Local Area Authority or as may be otherwise prescribed.

(4) A Local Area Plan shall include a statement identifying—

- (a) those provisions of the Local Area Plan which may be included or reflected in Land Development Regulations to be adopted under Chapter V or to which existing Land Development Regulations shall be made to conform ;
- (b) any other provisions of the Local Area Plan to which all government agencies shall conform in taking decisions or actions, other than those incorporated in Land Development Regulations which are likely to effect future development in the local area ; and
- (c) any other provisions which are intended to serve as guides to the making of decisions relating to such future development.

19. Public participation, review and approval of Local Area Plan.—(1) Prior to submitting a proposed Local Area Plan for approval under sub-section (2), the Local Area Authority shall make copies available for public inspection or purchase and publish a notice inviting interested persons, including government agencies, to make written representations or request a hearing ; and the Local Area Authority shall designate one of its officers or a committee of its officers to receive the written representations or conduct a hearing, and submit a report to the Local Area Authority with his or its recommendations.

(2) The Local Area Authority shall submit the proposed Local Area Plan as originally proposed or modified together with a record of proceeding taken under sub-section (1) to the Board for review which shall transmit the proposed Local Area Plan to Government, together with its recommendations.

(3) Government may approve Local Area Plan as proposed or approve it with such modifications as it may deem necessary, or return it to the Local Area Authority with appropriate instructions and such approval shall be expressed by Government in such manner as it may deem appropriate.

(4) If the Local Area Plan calls for adoption of Land Development Regulations or the amendment of existing Regulations, the Local Area Authority shall

prepare and submit such regulations or amendment for approval pursuant to Chapter V within sixty days of approval by Government and all findings, recommendations, policies, plans, programmes and schemes incorporated in the Local Area Plan shall come into operation on such date as Government may appoint in this behalf.

(5) Government, in consultation with the Board, may make rules prescribing procedures and requirements for public participation and for submission, review and approval of Local Area Plans under this section ; and such rules may provide for the following, among other matters, namely :—

- (a) the time, form, contents, media and other requirements for publication of any notice or notification ;
- (b) the designation of places where copies of proposed Local Area Plans may be inspected or purchased and the fixing of prices therefor ;
- (c) the conduct of hearings ;
- (d) the period for making representations with regard to a proposed Local Area Plan, which may be not longer than sixty days from the date of the notice inviting such representations ; and
- (e) any other matter which Government may deem appropriate.

(6) The provisions of this section and the procedures and requirements applicable thereto shall apply to public participation in and the submission, review and approval of any revisions or additions to a Local Area Plan ; provided, however, that Government may, in the rules made under this section, exempt specified types of minor revisions or additions from all or any of such provisions, procedures or requirements.

20. Planning Position.—(1) At the request of any government agency or upon its own initiative, a Local Area Authority may conduct studies, make findings, form views and take positions regarding the feasibility, location, or any other features, of a particular public or private development scheme, project or work which in the judgment of the Local Area Authority may have important implications for planning under its jurisdiction, but with respect to which no approved Local Area Plan or other development plan duly sanctioned by government authority explicitly or implicitly provides adequate guidance or directions.

(2) The Local Area Authority may declare any position so taken to be known as a Planning Position.

(3) The statement of a Planning Position shall include a statement or summary of the findings and reasoning on which it was based, and shall be recorded, registered, filed and published in such manner as may be prescribed.

21. Adoption of Land Development Regulations.—A Local Area Authority may adopt Land Development Regulations pursuant to Chapter V, if so authorised in the notification establishing or designating the Local Area Authority or in a subsequent notification.

22. Implementation of approved plan.—The Local Area Authority shall be responsible for implementing the approved Local Area Plan either directly itself or through other government agencies as may be prescribed.

23. **Modification of delegation, dissolution, etc.**—The Board may, by notified order,—

- (i) modify the terms of the delegation of functions to the Local Area Authority ; or
- (ii) dissolve the Local Area Authority and transfer its functions to another local planning agency ; or
- (iii) amalgamate the Local Area Authority with another local planning agency.

24. **Completion of Local Area Development.**—After a Local Area Authority has implemented the Local Area Plan, the Board may dissolve the said Local Area Authority and hand over the local area to a Local Council having jurisdiction over the said local area.

CHAPTER IV—FINANCING

25. **Finances for the Board.**—The administrative and developmental expenses for the functioning of the Board shall be obtained by Annual Development Grants from Government, bank loans, borrowing from financial institutions, debentures and profits from the developmental activities of the Board and the projects financed by the Local Area Authorities and the municipal bodies.

26. **Finances for the Local Area Authority.**—The Board shall provide recurring expenses and development grants to the Local Area Authority to carry out the functions assigned to it.

27. **Finances for the Municipal Bodies.**—The Board may provide funds for projects undertaken by the municipal bodies for the implementation of Development Policies of the Board on such terms and conditions as may be prescribed.

28. **Loans.**—Subject to the provisions of this Act, the rules, the Local Authorities Loans Act, 1914 (IX of 1914), and any other law for the time being in force, the Board may, with the previous sanction of Government, raise loans in the prescribed manner and make suitable arrangements to the satisfaction of Government for the repayment of the loans.

29. **Accounts.**—(1) Accounts of the receipts and expenditure of the Board shall be kept in the prescribed manner and form.

(2) An annual statement of the accounts shall be prepared after the close of every financial year and shall be transmitted to Government by such date as may be prescribed.

30. **Audit.**—(1) The accounts of the Board or the Local Area Authority shall be audited in such manner, after such interval and by such authority as may be prescribed.

(2) The audit authority shall have access to all the relevant books and other documents pertaining to accounts of the Board and the Local Area Authority concerned.

(3) On the completion of audit, the audit authority shall, in the prescribed manner, submit to Government an audit report :

Provided that in the case of a Local Area Authority, a copy of such report shall be sent by the audit authority to the Board.

CHAPTER V.—LAND DEVELOPMENT REGULATIONS

31. Adoption and application of Land Development Regulations by planning agencies.—(1) A planning agency may, subject to the approval of the Board, adopt Land Development Regulations for the purpose of regulating all or specified aspects of land development.

(2) Land Development Regulations shall be applicable within the whole of a Provincial Control Area or Local Plan Area or within any part thereof specified in the Land Development Regulations.

(3) All planning agencies shall be subject to Land Development Regulations and the rules relating thereto.

32. Contents of Land Development Regulations in general.—(1) Land Development Regulations may contain general provisions applicable to all or specified types of land development, located throughout, or in specific parts of the regulated area, and may provide that land development may not be undertaken without a development permit, consisting of a General Development Permit or Special Development Permit, as provided in this Chapter.

(2) Land Development Regulations may provide for—

- (a) land development for which a General Development Permit may be granted as of right on compliance with the terms of the Land Development Regulations ;
- (b) land development for which a Special Development Permit may be granted as provided under section 33 ;
- (c) land development which is exempt from the requirement of obtaining a development permit but otherwise subject to the terms of the Land Development Regulations ;
- (d) land development which is exempt from the Land Development Regulations.

(3) Land Development Regulations may empower the planning agency to—

- (a) allow specified types of land development with prior permission ; or
- (b) allow specified types of land development upon the obtaining of a General Development Permit ; or
- (c) allow, by Special Development Permit, land development that will not be substantially inconsistent for the purposes of section 38.

(4) Land Development Regulations may divide a regulated area into zones.

33. Special Development Permits.—(1) Land Development Regulations may empower the planning agency to issue Special Development Permits for any of the following matters, namely :—

- (a) to grant permission to depart from general requirements, where compliance would cause practical difficulties, under specified circumstances ;
- (b) to grant permission to sub-divide land into plots, on the conditions—
 - (i) of dedication by the applicant of land or other property for the provision of streets, other rights-of-way, utilities, parks and other open spaces of a quality and quantity not more than reasonably necessary for the proposed land development ;

- (ii) of the payment of an equivalent amount of money for the provision of any such facilities if the planning agency finds that the dedication of land or property therefor under sub-clause (i) is not feasible ; and
 - (iii) of the assumption or discharge of such other obligations by the land developer as may be required or permitted under the rules ;
- (c) to depart from general requirements as to use of land, under specific circumstances—
- (i) where and to the extent necessary to permit some economic use of the land ;
 - (ii) to revise zonal boundaries ;
 - (iii) to instal community service facilities ;
 - (iv) for specified types of proposed land development, based on a finding by the planning agency that the proposed development is likely to be compatible with permitted development in substantially all land in the vicinity of the proposed development ; and
- (d) for any other purposes, and under any other specified circumstances subject to such appropriate restraints on the exercise of such discretion as may be necessary to accord adequate protection to neighbouring property owners and the community.
- (2) A planning agency may attach to a Special Development Permit conditions which may concern any matter subject to regulation under this Act, including means for—
- (a) minimising any adverse impact of the proposed development upon other land, including the hours of use and operation and the type and intensity of activities which may be conducted ;
 - (b) controlling the sequence of land development, its commencement and completion ;
 - (c) controlling the duration of use of land development and the time within which any structure must be removed ;
 - (d) assuring that the land development is maintained properly in the future;
 - (e) designating the exact location and nature of development ; and
 - (f) establishing more detailed records by submission of drawings or maps of specifications.
- (3) The Land Development Regulations shall prescribe procedures for the submission and determination of an application for a Special Development Permit as may be prescribed which shall provide for, among other things,—
- (a) the time, form, contents, media and any other requirements for the publication of a notice of hearing or of the opportunity to interested persons to file written representations ;
 - (b) requirements for giving individual notice to the applicant and any other designated types of persons or property owners with special interest in the matter ;
 - (c) the designation of a hearing officer or committee, or of persons to receive written representations ;
 - (d) the conduct of the hearing ;

- (e) the form, contents, service and filing of the findings and determination of the planning agency and of any order based on the determination ; and
- (f) the imposition and amounts of fees to be charged from the applicant or others in connection with such proceedings.

34. **Procedures for General Development Permit.**—Land Development Regulations shall prescribe requirements and procedures for the submission and determination of applications for General Development Permits.

35. **Approval of Land Development Regulations for restrictions imposed by other Government Agencies.**—(1) Regulations of or restrictions upon land development made or imposed by a government agency other than a planning agency shall be subject to the prior approval of the planning agency for the area concerned if embodied in or required to be embodied in the provisions of—

- (a) local Area Plan or any other development plan ;
- (b) lease terms or other restrictions, if any, imposed in the distribution of plots or structure in a housing scheme or other large scale development projects developed or owned by a government agency or cooperative housing society or subsidised by Government or Federal Government ; or
- (c) general rules, regulations or orders of a government agency which apply to the allocation of public land for specified purpose.

(2) The planning agency may approve any such provisions, notwithstanding their inconsistency with general requirements of existing Land Development Regulations, for the purpose of permitting less restrictive standards for housing or improving the living environment of groups of refugees, low income persons or industrial workers, and in such event the existing Land Development Regulations shall be amended or deemed to be amended accordingly.

(3) Government may, by notification, delegate to the planning agency for the area, the power and responsibility of any such other government agency specified in sub-section (1) and such delegation may be revoked or amended in the same manner.

36. **Public participation and review and approval of Land Development Regulations.**—The provisions of section 19, other than sub-section (5) thereof, relating to Local Area Plans shall apply *mutatis mutandis* to the review and approval of Land Development Regulations, and to public participation in such procedures, except as otherwise provided in this Chapter.

37. **Delegation of administrative or enforcement functions.**—(1) Government, after consultation with the Board, may delegate to another government agency all or specified aspects of the functions of preparation, adoption, administration or enforcement of Land Development Regulations, in respect of all or specified parts of a Provincial Control Area.

(2) Government, after consultation with a planning agency, may delegate to another government agency all or special aspects of the functions of administration and enforcement of Land Development Regulations, in respect of all or specified parts of the planning area under the jurisdiction of the planning agency.

(3) The delegation shall be made by notification, which shall describe the scope of the functions delegated and terms and conditions for their exercise,

the area or areas in which they are to be performed, and the working relationships to be maintained with the planning agency from which the functions were transferred.

(4) Government may, by notification, revoke or amend the terms and conditions of the delegation at any time it deems fit.

38. Regulation of land for acquisition by government agencies.—(1) Land Development Regulations may designate land reserved for future acquisition by government agencies, if provided in or consistent with a development programme proposing specific public actions and contained in Local Area Plan previously adopted under this Act, or in some other development plan previously sanctioned by Government.

(2) Areas designated for future public acquisition may include land for—

- (a) highways, roads, streets, or other public ways proposed for construction or alteration ;
- (b) proposed schools, recreation facilities, transportation facilities, such as airport and bus and railroad depots, government office buildings or other public buildings or works ;
- (c) proposed parks, nature preserves, or other open spaces ;
- (d) housing schemes or projects, refugees rehabilitation schemes, urban renewal or redevelopment schemes or any other land development schemes with respect to which the concerned government agency is, or may be vested with the power of, land acquisition authority ; or
- (e) any other public purpose.

(3) The land designated by Land Development Regulations for such reservation shall be subject to restrictions under this section not beyond the time shown in the Land Development Regulations for their expiration, which shall not be more than the period specified in the plan for completion of the development programme and in no event more than five years from the date of adoption of the Land Development Regulations ; provided, however, that the land may again be designated for reservation in an amended or supplemental plan adopted in accordance with the procedures prescribed for the adoption of Land Development Regulations.

(4) Land designated as reserved land shall be subject to acquisition at any time after the coming into force of the Land Development Regulations containing the reservations, and the Regulations may grant to the public sponsor of the development scheme or project for which the land is reserved (hereinafter to be referred to as "the sponsor") a first option to purchase the reserved land at whatever time it may be put to sale.

(5) An owner of private property who is not entitled to a development permit under section 32 may nevertheless apply for a Special Development Permit if he claims to be unreasonably affected by the reservation of land for public development, upon such an application the planning agency shall determine after notice and give an opportunity of being heard whether the resulting hardships will not, within a reasonable time, be off set by benefits from a development scheme or project for construction of a proposed public facility or work, and in the event a hardship is found to exist, the planning agency shall give notice of its findings of hardship to the sponsor.

(6) If the sponsor has not secured title or commenced compulsory acquisition proceedings within six months after the date of the notice of a finding of hardship, the planning agency shall, if the sponsor approves, issue a permit for development which will as little as practicable increase the cost of the proposed public development for which the land is reserved, and if the sponsor does not approve the granting of such permission, the agency shall assess damages for the hardship which shall be paid by the sponsor to the applicant.

(7) Where the applicant for permission to develop reserved land is a government agency other than the sponsor, the planning agency may grant the application only if it—

- (a) determines that an overriding public interest will be served ;
- (b) determines that the granting of the application will not seriously prejudice the carrying out of the public development scheme or project for which the land is reserved by increasing the cost of the public development or otherwise ;
- (c) attaches conditions to the grant of development permission in keeping with the determination under clauses (a) and (b).

(8) The procedures for hearing and determining the applications for development permission under sub-sections (5), (6) and (7) shall be those prescribed generally with respect to applications for Special Development Permits, or prescribed specifically for the purpose of this section, and in any event shall accord the sponsor an opportunity to participate in the proceedings.

39. Land development in contravention of Land Development Regulations.—No person shall engage in land development or permit land development except in accordance with Land Development Regulations and rules relating thereto, and upon obtaining a development permit and complying with its conditions where required.

40. Removal or prevention of violations.—(1) If a planning agency is of the opinion that any of the provisions of its Land Development Regulations or of any rules relating thereto or any conditions of a development permit are being or have been violated, it may cause a notice in writing to be served on any person responsible for the violation or permitting it to continue.

(2) The notice shall indicate the nature of the violation and the planning agency may order such action as it may deem appropriate to correct the violation, including—

- (a) the discontinuance of any illegal work being done on, or activities being conducted in relation to, land or buildings ;
- (b) the removal of unlawful conditions on the alteration, removal or demolition of illegal buildings or of illegal additions, alterations or structural changes ;
- (c) any other measures authorised by this Act, or by Land Development Regulations, or by rules to ensure compliance with Regulations or with the conditions of development permits.

(3) The order may specify the period within which the violation shall be corrected and in the event of non-compliance with the order the planning agency may itself cause appropriate measures to be taken to effect compliance, the expenses whereof shall be recoverable from the owner or owners in the manner provided for the recovery of arrears of land revenue.

(4) The giving of notice and making and service of an order under this section shall not be a pre-requisite to the initiation of, and shall not bar any prosecution under this Act, and the planning agency may take action under this section whether or not prosecution has been initiated.

41. Power of entry on land or in building.—(1) A planning agency may authorise any person to enter upon or into any land or building with or without assistants or workmen for any of the following purposes, namely :—

- (a) making any inquiry, inspection, survey or valuation ;
- (b) taking levels and marking boundaries and lines, by planning marks, cutting trenches or otherwise ;
- (c) ascertaining whether any land or building is being used or has been used or erected in contravention of any Land Development Regulations or of the conditions of any development permit ; or
- (d) doing any other acts necessary for the efficient administration and enforcement of Land Development Regulations.

(2) No such entry shall be made between the hours of sunset and sunrise ; no dwelling house and no structure which is used as a dwelling place shall be so entered, unless with the consent of the occupier, without giving not less than twenty-four hours previous written notice to the occupier or, if there be no occupier, to the owner of the dwelling house or structure, sufficient notice shall in every instance be given when the premises may otherwise be entered without notice, to enable women to remove themselves to some part of the premises where their privacy will not be disturbed and due regard shall always be had, as far as 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 premises entered.

(3) The planning agency shall be responsible for any damages that may be caused in connection with the work done under sub-section (1).

42. Designation or appointment of Appeal Boards.—(1) Government shall constitute and appoint an Appeal Board for each Provincial Control Area to perform the functions assigned to such Board under this Act ; and where all the functions of preparation, adoption, administration and enforcement of Land Development Regulations have been delegated to another government agency, a committee of officers of the Board may be designated as the Appeal Board in lieu of the creation of a new body.

(2) Government shall constitute and appoint an Appeal Board for each plan area to perform the functions assigned to Appeal Board under this Act ; a committee of officers of the Board may be designated as the Appeal Board for a Local Plan Area, and if so designated the committee shall perform its functions under this Act within the Local Plan Area.

(3) An Appeal Board shall consist of three members one of whom shall be designated as its Chairman and at least one member shall be a person who, in the opinion of the appointing authority, has special knowledge of, or practical experience in matters relating to, urban planning or real estate valuation.

43. Appeals from orders or determinations of planning agency.—(1) Any person aggrieved by a determination or order of a planning agency may appeal to the appropriate Appeal Board within thirty days from the date of notice of the determination or order.

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(2) The form and manner of making an appeal, the fees or charges to be paid by applicants, the conduct of hearings, the timing, form, contents, media and any other requirements regarding notice of hearings and the filing and service of determination shall be such as may be prescribed.

(3) An Appeal Board shall have the power to summon and enforce the attendance of witnesses and to compel the production of documents by the same means and, so far as may be, in the same manner as is vested in a Civil Court under the Code of Civil Procedure, 1908 (Act V of 1908).

(4) In making its determination the Appeal Board may affirm or reject the determination or order appealed from, or modify it, and in modifying a determination or order granting development permit the Appeal Board may alter or remove any of the conditions under which it was granted, or impose other conditions ; and the Appeal Board may also increase or decrease any assessment made under sub-section (6) of section 38.

44. Finality of determination or order of a planning agency.—The determination or order of a planning agency or of an Appeal Board where an appeal has been preferred shall be final.

45. Penalties.—(1) Any person who violates any of the provisions of Land Development Regulations or of a rule relating thereto, or of the conditions of a development permit, or who obstructs entry as provided in section 41, shall be punished—

- (a) with a fine which may extend to one thousand rupees or, in default of payment, with simple imprisonment which may extend to six months ; and
- (b) in case of continuing violation with a further fine which may extend to one hundred rupees for each day after the first day during which the violation continues.

(2) If the person committing an offence punishable under this Act is a company, firm or other association or body of individuals whether incorporated or not and if it is proved that the offence was committed with the consent or connivance of, or is attributable to, any neglect on the part of any officer of, or other individual concerned with, its management, such officer or individual shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished.

46. Complaint on which prosecution may be based.—No prosecution for any offence punishable under this Act shall be instituted except upon the written complaint of the chief officer of the planning agency or a person generally or specially authorised by the planning agency.

47. Jurisdiction of the Courts in respect of offences.—(1) All offences under this Act or the rules shall be tried by a Magistrate of the first class.

(2) No person may be so tried unless the complaint of the offence has been made to such Magistrate within six months of the commission thereof.

48. Interim control of land development.—(1) In the notification establishing a Local Plan Area or Provincial Control Area, or in any subsequent notification, Government may declare that the entire area or a specified part or parts thereof shall be subject to interim control, without the prior permission of the planning agency having jurisdiction over the area.

(2) Government shall prescribe procedure for the submission and determination of applications for such permission to the planning agencies under their respective jurisdictions.

(3) The procedures, to be known as Interim Control Procedures, shall *mutatis mutandis* conform with the requirements of sub-section (3) of section 33.

(4) After the date of the declaration under sub-section (1), the planning agency having jurisdiction over any area subject to interim control shall have exclusive authority to regulate land development within that area.

(5) Any municipal body or other government agency having and exercising town planning control or development control over the area or any part of it shall refer to the planning agency for its disposition all applications for development permission until such time as the procedures prescribed under sub-section (5) may require the making of such applications directly to the planning agency.

(6) In passing on an application by or on behalf of a land owner for development permission under this section—

(a) the planning agency shall take into consideration any town planning or development control regulations or provisions of an approved plan of a municipal body or other agency which were applicable to the property of the land owner on the date of the notification under sub-section (1), subject to any modification the planning agency may deem to be necessitated by changed circumstances in the vicinity of the proposed development reflected in decisions of Government or the Federal Government or reflected in a Planning Position therefor declared by the planning agency ; or

(b) in the absence of any such regulations, plan or Planning Position, the planning agency shall prior to making its determination declare its Planning Position on a land use pattern for the vicinity of the proposed development, taking into account the interests of the community as well as those of the proposed development.

(7) This section shall not be construed as diminishing the authority of municipal bodies or other government agencies to make and enforce building control bye-laws or regulations, except to the extent that may be inconsistent with town planning or development control, plans, Planning Positions or determinations or orders followed, declared or made under this Act.

CHAPTER VI.—MISCELLANEOUS PROVISIONS

49. **Members, officers, employees, etc., to be public servants.**—The Chairman, members, officers, advisers, consultants, or other employees of the Board shall, while acting or purporting to act, in pursuance of the provisions of this Act, or the rules or regulations made thereunder, be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code (Act XLV of 1860).

50. **Protection of action taken in good faith, etc.**—No suit, prosecution or other legal proceedings shall lie against Government or the Board or against officers, advisers, consultants or other employees of the Board, for anything done or intended to be done in good faith under this Act, or for any damage caused or likely to be caused by any such thing.

51. **Power of Government to make rules.**—(1) Government may, by notification, make rules for the purposes of carrying into effect the provisions of this Act;

(2) In particular and without prejudice to the foregoing power, such rules may provide for all or any of the following matters and all matters incidental, consequential and supplemental thereto, namely :—

- (a) the prescription of records, reports and returns to be maintained, prepared or published ;
- (b) the regulation of matters pertaining to appointment and terms and conditions of service of officers, servants and other employees of the Board ;
- (c) the administration, regulation, custody and investment of funds ;
- (d) the maintenance of accounts and their audits ;
- (e) the manner in which such agencies may be inspected and the powers of inspecting officials ;
- (f) requirements or guidelines relating to the making of surveys and maps including the scales of maps ;
- (g) the furnishing of copies of documents and the fees to be charged therefor ;
- (h) meetings of the Board, the time and place and notice of such meetings ;
- (i) any other matters which are required to be, or may be, prescribed under any of the provisions of this Act.

52. **Effect of provisions inconsistent with other laws.**—The provisions of this Act and of Land Development Regulations, rules and orders made thereunder shall have effect notwithstanding anything to the contrary contained in any other law, rules, regulations, bye-laws or orders for the time being in force, or in any contract or instrument having force by virtue of such law.

53. **Repeal.**—The Town Improvement Act, 1922 (Punjab Act IV of 1922), in its application to the North-West Frontier Province, and the North-West Frontier Province Urban Planning Ordinance, 1975 (N.W.F.P. Ordinance No. II of 1975), are hereby repealed.