Regulations on the Requisition of Houses on State-Owned Land and Compensation of China (the PRC)

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Unofficial English translation prepared for reference only. The official Chinese text prevails.

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Chapter I — General Provisions

Article 1 — These Regulations are formulated to standardize the activities of requisitioning houses on state-owned land and providing compensation, safeguard the public interest, and protect the lawful rights and interests of the owners of the houses requisitioned.

Article 2 — Where, for the needs of the public interest, houses of units or individuals on state-owned land are requisitioned, fair compensation shall be given to the owners of the houses requisitioned (hereinafter referred to as the "requisitioned persons").

Article 3 — House requisition and compensation shall follow the principles of democratic decision-making, due process, and open disclosure of results.

Article 4 — The people's governments at the municipal and county levels shall be responsible for the house requisition and compensation work in their respective administrative regions.

The house requisition departments determined by the people's governments at the municipal and county levels (hereinafter referred to as the "house requisition departments") shall organize and implement the

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house requisition and compensation work in their respective administrative regions.

The relevant departments of the people's governments at the municipal and county levels shall, in accordance with these Regulations and the division of duties prescribed by the people's governments at the corresponding levels, cooperate with one another to ensure the smooth progress of house requisition and compensation work.

Article 5 — A house requisition department may entrust a house requisition implementation unit to undertake the specific work of house requisition and compensation. A house requisition implementation unit may not operate for profit.

The house requisition department shall supervise the house requisition and compensation acts performed by the house requisition implementation unit within the scope of the entrustment, and shall bear legal liability for the consequences of such acts.

Article 6 — The people's government at a higher level shall strengthen its supervision over the house requisition and compensation work of the people's government at a lower level.

The housing and urban-rural development competent department of the State Council and the housing and urban-rural development competent departments of the people's governments of provinces, autonomous regions and municipalities directly under the Central Government shall, together with the finance, land and resources, development and reform and other relevant departments at the corresponding level, strengthen guidance over the implementation of house requisition and compensation work.

Article 7 — Any organization or individual shall have the right to report acts in violation of these Regulations to the relevant people's government, house requisition department or other relevant departments. The relevant people's government, house requisition department and other relevant departments receiving such reports shall verify and handle them in a timely manner.

The supervisory authorities shall strengthen supervision over the governments, relevant departments or units and their staff participating in house requisition and compensation work.

Chapter II — Decision on Requisition

Article 8 — Where, for the needs of the public interest such as safeguarding national security and promoting national economic and social development, any of the following circumstances exists and house requisition is truly necessary, the people's government at the municipal or county level shall make a decision on house requisition:

(1) needs of national defense and foreign affairs;

(2) needs of infrastructure construction such as energy, transport and water conservancy organized and implemented by the government;

(3) needs of public utilities such as science and technology, education, culture, health, sports, environmental and resource protection, disaster prevention and mitigation, cultural relic protection, social welfare and municipal public facilities organized and implemented by the government;

(4) needs of government-subsidized housing construction projects organized and implemented by the government;

(5) needs of the government organizing and implementing the reconstruction of old urban areas on sections where dilapidated houses are concentrated and infrastructure is backward in accordance with the relevant provisions of the Urban and Rural Planning Law;

(6) other public interest needs prescribed by laws and administrative regulations.

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Article 9 — The various construction activities for which house requisition is truly necessary in accordance with Article 8 of these Regulations shall conform to the national economic and social development plan, the overall land use plan, the urban and rural plan and special plans. Government-subsidized housing construction projects and the reconstruction of old urban areas shall be included in the annual national economic and social development plans of the municipal and county levels.

When formulating the national economic and social development plan, the overall land use plan, the urban and rural plan and special plans, public opinions shall be solicited extensively and scientific demonstration shall be conducted.

Article 10 — The house requisition department shall draft a requisition compensation plan and submit it to the people's government at the municipal or county level.

The people's government at the municipal or county level shall organize the relevant departments to demonstrate and publish the requisition compensation plan and solicit public opinions. The period for soliciting opinions shall be not less than 30 days.

Article 11 — The people's government at the municipal or county level shall promptly publish the opinions solicited and the revisions made in light of the public opinions.

Where house requisition is needed for the reconstruction of old urban areas and the majority of requisitioned persons consider that the requisition compensation plan does not conform to these Regulations, the people's government at the municipal or county level shall organize a hearing attended by representatives of the requisitioned persons and the public, and revise the plan in light of the hearing.

Article 12 — Before making a house requisition decision, the people's government at the municipal or county level shall conduct a social stability risk assessment in accordance with the relevant provisions; where the house requisition decision involves a relatively large number of requisitioned persons, it shall be discussed and decided at a government executive meeting.

Before a house requisition decision is made, the requisition compensation funds shall be fully in place, deposited in a special account, and used exclusively for their designated purpose.

Article 13 — After making a house requisition decision, the people's government at the municipal or county level shall promptly publish it. The announcement shall set forth matters such as the requisition compensation plan and the right to apply for administrative reconsideration and to file administrative litigation.

The people's government at the municipal or county level and the house requisition department shall do a good job in publicizing and explaining house requisition and compensation.

Where a house is requisitioned in accordance with law, the right to use state-owned land shall be recovered at the same time.

Article 14 — Where a requisitioned person is dissatisfied with the house requisition decision made by the people's government at the municipal or county level, it may apply for administrative reconsideration in accordance with law, or file an administrative lawsuit in accordance with law.

Article 15 — The house requisition department shall organize investigation and registration of particulars such as the ownership, location, use and floor area of houses within the scope of house requisition, and the requisitioned persons shall cooperate. The investigation results shall be published to the requisitioned persons within the scope of house requisition.

Article 16 — After the scope of house requisition is determined, acts such as building new houses, expanding or rebuilding houses, and changing the use of houses that improperly increase compensation expenses may not be carried out within the scope of house requisition; those carried out in violation of the provisions shall not be compensated.

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The house requisition department shall notify the relevant departments in writing to suspend the handling of relevant formalities with respect to the matters listed in the preceding paragraph. The written notice suspending the handling of relevant formalities shall set forth the suspension period. The suspension period may not exceed one year at the maximum.

Chapter III — Compensation

Article 17 — The compensation given by the people's government at the municipal or county level that made the house requisition decision to the requisitioned persons shall include:

(1) compensation for the value of the house requisitioned;

(2) compensation for relocation and temporary resettlement caused by the requisition of the house;

(3) compensation for losses caused by suspension of production and business due to the requisition of the house.

The people's government at the municipal or county level shall formulate subsidy and reward measures and grant subsidies and rewards to the requisitioned persons.

Article 18 — Where individual residential houses are requisitioned and the requisitioned persons meet the conditions for housing security, the people's government at the municipal or county level that made the house requisition decision shall give priority to providing housing security. The specific measures shall be formulated by the provinces, autonomous regions and municipalities directly under the Central Government.

Article 19 — Compensation for the value of a requisitioned house may not be lower than the market price of similar real estate as of the date of announcement of the house requisition decision. The value of the requisitioned house shall be determined by appraisal conducted by a real estate price appraisal institution with corresponding qualifications in accordance with the house requisition appraisal measures.

Where there is any objection to the appraised value of the requisitioned house, a re-appraisal may be applied for with the real estate price appraisal institution. Where there is any objection to the result of the re-appraisal, an appraisal may be applied for with the real estate price appraisal expert committee.

The house requisition appraisal measures shall be formulated by the housing and urban-rural development competent department of the State Council, and public opinions shall be solicited during the formulation process.

Article 20 — The real estate price appraisal institution shall be selected through negotiation by the requisitioned persons; where negotiation fails, it shall be determined by majority decision, random selection or other means, and the specific measures shall be formulated by the provinces, autonomous regions and municipalities directly under the Central Government.

The real estate price appraisal institution shall conduct house requisition appraisal work independently, objectively and fairly, and no unit or individual may interfere.

Article 21 — A requisitioned person may choose monetary compensation or exchange of house property rights.

Where a requisitioned person chooses exchange of house property rights, the people's government at the municipal or county level shall provide houses for the exchange of property rights, and shall calculate and settle with the requisitioned person the difference between the value of the requisitioned house and the value of the houses provided for the exchange of property rights.

Where individual residential houses are requisitioned for the reconstruction of old urban areas and the requisitioned persons choose to exchange house property rights on the reconstructed section, the people's government at the municipal or county level that made the house requisition decision shall provide houses

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on the reconstructed section or on a nearby section.

Article 22 — Where relocation is caused by the requisition of a house, the house requisition department shall pay relocation fees to the requisitioned persons; where exchange of house property rights is chosen, the house requisition department shall pay temporary resettlement fees to the requisitioned persons or provide temporary housing before the houses for the exchange of property rights are delivered.

Article 23 — Compensation for losses caused by suspension of production and business due to the requisition of a house shall be determined in light of factors such as the benefits of the house before requisition and the duration of suspension of production and business. The specific measures shall be formulated by the provinces, autonomous regions and municipalities directly under the Central Government.

Article 24 — The people's governments at the municipal and county levels and their relevant departments shall strengthen supervision and administration of construction activities in accordance with law, and handle construction carried out in violation of the urban and rural plan in accordance with law.

Before making a house requisition decision, the people's government at the municipal or county level shall organize the relevant departments to investigate, determine and handle buildings that have not been registered within the scope of requisition in accordance with law. Compensation shall be given for buildings determined to be lawful and temporary buildings whose approval period has not expired; no compensation shall be given for buildings determined to be unlawful and temporary buildings whose approval period has expired.

Article 25 — The house requisition department and the requisitioned persons shall, in accordance with these Regulations, conclude a compensation agreement on matters such as the compensation method, compensation amount and payment period, the location and area of the houses used for the exchange of property rights, relocation fees, temporary resettlement fees or temporary housing, losses caused by suspension of production and business, the relocation period, and the transition method and transition period.

After the compensation agreement is concluded, where one party fails to perform the obligations agreed upon in the compensation agreement, the other party may file a lawsuit in accordance with law.

Article 26 — Where the house requisition department and the requisitioned persons fail to reach a compensation agreement within the period for signing the agreement determined in the requisition compensation plan, or the owner of the requisitioned house is unclear, the house requisition department shall report to the people's government at the municipal or county level that made the house requisition decision, requesting it to make a compensation decision in accordance with these Regulations and the requisition compensation plan, and to publish the decision within the scope of house requisition.

The compensation decision shall be fair and shall include the matters relating to the compensation agreement set forth in paragraph 1 of Article 25 of these Regulations.

Where a requisitioned person is dissatisfied with the compensation decision, it may apply for administrative reconsideration in accordance with law, or file an administrative lawsuit in accordance with law.

Article 27 — House requisition shall be implemented with compensation first and relocation later.

After the people's government at the municipal or county level that made the house requisition decision gives compensation to the requisitioned persons, the requisitioned persons shall complete relocation within the relocation period agreed upon in the compensation agreement or determined in the compensation decision.

No unit or individual may force requisitioned persons to relocate by illegal means such as violence, threats, or the interruption of water supply, heating, gas supply, power supply or road access in violation of provisions. Construction entities are prohibited from participating in relocation activities.

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Article 28 — Where a requisitioned person fails to apply for administrative reconsideration or file an administrative lawsuit within the statutory period and fails to relocate within the period prescribed in the compensation decision, the people's government at the municipal or county level that made the house requisition decision shall apply to the people's court for compulsory enforcement in accordance with law.

The application for compulsory enforcement shall be accompanied by materials such as the compensation amount and the account number of the special deposit account, and the location and area of the houses for the exchange of property rights and the temporary housing.

Article 29 — The house requisition department shall establish house requisition compensation archives in accordance with law, and publish the household-by-household compensation information to the requisitioned persons within the scope of house requisition.

The audit authorities shall strengthen supervision over the management and use of requisition compensation funds and publish the audit results.

Chapter IV — Legal Liability

Article 30 — Where staff of the people's governments at the municipal and county levels and the house requisition departments fail to perform the duties prescribed in these Regulations in house requisition and compensation work, or abuse their authority, neglect their duties or engage in malpractices for personal gain, the people's government at a higher level or at the corresponding level shall order correction and circulate a notice of criticism; where losses are caused, compensation liability shall be borne in accordance with law; sanctions shall be imposed in accordance with law on the directly responsible management personnel and other directly responsible personnel; where a crime is constituted, criminal liability shall be pursued in accordance with law.

Article 31 — Where requisitioned persons are forced to relocate by illegal means such as violence, threats, or the interruption of water supply, heating, gas supply, power supply or road access in violation of provisions, causing losses, compensation liability shall be borne in accordance with law; where the directly responsible management personnel and other directly responsible personnel constitute a crime, criminal liability shall be pursued in accordance with law; where a crime is not constituted, sanctions shall be imposed in accordance with law; where an act violating public security administration is constituted, public security administration penalties shall be imposed in accordance with law.

Article 32 — Where house requisition and compensation work carried out in accordance with law is obstructed by means such as violence or threats, and a crime is constituted, criminal liability shall be pursued in accordance with law; where an act violating public security administration is constituted, public security administration penalties shall be imposed in accordance with law.

Article 33 — Where requisition compensation funds are embezzled, misappropriated, privately divided, withheld or delayed, correction shall be ordered, the relevant funds shall be recovered, and the illegal gains shall be returned within a time limit; the relevant responsible units shall be circulated with a notice of criticism and given a warning; where losses are caused, compensation liability shall be borne in accordance with law; where the directly responsible management personnel and other directly responsible personnel constitute a crime, criminal liability shall be pursued in accordance with law; where a crime is not constituted, sanctions shall be imposed in accordance with law.

Article 34 — Where a real estate price appraisal institution or a real estate appraiser issues a false appraisal report or an appraisal report with a major error, the issuing authority shall order correction within a time limit and give a warning, and impose a fine of not less than RMB 50,000 and not more than RMB 200,000 on the real estate price appraisal institution, and a fine of not less than RMB 10,000 and not more than RMB 30,000 on the real estate appraiser, and record the matter in the credit archives; where the circumstances are serious, the qualification certificate and registration certificate shall be revoked; where losses are caused,

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compensation liability shall be borne in accordance with law; where a crime is constituted, criminal liability shall be pursued in accordance with law.

Chapter V — Supplementary Provisions

Article 35 — These Regulations shall come into force as of the date of promulgation. The Regulations on the Administration of Urban House Demolition and Relocation promulgated by the State Council on June 13, 2001 shall be repealed simultaneously. Projects that lawfully obtained a house demolition license before the implementation of these Regulations shall continue to be handled in accordance with the original provisions, but the government may not order the relevant departments to carry out compulsory demolition.

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