

**A
Bill**

*to provide for the regulation of land-use and building control within the
Province of Khyber Pakhtunkhwa*

WHEREAS it is expedient to provide for the regulation of land-use and building control, in the Province of Khyber Pakhtunkhwa, and for matters connected therewith and incidental thereto;

It is hereby enacted by the Provincial Assembly of Khyber Pakhtunkhwa as follows:

**Chapter-I
Preliminary**

1. Short title, extent and commencement.---(1) This Act may be called the Khyber Pakhtunkhwa Land-Use and Building Control Act, 2021.

(2) It shall extend to the whole of the Province of Khyber Pakhtunkhwa.

(3) It shall come into force on such date as the Department may, with the approval of the Chief Minister, notify.

2. Definitions.---In this Act, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them, that is to say,-

- (a) "agricultural area" means the land, outside the peri-urban area, which is predominantly used for the cultivation of crops and includes cropland, pastureland, orchards, nurseries, poultry farms, fish farms and dairy farms and the areas earmarked in the district land use plan or master plan;
- (b) "Appellate Tribunal" means the appellate forum, to be established under sub-section (1) of section 41 of this Act;
- (c) "Authority" means the Provincial Land-Use and Building Control Authority, established under section 6 of this Act;
- (d) "Chairman" means the Chairman of the Council;
- (e) "commercial uses" mean the use of land or buildings for the purpose of retail merchandising, provision of services and small-scale processing;
- (f) "Convener" means the Convener of the District Land-Use Planning and Management Committee;
- (g) "Council" means the Provincial Land-Use and Building Control Council, constituted under section 3 of this Act;
- (h) "Department" means the Local Government, Elections and Rural Development Department of Government;

- (i) "designated area" means an area, designated as residential, commercial and industrial or such other category in a land-use plan or master plan;
- (j) "Director General" means the Director General of the Authority;
- (k) "existing planned areas" mean-
- (i) areas forming part of approved housing schemes;
 - (ii) areas forming part of national parks, sanctuaries, forest or game reserves, national and provincial highways;
 - (iii) agricultural areas; and
 - (iv) areas where the physical environment follows approved standards of roads width, water and sanitation services and building control and can be categorized as planned, but does not include areas which have suffered marked deterioration;
- (l) "Government" means the Government of Khyber Pakhtunkhwa;
- (m) "land-use" means the use of land for any specific purpose;
- (n) "land-use plan" means a plan for optimum use of land, in any region, to serve as a guide in zoning to meet the needs of the community and approved by the competent forum;
- (o) "master plan" means the traditional method for presenting a set of land usage, allocation and control measures in the form of a map or in graphical form and is supported by written statement of goals and objectives, strategy, financial implications and policies for planning and development for an area and includes a structure plan, an outline development plan, a spatial plan, peri-urban structure plan and a metropolitan plan approved by the competent forum;
- (p) "member" means a member of the Council;
- (q) "peri-urban area" means an area that spans the landscape between contiguous urban development and rural countryside with low population density and is predominantly being used for agricultural activity and is likely to be urbanized in the next twenty years as demarcated in district land use plan or master plan;
- (r) "prescribed" means prescribed by rules and regulations;
- (s) "Province" means the Province of Khyber Pakhtunkhwa;
- (t) "regulations" mean regulations made under this Act;
- (u) "rules" mean rules made under this Act;

- (v) "sub-type" means a sub-type, as laid down in land use regulations, made under section 52 of this Act;
- (w) "unauthorized land use" means land use otherwise than in accordance with a land use permission or without a land use permission where required;
- (x) "Unit" means the Local Planning and Enforcement Unit, constituted under section 10 of this Act; and
- (y) "urban design" means the relationship between different buildings, buildings and streets, squares, parks and waterways and other spaces, which make up the public domain, the nature and quality of the public domain itself, the relationship of one part of a village, town or city with other parts and the patterns of movement and activity which are thereby established in short, the complex relationships between all the elements of built and un-built space.

Chapter-II
Constitution and Functions of the Council

3. Provincial Land-Use and Building Control Council.---(1) There shall be a Provincial Land-Use and Building Control Council, consisting of the following:

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| (a) | Chief Minister, Khyber Pakhtunkhwa; | Chairman |
| (b) | Minister for Local Government, Elections and Rural Development, Khyber Pakhtunkhwa; | Vice Chairman |
| (c) | Minister for Agriculture, Livestock and Cooperation, Khyber Pakhtunkhwa; | Member |
| (d) | Minister for Industries, Khyber Pakhtunkhwa; | Member |
| (e) | Minister for Environment, Khyber Pakhtunkhwa; | Member |
| (f) | Additional Chief Secretary to Government, Planning and Development Department; | Member |
| (g) | Senior Member Board of Revenue, Revenue and Estate Department; | Member |
| (h) | Secretary to Government, Local Government, Elections and Rural Development Department; | Member |
| (i) | Secretary to Government, Housing Department; | Member |
| (j) | Secretary to Government, Public Health Engineering Department; | Member |

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| (k) | Secretary to Government, Communication and Works Department; | Member |
| (l) | Secretary to Government, Irrigation Department; | Member |
| (m) | Secretary to Government, Transport and Mass Transit Department; | Member |
| (n) | Secretary to Government, Environment Department; | Member |
| (o) | Secretary to Government, Industries Department; | Member |
| (p) | Secretary to Government, Agriculture, Livestock and Cooperation Department; | Member |
| (q) | five experts, including at least three experts from the private sector, to be nominated by the Chairman; and | Member |
| (r) | Director General of the Authority. | Member-cum-Secretary |

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(2) The Chairman may co-opt members belonging to the relevant expertise in relation to any matter under consideration of the Council, who may take part in discussion, but shall not be entitled to vote for or against the matter under discussion.

(3) The members shall attend all the meetings of the Council in person.

(4) The members, at clause(q) of sub-section (1), shall have adequate experience, skills and knowledge in the fields of urban and regional planning, transportation, municipal services, architecture or environment with such other qualifications as may be prescribed.

(5) The term of office of members, at clause (q) of sub-section (1), shall be three years, which may be extended for another term, unless he resigns earlier or removed by the Chairman from holding such office.

(6) In case the seat of a member, at clause (q) of sub-section (1), falls vacant, due to his resignation or removal, as the case may be, or he fails to attend three consecutive meetings without sufficient cause or reason, such vacancy shall be filled, within one month, and such member shall hold office for the remainder of the term of his predecessor.

(7) A member shall not be paid for being a member of the Council, except members from private sector, at clause (q) of sub-section (1), who may be paid honoraria, as approved by the Council.

4. Functions of the Council.---The functions of the Council shall be to-

- (a) approve policies and guidelines, pertaining to the functioning of the Authority;
- (b) approve the urban policy, physical planning standard, land-use policy, guidance notes etc. submitted to it by the Authority;
- (c) approve regulations made under this Act;
- (d) approve standards and guidelines for land use, zoning and spatial planning;
- (e) approve any strategic or master plans;
- (f) approve district land-use plans, master plans and any change or modification thereof;
- (g) approve annual budgets of the Authority, both current and development, honorarium for the experts members from private sector, at clause (q) of sub-section (1) of section 3;
- (h) create, abolish and convert posts, fix salaries, allowances and other perks and privileges for the officers and officials of the Authority;
- (i) conduct oversight of the plan preparations and their implementation under this Act;
- (j) give directions to the Authority, from time to time, for discharging its functions under this Act; and
- (k) perform any other function as may be assigned to it by Government or as it may deem appropriate under this Act.

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5. Meetings of the Council.---(1) The meetings of the Council shall be presided over by the Chairman and in his absence, the Vice Chairman shall preside over such meetings.

(2) The Council shall meet, at least bi-annually, however, the Chairman may convene the meeting of the Council as and when deemed appropriate.

(3) The quorum of the meeting shall be two-third of the total members.

(4) The Council may determine its own procedure for conduct of its business.

Chapter-III

The Provincial Land-Use and Building Control Authority

6. Establishment and composition of Provincial Land-Use and Building Control Authority.---(1) Soon after the commencement of this Act, Government shall, by notification, establish an Authority, to be known as the Provincial Land-Use and Building Control Authority.

(2) The Authority shall be a body corporate having perpetual succession and a common seal, with the power to enter into agreements, Memorandum Of Understandings, acquire, hold, manage, lease and dispose of property and to sue and be sued in its name.

(3) The Council shall act as Board of Directors of the Authority for the purposes of this Act.

(4) The head office of the Authority shall be at Peshawar; provided that the Authority may establish sub-offices anywhere in the Province with the approval of Government, for running its affairs.

(5) Without prejudice to the functions assigned to the Director General under this Act, all the Acts of the Authority, whether executive or not, shall be expressed and taken in the name of the Authority and shall be authenticated by the Director General by affixation of his official seal.

(6) The Urban Planning Policy Unit of the Planning and Development Department of Government shall provide assistance and support to the Authority for the purpose of the implementation of the provisions of this Act.

7. Director General and its functions.--- (1) There shall be a Directorate General, to be headed by a Director General, who shall be assisted by such number of Director, officers and officials, as may be determined by Government.

(2) The Directorate General shall perform the following functions:

- (a) propose physical planning standards, land-use, guidance noted etc. and recommend it to the Council for its consideration and approval;
- (b) recommend to the Council amendments in regulations, bye laws, regulatory instruments etc. for its consideration and approval;
- (c) ensure the development of master plans, strategic development plans, district land use plans, standards relating to building control or any other plans under this Act;
- (d) ensure implementation of the master plans, land-use plans or any other plans;
- (e) conduct, promote and coordinate research, in relation to different aspects of lands use, zoning and spatial planning and related matters;
- (f) publish documents, reports, statistics, monographs and other publications, relating to town and country planning and their methodology;
- (g) report to and advise the Council, upon matters in the conservation, use and development, classification and reclassification of land;
- (h) supervise, control and oversee the functions of the District Land-Use Planning and Management Committees; and

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- (i) perform any other function as may be assigned to it by the Council or Government.

8. Posting of Director General.---The Chief Minister may-

- (a) post a suitable officer of BPS-20, as Director General of the Authority, from a panel, recommended by the Establishment Department of Government, in consultation with the Department; or
- (b) appoint the Director General through initial recruitment, on contract basis, on such terms and conditions and having such qualification as may be prescribed.

9. Powers and functions of the Director General.---(1) Subject to the provisions of this Act and rules, the Director General may exercise such powers and take such measures as may be necessary for carrying out the provisions of this Act.

(2) The Directorate General shall be the administrative and financial head of the Authority and shall be responsible for the management, administration and human resource affairs of the Authority.

(3) Without prejudice to the generality of sub-section (1) and (2), the Director General shall-

- (a) prepare agenda or working papers for the meeting of the Council and submit the same to the Chairman for convening the meeting of the Council;
- (b) distribute amongst the members of the Council the agenda and working paper of the meeting;
- (c) record and disseminate the minutes of each meeting of the Council and its prompt dispatch to the concerned quarters;
- (d) follow-up on all matters, connected with, or arising out of a meeting of the Council;
- (e) implement decisions of the Council for better management of the Authority and for expeditious implementation of the provisions of this Act;
- (f) direct the District Land-Use Planning and Management Committee for carrying out actions in respect of implementation of this Act;
- (g) call for presentations, progress reports, compliance reports or otherwise in any other adequate manner from the District Land-Use Planning and Management Committee or any of its officer or an officer from the respective local area or urban area development authority or tehsil municipal administration, as the case may be, and as deemed appropriate by the Director General, in respect of the implementation of the provisions of this Act;

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- (h) monitor progress with regards to the implementation of the rules and regulations;
- (i) recommend inquiries against the non-performers or under-performers in respect to the implementation of this Act to the competent forums; and
- (j) perform such other duties and exercise such other powers as may be assigned or delegated to it by the Council.

Chapter-IV
The Local Planning and Enforcement Unit

10. Establishment of the Unit.---(1) There shall be a Local Planning and Enforcement Unit for each district.

(2) The Unit shall consist of a Chief Planning Control Officer and such number of Planning Control Officers, Planning Control Inspectors and other officers as Government may determine, in consultation with the Authority.

(3) The Chief Planning Control Officer shall be responsible for the overall administration of the Unit and the due discharge of its functions.

(4) Subject to the overall control of the Authority, the Unit shall be responsible to the District Land-Use Planning and Management Committee.

(5) The Chief Planning Control Officer shall keep the Chairman of the Tehsil Council, Mayor of City Tehsil Council, the Tehsil Municipal Officer, the Director of the Urban Area Development Authority and the Deputy Commissioner and the Assistant Commissioner concerned of all major deviations from the district land-use plan, master plan and the pace of implementation of the conversion plans.

11. Functions of the Unit.---The functions of the Unit shall be to-

- (a) support the District Land-Use Planning and Management Committee in the conduct of surveys and formulation of district land-use plans or master plan; and
- (b) ensure implementation of this Act with in the area assigned to it.

12. Appointments or authorization of Planning Control Officers and Planning Control Inspectors.---(1) Government may appoint the Planning Control Officers and Planning Control Inspectors in the prescribed manner.

(2) Notwithstanding anything contained in sub-section (1) of this Act or in any other law, rules, regulations and bye-laws, for the time being in force, Government may also authorize officers of specified agencies to act as Planning Control Officers or Planning Control Inspectors within the meaning of this Act.

Chapter-V
District Land-Use Plans

13. Constitution of District Land-Use Planning and Management Committee.---(1) There shall be a District Land-Use Planning and Management Committee for each district of the Province, consisting of the following:

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| (a) | Deputy Commissioner of the district concerned; | Convener |
| (b) | Chairman or Mayor of concerned Tehsil Council or City Tehsil Council in a district concerned; | Member |
| (c) | Heads of the district level offices of the Environment, Agriculture, Transport, Communication and Works, Sports, Culture and Tourism, Irrigation, Housing and Public Health Engineering Departments and Provincial Housing Authority; | Members |
| (d) | Head of the Urban Areas Development Authority in the district wherever applicable; | Member |
| (e) | Additional Deputy Commissioner (Finance and Planning) of the concerned district; | Member |
| (f) | Assistant Commissioner of the concerned Tehsil in a district; and | Member |
| (g) | Tehsil Municipal Officer of the concerned Tehsil Municipal Administration in a district. | Member |

(2) The Convener may appoint any co-opted members, having experience in urban planning, environment, structural engineering, transportation, heritage, architecture or any other fields as he may deem appropriate:

Provided that the co-opted members shall work voluntarily and shall not be paid for any services rendered to the District Land-Use Planning and Management Committee.

(3) The District Land-Use Planning and Management Committee shall meet on monthly basis or otherwise as convened by the Convener.

(4) The meetings of the District Land-Use Planning and Management Committee shall be presided over by the Convener.

(5) The quorum of the meeting shall be two-third of the total members.

(6) The District Land-Use Planning and Management Committee shall carry out its business as may be prescribed under this Act.

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(7) The Additional Deputy Commissioner (Finance and Planning) of the concerned District shall also act as Secretary of the District Land-Use Planning and Management Committee.

14. Functions of the District Land-Use Planning and Management Committee.--- (1) The District Land-Use Planning and Management Committee shall be responsible to the Authority for discharge of its functions under this Act.

(2) The functions of the District Land-Use Planning and Management Committee shall be to-

- (a) facilitate, coordinate and supervise conduct of surveys for the purpose of land uses and their zoning, master planning, strategic planning etc.;
- (b) consult with the concerned local government on formulation and implementation of the district land-use plan or master plan;
- (c) facilitate, coordinate and supervise formulation and implementation of district land-use plans or master plan;
- (d) send recommendations to the Authority and seek its approval on a case to case basis;
- (e) monthly review of NOCs, issued by the concerned agencies, for land use and development permissions;
- (f) take any action that is necessary to undo a violation including demolition or reconstruction of a building;
- (g) stop a developer from development carried out in violation of the planning permission;
- (h) change in land use being undertaken in violation of land use permission or without land use permission;
- (i) receive and dispose of complaints under this Act;
- (j) compile statistics and reports on land use and submit the same to the Authority; and
- (k) perform any other duty or function as assigned by the Authority.

15. District land use surveys.---(1) Soon after the commencement of this Act, the Authority on its own or through respective District Land-Use Planning and Management Committee, shall conduct a survey to determine physical infrastructure and land use in the concerned district.

(2) The district land use survey shall be conducted or caused to be conducted in the following manner and order:

- (a) determine the extent of the existing planned area;
- (b) designate the remaining area as unplanned area; and

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- (c) causes GIS and physical surveys to determine-
- (i) for existing planned area: the urban design of the area, the permission, if any, for deviations in each case, the size and composition of the population of the area, projected population once the area is fully developed, transport links, sanitary and environmental conditions, the natural hazards the area is prone to, open and green spaces, the nature and type of buildings and the extant of provision of municipal services and their standard; and
 - (ii) for unplanned area: land use patterns, the size and composition of the population of the area, transport links, sanitary and environmental conditions, the natural hazards the area is prone to, open and green spaces, the nature and type of buildings and the extant of provision of municipal services and their standard.

(3) Depending on the results of the survey, the area shall be categorized in to one or more of the following land use classes-

- (a) residential area;
- (b) commercial area;
- (c) industrial area;
- (d) forest, national park, range land and other related areas;
- (e) mining area;
- (f) agricultural area (irrigated, barani, fallow etc);
- (g) concentrated public sector area;
- (h) recreational area;
- (i) mixed land use area;
- (j) barren and vacant land (to be further classified as culturable waste land or otherwise);
- (k) water bodies;
- (l) area prone to natural hazard; and
- (m) any other land use type as may be determined during the survey.

(4) The land use in each land use class shall be as under-

- (a) permitted use: the land use which is allowed in each land use class under the rules; and
- (b) permissible use: the land use, though not permitted, may be allowed by the District Land-Use Planning and Management Committee, subject to the land use plan and payment of the fee.

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(5) A use, other than a permitted use or permissible use, shall be a prohibited use.

(6) The area, specified in sub-section (3), shall be further categorized into sub-types, which shall be done with due regard to physical markers like roads, railway lines, rivers, escarpments etc.

(7) Within sixty days of the completion of the survey, the Authority or the District Land-Use Planning and Management Committee, as the case may be, shall publish the results of the survey along-with a detailed map for the purpose to invite objections from public or person affected thereof to categorization, if any.

(8) The District Land-Use Planning and Management Committee shall formulate a report on each objection, within fifteen days, and transmit the same to the Authority, which shall hear and decide the same not later than thirty days.

16. Formulation of district land use plan.---(1) After the results of the surveys, published under sub-section (7) of section 15 of this Act, the Authority or the District Land-Use Planning and Management Committee, as the case may be, shall formulate a draft district land use plan for such district.

(2) A draft district land-use plan or master plan shall contain or be accompanied by such diagrams, illustrations and descriptions as may be considered appropriate or as the Authority may direct.

(3) A draft district land use plan shall rank different areas in terms of the quality of urban design and shall contain-

- (a) description of the boundaries of the district and tehsils therein along with comprehensive topographic mapping of the area, preferably tehsil wise, using the GIS methodology;
- (b) description of the types of land as defined in sub-section (3) of section 15 of this Act;
- (c) land use types and sub-types;
- (d) coverage of water, sewerage and waste disposal services;
- (e) the major roads and physical markers;
- (f) classifying an urban block on the basis of predominant land use;
- (g) identified tourist spots, approved by the Tourism Department of Government and safeguarded under relevant law;
- (h) identified archeological sites, protected under relevant law;
- (i) description and measurement of open and green spaces;
- (j) traffic flows; and
- (k) such other things as may be prescribed.

17. Approval of the district land use plan or master plan. ---(1) The draft district land use plan or master plan shall be placed on the website of the District Land-Use Planning and Management Committee and Authority respectively and notices in this regard shall be published in the local newspapers for public scrutiny.

(2) Every publication shall be accompanied by a date for submitting representations or suggestions for improvement.

(3) Every representation, observation and submission shall be considered by the District Land-Use Planning and Management Committee and response submitted to the Authority.

(4) The Authority shall review the district land use plans or master plan and may make modifications, as it may deem appropriate.

(5) While reviewing a district land use plan or master plan, the Authority shall take into consideration other district land use plans, master plans, strategic plans and any other plan made under this Act.

(6) The Authority shall place every district land use plan or master plan to the Council for approval.

(7) The district land use plan or master plan shall be placed on the website of the District Land-Use Planning and Management Committee and the Authority after its approval.

18. Procedure for modification in district land use plan or master plan.---

(1) Where a District Land-Use Planning and Management Committee, on itself or on the directions of the Authority, proposes to change the land use of a designated area, it shall formulate proposals for change in the approved district land use plan or master plan and the need for the proposed changes and the measures which shall be put into place to deal with them.

(2) A notice, regarding the change, shall be published in two national newspapers and shall be placed on the website of the District Land-Use Planning and Management Committee and Authority. The notice shall also invite objections and suggestions of the residents and others concerned.

(3) Every objection and suggestion shall be heard and decided by the Authority, within thirty days of the publication of the notice.

(4) Once the objections and suggestions have been attended to, the modified plans shall be sent to the Authority for consideration and approval of the Council.

19. Procedure for modification of district land use plans of master plans on application of a citizen.---

(1) A citizen, seeking to modify the land use of a designated area, shall submit an application to the District Land-Use Planning and Management Committee for modification in the approved district land use plan or master plan along with the need for the proposed modifications:

Provided that the application for modification of the land use shall pertain only to permissible land use.

(2) Where the District Land-Use Planning and Management Committee, under sub-section (1), receives an application for land use modification, it shall cause a study to be made regarding the need for modification at the cost of the applicants.

(3) Where there is a clear and present need for modification, the District Land-Use Planning and Management Committee shall formulate a proposal for change and the measures which shall be put into place to deal with such a modification.

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(4) Once a proposal has been formulated, the procedures prescribed in section 18 of this Act, shall be followed.

Chapter-VI Planning Control Permissions

20. Planning control permissions.---(1) The following planning control permission shall be required for every land or building under this Act unless specifically exempted by this Act:

- (a) land-use permission; and
- (b) development permission.

(2) A land use permission, granted by any law prior to the commencement of this Act, shall be subject to the provision of this Act.

21. Permissions required for land use.---(1) Where a district land use plan or master plan has been notified, no person, including a Government agency, shall use a land or building for permissible uses without the appropriate land use permission.

(2) Where district land use plan or master plan has not been notified under this Act, a person shall not change the existing use of a land or building without a temporary land use permission granted by the Planning Control Officer.

(3) A temporary land use permission, granted by a Planning Control Officer under sub-section (2) above, shall cease to have validity on the expiry of two years of the notification of a district land use plan or master plan.

22. Permission required for development.---(1) Where a district land use plan or master plan has been notified, no person, including a Government agency, shall undertake land development, road remodeling or building construction except in accordance with a development permission granted under this Act.

(2) Where district land-use plan or master plan has not been notified under this Act, no person shall undertake land development or building construction without a temporary development permission issued by the Planning Control Officer.

(3) A temporary development permission, granted by the Planning Control Officer under sub-section (2), shall cease to be valid on the date of the notification of the district land-use plan.

Chapter-VII Land Use Permission

23. Applications for land-use or master planning permissions. ---(1) An application for land-use planning permission or master planning permission shall be made to Planning Control Officers of that area.

(2) An application, under sub-section (1), shall be-

- (a) in such form and format and shall be accompanied such documents as may be prescribed; and

- (b) such other additional documents as may be required by the Planning Control Officer.

(3) A land use permission shall only be made by the owner or his authorized representative.

24. Procedure for bringing existing land use in compliance with district land use plan or master plan.--- (1) Where the use of land or building does not comply with a district land use plan or master plan, the owner thereof shall submit a land use conversion plan or master conversion plan to the Planning Control Officer within three months of the notification of the district land use plan or master plan.

(2) Where a land use conversion plan or master conversion plan is submitted under sub-section (1), the Planning Control Officer shall process the same in the prescribed manner.

(3) Where a land use conversion plan or master conversion plan is not submitted, the Planning Control Officer shall serve notice on the owners of the land or building to submit a land use conversion plan or master conversion plan, within thirty (30) days.

(4) Where a land use conversion plan or master conversion plan is not submitted after service of notice under sub-section (2), the Planning Control Officer shall make a land use conversion plan or master conversion plan and inform the owners of the land or building the plan.

(5) Where a land use conversion plan or master conversion plan is issued by the Planning Control Officer under sub-section (2) or sub-section (4), the owners shall bring the land or building in accordance with the conversion plan.

Chapter-VIII
Development Permissions

25. Types of development permissions.---(1) There shall be three types of development permission, namely:

- (a) land development permissions;
- (b) road remodeling permissions; and
- (c) building permissions.

(2) A development permission application shall be accompanied by such fee as may be prescribed.

26. Applications for development permissions.--- (1) An application for development permission shall be made to the Planning Control Officer of that area.

(2) An application for development permission shall be in such form and format and shall be accompanied by-

- (a) such documents as may be prescribed; and
- (b) such other additional documents as may be required by the Planning Control Officer.

(3) A land development permission or building permission may only be made by the owner or his authorized representative.

(4) A road remodeling permission may only be made by the area development authority, the Communication and Works Department, the local government or a land management entity.

27. Cases in which building permission not required.--- A building permission shall not be required in the following cases:

- (a) where building is constructed on a standard building design notified by the Authority for a specified area; and
- (b) where a building is a historic in nature and the same is being repaired, rehabilitated or renovated with the permission of the relevant authority.

28. Procedure for bringing existing buildings in compliance with building regulations.--- (1) Where a building does not comply with a building regulations after issuance of a district land use plan or master plan, the owner or authorized representative shall submit a building conversion plan to the Planning Control Officer, within three (3) months of the notification of the district land use plan.

(2) Where a building conversion plan is submitted under sub-section (1), the Planning Control Officer shall process the same in the prescribed manner.

(3) Where a building conversion plan is not submitted, the Planning Control Officer shall serve notice on the owners of the building to submit a building conversion plan within thirty (30) days.

(4) Where a building conversion plan is not submitted after service of notice under sub-section (3), the Planning Control Officer shall make a building conversion plan and inform the owners of the building of the plan.

(5) Where a building conversion plan is issued by the Planning Control Officer under sub-section (2) or sub-section (4), the owners shall bring the building in accordance with the conversion plan.

Chapter-IX Certificates and Renewal of Building Stock

29. Certificates.--- (1) Every person, who obtains a development permission, shall, within the time indicated in the permission, submit a compliance certificate of the Planning Control Officer that the development has been undertaken in accordance with the permission and the regulations applicable to the development.

(2) A compliance certificate shall be in the form and accompanied by such documents and certificates, as may be specified by the Authority, or such additional documents as may be required by the Planning Control Officer.

(3) Where the Planning Control Officer finds that the development has been undertaken in accordance with the permission and the regulations applicable on it, he shall issue a compliance certificate in the form specified by the Authority.

30. Renewal of building stock.--- (1) A building may be made subject to a building stock renewal regulations.

(2) Where a building is subject to a renewal regulations the owner or owners of the building shall proceed to renew the building as required by the building stock renewal regulations.

Chapter-X
Improvement of Urban Design etc

31. Improvement proposals.---(1) Where the urban design of an area has been ranked as poor or where the Government so directs, the Authority itself or on its instructions, the Unit shall formulate an improvement proposal within such period as may be specified.

(2) An improvement proposal shall contain-

- (a) a land use change plan, if required;
- (b) a redevelopment plan;
- (c) a building stock renewal program, if required;
- (d) cost of implementing the redevelopment plan;
- (e) cost of building stock renewal program;
- (f) changes that may be required in development and ownership; and
- (g) steps that shall be taken for a smooth and orderly transition to planned development.

(3) Where a land use change plan is proposed, it shall be processed in accordance with the procedures provided in section 18 of this Act.

32. Infrastructure change proposal.--- (1) Where the land use of an area has been changed under section 18 or section 19 of this Act, the Unit shall formulate a physical infrastructure change proposal, within sixty (60) days, to implement the measures which must be put in place to support the land use change.

(2) An infrastructure change proposal shall include mandates for the relevant utilities and agencies to devise plans for provision of municipal services to cater for the needs for municipal services arising due to changed land use.

33. Power to implement an improvement or infrastructure proposal.--- (1) The Unit shall have the power to take all necessary measures to implement an improvement proposal or infrastructure change proposal.

(2) Without prejudice to the generality of the power given in sub-section (1), the Unit directly or through the local government or the urban area development authority, may-

- (a) prepare and execute schemes;
- (b) direct a Government agency to prepare and execute schemes;
- (c) direct that buildings shall be constructed to a standardized plan;
- (d) acquire land;
- (e) enter into public private partnership;
- (f) propose and implement a proposal to reallocate rights in land and buildings with the prior approval of Government; and

- (g) support the establishment of a Real Estate Investment Trust for allocation of shares to persons having rights in land and buildings located in the area under improvement.

34. Betterment fee.--- (1) In order to implement an improvement proposal or infrastructure change proposal, the Unit may charge a betterment fee with the prior approval of Government.

(2) A betterment fee shall be charged on the basis of ownership of physical asset.

(3) Betterment fee may be recovered as arrears of land revenue.

(4) Betterment fee may recover in whole or part of the cost of an improvement proposal.

35. Development charge.--- (1) Where an improvement proposal or infrastructure change proposal is implemented without charging the full amount of the cost through the betterment fee, the Unit may levy a development charge on the owners of physical assets who have benefited by the development.

(2) A development charge shall be payable when a physical asset is sold or given on lease exceeding eleven (11) months.

(3) A development fee shall bear a direct correlation to the cost of the development spread over a period of five (5) years.

(4) A development fee shall be charged with the previous approval of Government.

(5) Development charge may be recovered as arrears of land revenue.

Chapter-XI Enforcement and Penalties

36. Duties of Planning Control Officers and Planning Control Inspectors.---

(1) The Planning Control Officers shall be responsible for assessing and evaluating applications for planning permissions and shall do such other work as is assigned to them under this Act and the rules made there under.

(2) The Planning Control Inspectors shall be responsible for determining and prosecuting unauthorized land use and development and shall do such other work as is assigned to them under this Act and the rules made there under.

(3) Where a Planning Control Inspector finds a contravention or violation of Unit Act, he shall formulate a contravention report and submit it to the Unit.

37. Power to seal a building or structure or attach an area for violation of this Act, rules or regulations.---(1) An authorized officer of the Authority, a Planning Control Officer or Planning Control Inspector shall have the power to seal any building, structure or any other premises for violation of this Act, rules or regulations made there under.

(2) An authorized officer of the Authority, a Planning Control Officer or Planning Control Inspector shall have the powers to attach any area or open spaces for violation of any clause of this Act, rules or regulations made there under, as the case may be.

38. Penalties.---A person, who commits any of the offences, specified in the First Schedule, appended to this Act, shall be punished with such penalties, as are provided in the Column of penalties, specified therein.

39. Offences to be cognizable and non-bailable.---The offences, under this Act, shall be cognizable and non-bailable. No Court shall take cognizance of any offence punishable under this Act except upon a complaint by an authorized officer or the District Land-Use Planning and Management Committee, in this behalf.

40. Application of the Code of Criminal Procedure, 1898.--- The provisions of the Code of Criminal Procedure, 1898 (Act V of 1898), shall *mutatis mutandis* be applicable to the offences under this Act.

41. Appellate Tribunal.--- (1) Government shall, by notification in the official Gazette, establish an Appellate Tribunal to hear appeals against any decision or order of the Authority or an officer of the Unit.

(2) The Appellate Tribunal shall consist of-

(a) a Chairman, who is-

(i) a serving District and Sessions Judge or a retired judge of the High Court, to be appointed by Government, in consultation with the Peshawar High Court Peshawar; or

(ii) a retired civil servant in BPS-20 or above, having a degree in law, to be appointed by Government; and

(b) two expert members, to be appointed by Government.

(3) Any person, who is aggrieved from any decision or order of the Authority or an officer of the Unit, may, within fifteen (15) days of the receipt of such decision or order, appeal to the Appellate Tribunal.

(4) The Chairman and members of the Appellate Tribunal shall be appointed for a term of three (03) years.

(5) The Appellate Tribunal shall have such staff with such terms and conditions of service as Government may determine and until such staff is appointed, the Department shall provide secretariat support to the Appellate Tribunal.

(6) The decision, made in the appeal, shall be final.

(7) Subject to any rules, made in this regard, the appellate Tribunal shall determine its own procedure.

42. Responsibility in case of corporate bodies.---Where the person guilty of an offence under this Act, is a company or other body corporate, every director, manager or other officer responsible for the conduct of affairs of such person, shall, unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent its commission, be deemed guilty of the offence.

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Chapter-XII
Inspection

43. Land Use Inspectorate.---(1) As soon as may be the Government may establish an external Land Use Inspectorate to check the level of enforcement of various provisions of this Act and the district land use plan or master plan.

(2) The Land Use Inspectorate shall consist of a Chief Inspector and such number of Deputy Chief Inspectors as may be determined by Government.

(3) The Land Use Inspectorate shall be funded by Government.

44. Powers of the Land Use Inspectorate.--- A Chief Inspector or Deputy Chief Inspector may-

- (a) call for examine and make copies of any records required to be kept under this Act;
- (b) enter into any premises during office hours to check its compliance with the provisions of this Act; and
- (c) obtain copies of any court record with regard to the enforcement of this Act.

45. Manner of inspections.--- (1) The Chief Inspector shall issue an inspection schedule for each year and inspections shall be conducted in accordance with such schedule. An inspection schedule shall be prepared in consultation with the Authority.

(2) An unannounced inspection shall only be conducted on the directions of the Department.

(3) Draft findings of every inspection shall be shared with those responsible for the enforcement of this Act and an opportunity shall be provided to them to give their views on it.

(4) Final inspection report shall be given to the Department, the local government, the Urban Area Development Authority of the area and the Unit.

Chapter-XIII
Finance, Accounts and Audit

46. Authority's Fund. ---(1) There shall be a Fund, to be known as the Authority's Fund, which shall vest in the Authority and shall be utilized by it, in connection with its functions under this Act, including the payment of salaries and other remunerations to the officers, employees, experts, advisors and consultants and running day to day business of the Authority.

(2) The Authority Fund shall consist of-

- (a) grants made by Government, Federal Government or any international agency; and
- (b) all fees, rates and charges received by the Authority under this Act;

(3) In case of deficit revenue of the Authority, Government may provide appropriate budgetary support to the Authority as it may deem necessary.

(4) The Authority may keep, in current account of any scheduled bank, such sum as may be specified by the Authority and any amount in excess of the said amount shall be invested in Government securities, Government sponsored saving schemes or in such other manner as may be prescribed by regulations.

47. Application of the Bankers Books Evidence Act, 1891 to books of the Authority.---The Authority shall be deemed to be a bank for the purposes of the Bankers Books Evidence Act, 1891 (Act No. XVIII of 1891).

48. Custody and investment of Fund.---The Authority may keep money in any treasury, sub-treasury or a bank in such manner and in such form as may be prescribed by the regulations.

49. Budget and accounts.---(1)The Authority shall prepare its annual budget estimates and work plan and submit the same to the Council for approval. The Council may modify the said estimates or plan to the extent of any Government fund or grants as it may consider necessary.

(2) Accounts of the receipts and expenditure of the Authority shall be kept by the Authority in such form as may be prescribed by regulations.

(3) The Authority shall, within three (03) months of the close of each financial year, place before the Council annual statement of accounts and audited balance sheet, profit and loss account and the auditor's report, for the preceding financial year.

50. Audit of accounts.---The accounts of the Authority shall be audited by the Auditor General of Pakistan.

Chapter-XIX Miscellaneous

51. Power to make rules.---Government may make rules for carrying out the purposes of this Act.

52. Power to make regulations. ---(1)As soon as may be, but not later than six months, the Council may make regulations on the following matters:

- (a) the manner of conduct of land use survey;
- (b) contents of conversion plans;
- (c) green area regulations in land use zones;
- (d) building control regulations;
- (e) planning requirements for housing developments;
- (f) pedestrian walkways, kerbs and lowering of kerbs;
- (g) removal and disposal of wastes;
- (h) removal obstructions on public paths including utility poles;
- (i) display of hoarding and advertisement on building and open spaces; and
- (j) building stock renewal regulation.

(2) Notwithstanding anything contained in any other rules, regulations or bye-laws, for the time being in force, relating to land-use and building control, the rules and regulations, made under this Act, shall have an overriding effect.

53. Act to over-riding other laws.---The provisions of this Act shall have effect notwithstanding anything contained in any other law for the time being in force.

54. Annual report.---(1)The Authority shall, within three months of the end of a financial year, formulate annual performance report, enumerating actions taken to fulfill its mandate, including formulation of plans, regulation of planning during the previous financial year and enforcement actions taken for enforcement of the provisions of this Act and rules and regulations made there under.

(2) The Authority shall publish the report for public information after approval by the Council.

55. Employees of the Authority to be public servant. --- Every employees of the Authority, acting or purporting to act under this Act, shall be deemed to be a public servant within the meaning of section 21 of the Pakistan Penal Code, 1860 (XLV of 1860).

56. Immunity. ---No suit, prosecution or any other legal proceedings shall lie against an Authority, the Director General, any member, officer, servant or employees of the Authority, Unit, the District Land-Use Planning and Management Committee, the Land Use Inspectorate and any other officer or officials performing duties under this Act, in respect of anything done or intended to be done, in good faith, under this Act.

57. Amendment of certain laws.---The laws specified in column No. 3 of the Second Schedule, appended to this Act, shall be amended to the extant and in the manner specified against each in column No. 4 of the Second Schedule.

First Schedule
[see section 38]

| S. No. | Offences. | Penalties. |
|--------|--|--|
| 1. | Undertaking land development work, except in accordance with the developmental permission and rules / regulations applicable to the development. | Fine which may extend to rupees ten (10) million or imprisonment which may extend to three years. |
| 2. | Failure to implement an approved land use or building conversion plan within the stipulated time. | Fine which may extend to rupees ten (10) million or imprisonment which may extend to three years. |
| 3. | Uses land or building otherwise than in conformity with the provisions of this Act or any other law for time being enforced. | Imprisonment which may extend to one (01) year or with fine which may extend to rupees one million but shall not less than rupees five hundred thousand (500,000) or with both. |
| 4. | Enters into or opens a sealed building, other premises or initiates construction in a sealed building or trespassing into an attached area or undertaking any activity in an attached area. | Imprisonment which may extend to one (01) year or with fine which may extend to rupees one million but shall not less than rupees five hundred thousand (500,000) or with both. |
| 5. | Obstructing any authorized officer of the Authority acting for removal of an unauthorized development, including all types of building or for stoppage of unauthorized land-use. | Imprisonment which may extend to one (01) year or with fine which may extend to rupees one million but shall not be less than rupees five hundred thousand (500,000) or with both. |
| 6. | Without any lawful cause, refuses or willfully neglects to provide to any authorized officer of the Authority means necessary for entering into any premises, for purposes of collecting any information or making an examination or enquiry under this Act. | Imprisonment which may extend to one (01) year or with a fine which may extend to rupees five hundred thousand (500,000) or with both. |

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Second Schedule
[see section 57]

| Sr. No. | Nature and year enactment. | Short title. | Amendments. |
|---------|---|---|--|
| 1. | The Khyber Pakhtunkhwa Act No. XXXI of 2017. | The Peshawar Development Authority Act, 2017 | <p>(1) in section 6,-</p> <p>(a) in sub-section (2), clauses (a), (b), (c) and (m), and sections 32, 33, 34 and 35 shall respectively be deleted; and</p> <p>(b) in sub-section (4), in clause (h), the words and comma "and restrict or regulate by general or special order, any change in the use of land and alteration in building structure and installations" shall be deleted.</p> <p>(2) in section 16, after the word "Government", the words "and the Provincial Land Use and Building Control Authority" shall be inserted.</p> |
| 2. | The Khyber Pakhtunkhwa Act No. XXXVI of 2020. | Khyber Pakhtunkhwa Urban Development Authorities Act, 2020. | <p>(1) in section 7,-</p> <p>(a) in sub-section (1), clauses (c), (d) and (e) shall be deleted; and</p> <p>(b) in sub-section (3), for clause (c), the following shall be substituted, namely:</p> <p>"(c) supervise and oversee implementation of district land use plan within its area of jurisdiction;"</p> <p>(2) in section 11,-</p> <p>(a) in sub-section (1), for clause (e), the following shall be substituted, namely:</p> <p>"(e) prepare a local urban redevelopment plan within the meaning of the Khyber Pakhtunkhwa Land-Use and Building Control Act, 2021;"</p> <p>(b) for sub-section (2), the following shall be substituted, namely:</p> <p>"(2) The Director shall be responsible for implementing the land use plan within the area of jurisdiction of the Authority."</p> <p>(3) in section 12, after sub-section (5), the following new sub-section shall be added, namely:</p> <p>"(6) The Authority, while processing fresh cases</p> |

Deputy Legislation Officer
Government of Khyber Pakhtunkhwa
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| | | | under sub-section (5), shall obtained the concurrence of the District Land-Use Planning and Management Committee, constituted under section 13 of the Khyber Pakhtunkhwa Land-Use and Building Control Act, 2021.”. |
| 3. | The Khyber Pakhtunkhwa Act No. XXVIII of 2013. | The Khyber Pakhtunkhwa Local Government Act, 2013. | (1) in section 23A, clause (f), in section 25A, in sub-section (1), clause (c), in sub-section (2), clause (a) and in Seventh Schedule, in Part-II, entry No. 2 shall respectively be deleted; and (2) in section 25A, in sub-section (1), for clause (a), the following shall be substituted, namely: “(a) review implementation of laws, rules and regulations, governing land use, housing, markets, zoning, roads, traffic, tax, infrastructure and utilities;”. |

STATEMENT OF OBJECTS AND REASONS

It is desirable to provide for the Provincial Land-Use and Building Control Council, Provincial Land Use and Building Control Authority, Local Planning and Enforcement Authority and District Land Use Planning and Management Committee for the purpose of regulation and improvement of land use, to control, regulate and improve land-use planning, master planning and management within the Province of Khyber Pakhtunkhwa and for matter connected therewith and incidental thereto. Hence, this Bill.



MINISTER-IN-CHARGE.

Peshawar,
dated the
.2021.